

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 2489  
By: Sparks  
Health & Human Services  
5/3/2023  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas home and community-based services (HCS) and Texas home living (TxHmL) waivers include various services to support people with intellectual and developmental disabilities in the community, including day and employment services.

In order to come into compliance with federal HCS settings requirements, the Health and Human Services Commission (HHSC) made several changes to HCS and TxHmL, including replacing existing day services (formerly called "day habilitation") with a new, fully compliant service called individualized skills and socialization (ISS), effective March 1, 2023.

Prior to the transition, individuals could participate in prevocational services, including activities where an individual could be paid, so long as the goal of the activity was to build skills necessary to achieve integrated employment and not for the primary purpose of "producing goods or performing services."

ISS regulations adopted by HHSC prohibit billing for prevocational services where the individual could be paid.

C.S.S.B. 2489 directs HHSC to include prevocational services as part of ISS, providing HHSC is able to receive authorization from the Centers for Medicare and Services (CMS). If HHSC is unable to receive authorization from CMS, the bill directs HHSC to work with stakeholders to create a new federally compliant similar service.

The rates and hours authorized on a service plan of a newly developed similar service cannot exceed the rates or hours that otherwise would have been authorized for ISS.

C.S.S.B. 2489 amends current law relating to providing prevocational or similar services under certain Medicaid waiver programs.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.0755, as follows:

Sec. 32.0755. PREVOCATIONAL SERVICES UNDER CERTAIN WAIVER PROGRAMS. (a) Defines "prevocational services."

(b) Requires that prevocational services provided under the community living assistance and support services (CLASS) waiver program or another medical assistance waiver program providing long-term services or supports to a medical assistance recipient be designed to assist the recipient in achieving permanent integrated employment receiving compensation at or above the minimum wage in the recipient's community and in accordance with state and federal law.

(c) Requires the Health and Human Services Commission (HHSC) to seek a waiver or other necessary authorization from the appropriate federal agency to include prevocational services as part of the individualized skills and socialization services delivered under a medical assistance waiver program providing long-term services and supports.

(d) Requires HHSC, if HSSC's request for a waiver or other authorization under Subsection (c) is not granted, to collaborate with relevant stakeholders and applicable federal agencies to establish a service similar to prevocational services in a manner that is authorized by federal law.

(e) Provides that, if HHSC is granted a waiver or other authorization under Subsection (d):

(1) the reimbursement rate for the service HHSC establishes under that subsection is prohibited from exceeding the reimbursement rate for individualized skills and socialization services; and

(2) if the service is combined with individualized skills and socialization services, HHSC is required to ensure the service is prohibited from exceeding the total allowable hours or the total costs for individualized skills and socialization services provided under a service plan.

SECTION 2. (a) Requires HHSC, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes delay of implementation until such a waiver or authorization is granted.

(b) Requires HHSC, if the waiver or other authorization under Section 32.0755(c), Human Resources Code, as added by this Act, is not granted, not later than the 60th day after the date the waiver or other authorization is denied, to apply for a waiver or other authorization under Section 32.0755(d), Human Resources Code, as added by this Act, not later than the 60th day after the date the waiver or other authorization is denied.

SECTION 3. Effective date: upon passage or September 1, 2023.