By:  Turner of Tarrant (Senate Sponsor - West) H.B. No. 1009

(In the Senate - Received from the House May 8, 2023; May 9, 2023, read first time and referred to Committee on Health & Human Services; May 19, 2023, reported favorably by the following vote: Yeas 8, Nays 0; May 19, 2023, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Kolkhorst         X

Perry             X

Blanco            X

Hall              X

Hancock                     X

Hughes            X

LaMantia          X

Miles             X

Sparks            X

A BILL TO BE ENTITLED

AN ACT

relating to criminal history record information reviews of certain individuals providing services to individuals with an intellectual or developmental disability under Medicaid; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.11061 to read as follows:

Sec. 411.11061.  ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CERTAIN MEDICAID PROVIDERS. (a) In this section, "residential caregiver" has the meaning assigned by Section 531.02485.

(b)  A Medicaid provider that provides community-based residential care services to Medicaid recipients through a group home or other residential facility licensed by or operated under the authority of the Health and Human Services Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to an individual who is an applicant for employment or seeking a contract position with the provider as a residential caregiver or who is employed or contracted by the provider as a residential caregiver.

SECTION 2.  Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02485 to read as follows:

Sec. 531.02485.  REQUIRED REVIEW OF CRIMINAL HISTORY RECORD INFORMATION FOR CERTAIN RESIDENTIAL CAREGIVERS. (a) In this section, "residential caregiver" means an individual who provides, through a group home or other residential facility licensed by or operated under the authority of the commission, community-based residential care services:

(1)  to not more than four individuals with an intellectual or developmental disability at any time; and

(2)  at a residence other than the home of the individual providing the services.

(b)  A Medicaid provider, including a provider providing services under a 1915(c) waiver program, that employs or contracts with a residential caregiver to provide community-based residential care services to Medicaid recipients shall review state and federal criminal history record information and obtain electronic updates from the Department of Public Safety of arrests and convictions for each residential caregiver the provider employs or contracts with to provide community-based residential care services to Medicaid recipients.

(c)  An individual who has been convicted of an offense described by Section 250.006, Health and Safety Code, may not be employed or contracted as a residential caregiver or otherwise provide direct care to a Medicaid recipient with an intellectual or developmental disability to the same extent and, if applicable, for the same period of time prescribed by Section 250.006(a) or (b), Health and Safety Code, as an individual similarly convicted under those subsections. An individual who violates this subsection is subject to disciplinary action by the commission.

(d)  A Medicaid provider shall immediately discharge any individual the provider employs or contracts with as a residential caregiver who is convicted of an offense described by Section 250.006, Health and Safety Code.

(e)  Notwithstanding any other law, the commission shall take disciplinary action against a Medicaid provider that violates this section, including imposing an administrative penalty or vendor hold, terminating a contract or license, or any other disciplinary action the commission determines appropriate. In determining the appropriate disciplinary action to take against a Medicaid provider under this subsection, the commission shall consider:

(1)  the nature and seriousness of the violation;

(2)  the history of previous violations; and

(3)  any other matter justice may require.

(f)  The executive commissioner shall adopt rules necessary to implement this section.

SECTION 3.  If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 4.  This Act takes effect September 1, 2023.

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