

BILL ANALYSIS

S.B. 745
By: Kolkhorst
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas Medicaid covers health care services for nearly five million Texans. On top of the significant costs of implementing Medicaid, Texas allocates funds to support Texans' health and well-being in a variety of programs, such as CHIP, the Healthy Texas Women program, and other programs administered by the Department of State Health Services. Chapter 36 of the Human Resources Code, commonly known as the Texas Medicaid Fraud Prevention Act, currently authorizes the state to investigate fraud that occurs within the Medicaid program and to bring civil enforcement actions against those who commit unlawful acts. The Office of the Attorney General (OAG) investigates dozens of these cases of fraud each year, and, since 2000, has recovered more than \$2.5 billion for taxpayers under the Texas Medicaid Fraud Prevention Act. With a growing number of non-Medicaid programs funded with taxpayer dollars, Texas must ensure other state-funded health care programs are subject to similar oversight to deter fraud. As Medicaid begins to unwind after three years of emergency coverage, Texans will increasingly be eligible for taxpayer-funded services that fall outside the scope of the OAG's oversight, and it the legislature's responsibility to ensure our fellow citizens are protected from bad-faith providers seeking to defraud state-funded health care programs. S.B. 745 seeks to address this issue by expanding the scope of the Texas Medicaid Fraud Prevention Act and authorizing the OAG to investigate and pursue civil enforcement actions to deter fraudulent conduct and recover funds from providers committing unlawful acts associated with CHIP and the Healthy Texas Women program.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 745 amends the Human Resources Code to extend the applicability of statutory provisions regarding Medicaid fraud prevention, including unlawful acts under those provisions, to the following health programs in addition to Medicaid:

- CHIP; and
- the Healthy Texas Women program operated by the Health and Human Services Commission that is substantially similar to the expired demonstration project for women's health care services and intended to expand access to preventive health and family planning services for women in Texas.

The bill repeals the definition of "Medicaid program" and "Medicaid recipient" for purposes of those provisions and instead defines for those purposes the following:

- "health care recipient" as an individual on whose behalf a person claims or receives a payment from a health care program or a fiscal agent, without regard to whether the individual was eligible for benefits under the health care program; and
- "health care program" as the Medicaid program, CHIP, and the Healthy Texas Women program.

The bill applies only to an unlawful act that is committed on or after the bill's effective date.

S.B. 745 amends the Code of Criminal Procedure to retain the definition of "Medicaid recipient" that is repealed by the bill for purposes of statutory provisions relating to the depositions of Medicaid or Medicare recipients or caregivers.

S.B. 745 provides for the delayed implementation of any provision for which an applicable state agency determines a federal waiver or authorization is necessary for implementation until the waiver or authorization is requested and granted.

S.B. 745 repeals Sections 36.001(6) and (7), Human Resources Code.

EFFECTIVE DATE

September 1, 2023.