By:  Parker S.B. No. 2143

(In the Senate - Filed March 9, 2023; March 21, 2023, read first time and referred to Committee on Health & Human Services; May 19, 2023, reported adversely, with favorable Committee Substitute 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

COMMITTEE SUBSTITUTE FOR S.B. No. 2143 By:  Perry

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility for and access to certain Medicaid waiver programs, including the medically dependent children (MDCP) and the Texas home living (TxHmL) waiver programs.

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

SECTION 1.  Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.06012 and 531.06041 and amending Section 531.0604 to read as follows:

Sec. 531.06012.  MEDICALLY DEPENDENT CHILDREN (MDCP) WAIVER PROGRAM: ALLOCATION OF DIVERSION SLOTS. To the extent possible, the commission shall allocate a portion of medically dependent children (MDCP) waiver program slots as diversion slots for children who:

(1)  meet the program's level of care criteria for medical necessity for nursing facility care; and

(2)  are at high risk of being placed in an institutional setting.

Sec. 531.0604.  MEDICALLY DEPENDENT CHILDREN PROGRAM ELIGIBILITY REQUIREMENTS; NURSING FACILITY LEVEL OF CARE.  To the extent allowed by federal law, the commission may not require that a child reside in a nursing facility for:

(1)  an extended period of time to meet the nursing facility level of care required for the child to be determined eligible for the medically dependent children (MDCP) waiver program; or

(2)  any period of time to meet the nursing facility level of care required for the child to be determined eligible for the medically dependent children (MDCP) waiver program if the child is:

(A)  medically fragile; and

(B)  accessing the program through a "Money Follows the Person" demonstration project.

Sec. 531.06041.  ASSESSMENT OF CERTAIN CHILDREN FOR MEDICALLY DEPENDENT CHILDREN (MDCP) WAIVER PROGRAM. To the extent possible, the commission shall enroll a child in the medically dependent children (MDCP) waiver program if the child:

(1)  is on the interest list for the program;

(2)  receives Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.); and

(3)  meets the program's level of care criteria for medical necessity for nursing facility care.

SECTION 2.  Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0521 to read as follows:

Sec. 32.0521.  ELIGIBILITY FOR TEXAS HOME LIVING (TxHmL) WAIVER PROGRAM. (a) In this section, "Section 1915(c) waiver program" has the meaning assigned by Section 531.001, Government Code.

(b)  To the extent permitted by federal law, an individual is financially eligible to participate in the Texas home living (TxHmL) waiver program if the individual's income is not more than the special income limit established by the commission for other Section 1915(c) waiver programs, including the home and community-based services (HCS) waiver program.

(c)  The commission may not require that an individual who has an approved primary diagnosis of a related condition meet intelligence quotient criteria to be eligible for the Texas home living (TxHmL) waiver program.

SECTION 3.  Notwithstanding any other section of this Act, in a state fiscal year, the Health and Human Services Commission is not required to implement a provision in another section of this Act imposing a duty on the commission to take an action, including a provision that the commission determines would require adding additional slots under the medically dependent children (MDCP) waiver program or the Texas home living (TxHmL) waiver program, unless money is specifically appropriated to the commission for that fiscal year to carry out that duty. The commission may implement the provision in that fiscal year to the extent other funding is available to the commission for the implementation.

SECTION 4.  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 5.  This Act takes effect September 1, 2023.

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