

BILL ANALYSIS

H.B. 3026
By: Oliverson
Health Care Reform, Select
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas Cares was established by the 87th Texas Legislature as a program to provide uninsured individuals access to prescription drug benefits. During the attempt to implement this program, the Health and Human Services Commission (HHSC) found that 98 percent of the 200 most frequently prescribed medications in the country are available for free or at low cost through existing discount programs or manufacturer patient assistance programs (PAPs). There have been many shifts in the prescription drug marketplace since the passage of Texas Cares, including entry of new players such as CostPlus and Amazon and lower-cost generic insulin. There are currently hundreds of known PAPs, all with varying eligibility criteria and applications. Many allow incomes between 250 and 600 percent of the federal poverty level and often assist the uninsured and insured. According to HHSC, PAPs typically have lengthy and complex application processes, requirements change frequently, and doctors or patients may not be aware such programs exist. H.B. 3026 seeks to allow the state to leverage PAP navigation software and trained volunteers to increase access to existing assistance programs.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 4 and 7 of this bill and to any agency designated by the executive commissioner in SECTION 7 of this bill.

ANALYSIS

H.B. 3026 amends the Health and Safety Code to provide for the establishment of a new prescription drug assistance program while making discretionary the existing requirement for the Health and Human Services Commission (HHSC) to develop a prescription drug savings program for certain uninsured individuals.

H.B. 3026 requires HHSC to take the following actions with respect to establishing and administering the prescription drug assistance program:

- develop and design a prescription drug assistance program to increase access to prescription drugs for certain individuals through a prescription drug manufacturer or other third-party patient assistance program;
- ensure the program is designed to provide the greatest value to program enrollees by considering the adequacy of prescription drugs available through the program, the net costs of the drugs to enrollees, the cost to the state, and other important factors as determined by HHSC;
- ensure, in developing and implementing the program, that the program benefits exclude prescription drugs used for the elective termination of a pregnancy;

- oversee the program's implementation and develop procedures for accepting applications for program enrollment;
- list in a central location on the HHSC website information that directs a patient to the appropriate assistance available under the program;
- to the extent feasible, integrate a prescription drug manufacturer or third-party patient assistance program into the prescription drug assistance program, except that a manufacturer or other third party may decline to integrate;
- conduct a community outreach and education campaign to provide information on the program's availability to eligible individuals;
- approve the program benefits offered under the program and ensure the benefits comply with all applicable federal and state laws and rules; and
- establish a procedure to monitor the provision of benefits and services under the program.

The bill authorizes HHSC to contract with a third-party administrator or other entity to perform any or all of HHSC's program duties, authorizes such a contracted administrator or entity to perform the actions HHSC would otherwise perform to implement the program, and authorizes HHSC to award grants to or enter into other arrangements with a governmental entity or nonprofit organization to implement the program. The bill requires such a contracted administrator or entity to report to HHSC in the form and manner prescribed by HHSC on the benefits and services provided under the program.

H.B. 3026 authorizes HHSC to accept and use money to implement the program, including legislative appropriations, federal money available under law, and gifts, grants, and donations, and restricts the use of any such money accepted to administering the program and providing program services. The bill establishes that HHSC is not required to implement the program unless appropriated money is made available for the program.

H.B. 3026 makes eligible for benefits under the program an individual who meets eligibility criteria as determined by a prescription drug manufacturer or other third party's prescription assistance program. The bill authorizes HHSC to identify additional factors the program must consider for program eligibility. The bill requires HHSC, not later than December 1 of each year, to provide a written report to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature that includes the following information:

- a line-item list of all program administrative costs incurred by HHSC, including costs incurred by a third-party administrator or other entity;
- the aggregate amount of prescription drug cost savings accrued under the program; and
- other program expenditures as HHSC determines appropriate.

H.B. 3026 provides the following with respect to the bill's provisions relating to the program:

- the provisions do not establish an entitlement to assistance in obtaining benefits for certain individuals and do not expand the Medicaid program; and
- the purpose of the provisions is to authorize HHSC to establish a program to provide certain individuals access to prescription drug benefits using a prescription drug manufacturer or third-party prescription assistance programs.

H.B. 3026 authorizes the executive commissioner of HHSC to adopt the rules necessary to implement the bill's provisions relating to the prescription drug assistance program. The bill requires the executive commissioner and any other state agency designated by the executive commissioner to adopt rules necessary to implement the bill's provisions relating to the prescription drug assistance program and the prescription drug savings program as soon as practicable after the bill's effective date. Implementation of a provision of the bill by HHSC is mandatory only if a specific appropriation is made for that purpose.

H.B. 3026 repeals Section 65.102, Health and Safety Code.

EFFECTIVE DATE

September 1, 2023.