88R8798 JG-D

By:  LaMantia S.B. No. 2178

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Autism Medicaid Services Program Advisory Council to evaluate the provision of applied behavior analysis services under Medicaid.

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

SECTION 1.  Subtitle E, Title 2, Health and Safety Code, is amended by adding Chapter 111 to read as follows:

CHAPTER 111. AUTISM MEDICAID SERVICES PROGRAM ADVISORY COUNCIL

Sec. 111.001.  DEFINITIONS. In this chapter:

(1)  "Advisory council" means the Autism Medicaid Services Program Advisory Council established under this chapter.

(2)  "Medicaid managed care organization" has the meaning assigned by Section 531.001, Government Code.

(3)  "Program" means the autism Medicaid services program administered by the commission under Medicaid to provide applied behavior analysis services to recipients with autism spectrum disorder.

(4)  "Recipient" has the meaning assigned by Section 533.001, Government Code.

Sec. 111.002.  PURPOSE. The purpose of the Autism Medicaid Services Program Advisory Council is to:

(1)  create a structured forum by convening relevant stakeholders to evaluate and advise the commission on issues and concerns relating to the provision of applied behavior analysis services under the program;

(2)  provide a structured forum through which recipients receiving services under the program and the public are able to provide input on the provision of applied behavior analysis services under the program; and

(3)  assess and provide reports on the program in accordance with this chapter.

Sec. 111.003.  ESTABLISHMENT OF ADVISORY COUNCIL. The advisory council is established to advise the commission and legislature on the provision of applied behavior analysis services to recipients under the program, including the implementation and efficacy of the program.

Sec. 111.004.  MEMBERSHIP. (a) The advisory council is composed of the following members appointed by the executive commissioner:

(1)  at least one commission employee who provides technical support for the program;

(2)  at least one Texas Medicaid and Healthcare Partnership employee who provides technical support for the program;

(3)  at least three representatives of Medicaid managed care organizations participating in the program;

(4)  at least four representatives of licensed behavior analysts participating in the program that represent a variety of operational sizes;

(5)  at least one representative of a licensed diagnosing provider of applied behavior analysis participating in the program;

(6)  at least one representative of an advocacy and support group for individuals that represents persons with autism spectrum disorder in this state;

(7)  at least one member who is a parent of a child who has been diagnosed with autism spectrum disorder and qualifies for participation in or receives services under the program; and

(8)  any other person the executive commissioner determines appropriate who has appropriate subject matter expertise in autism, the program, or another relevant area.

(b)  Each advisory council member must be a resident of this state.

(c)  The executive commissioner shall select from among the advisory council members a presiding officer. In the event of a tie on a matter voted on by the advisory council, the presiding officer shall cast the deciding vote.

(d)  An advisory council member is not entitled to compensation or reimbursement for expenses incurred in performing advisory council duties.

Sec. 111.005.  TERMS AND VACANCY. (a) Advisory council members serve two-year terms.

(b)  The executive commissioner shall fill a vacancy on the advisory council in the same manner as the original appointment for the remainder of the unexpired term.

(c)  An advisory council member may be reappointed to serve on the advisory council.

Sec. 111.006.  MEETINGS. (a) The advisory council shall meet at times and locations as determined by the presiding officer or a majority of the advisory council members.

(b)  Notwithstanding Chapter 551, Government Code, or any other law, the advisory council may meet by telephone conference call, videoconference, or another similar telecommunication method. A meeting held by telephone conference call, videoconference, or another similar telecommunication method is subject to the requirements of Sections 551.125(c)-(f), Government Code.

(c)  A majority of the advisory council members constitutes a quorum.

Sec. 111.007.  ANNUAL REPORT. (a) Not later than November 1 of each year, the advisory council shall prepare and submit to the executive commissioner, the commission's executive council established under Section 531.0051, Government Code, the governor, and the legislature an electronic written report that includes:

(1)  the total program budget for the preceding fiscal year;

(2)  the total amount of money spent to provide reimbursements under the program for the provision of applied behavior analysis services during:

(A)  the preceding fiscal year under the program to provide reimbursements for the provision of applied behavior analysis services; and

(B)  the period beginning on the date the program was established to the 30th day preceding the date the report is prepared;

(3)  the total number of recipients who received applied behavior analysis services under the program during:

(A)  the preceding fiscal year; and

(B)  the period beginning on the date the program was established to the 30th day preceding the date the report is prepared;

(4)  the total number of projected recipients who will receive applied behavior analysis services under the program for the current fiscal year;

(5)  the minutes of each advisory council meeting conducted during the preceding fiscal year, including any written public comments and transcribed oral public comments; and

(6)  an analysis of barriers to:

(A)  the program's efficiency;

(B)  access to applied behavior analysis services under the program; and

(C)  program network adequacy, including recommendations for improving program efficiency.

(b)  Notwithstanding any other law, this section, including any action taken under this section to develop or disseminate information or materials, does not create a civil or administrative cause of action or a civil or criminal liability and does not create a standard of care, obligation, or duty that provides the basis for a cause of action.

Sec. 111.008.  APPLICABILITY OF OTHER LAW. Chapter 2110, Government Code, does not apply to the advisory council.

Sec. 111.009.  SUNSET PROVISION. The advisory council is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the advisory council is abolished and this chapter expires September 1, 2029.

SECTION 2.  (a) Not later than March 1, 2024, the executive commissioner of the Health and Human Services Commission shall appoint members to the Autism Medicaid Services Program Advisory Council as required by Chapter 111, Health and Safety Code, as added by this Act.

(b)  Notwithstanding Chapter 111, Health and Safety Code, as added by this Act, the Autism Medicaid Services Program Advisory Council established under that chapter is not required to submit the first report under that chapter until November 1, 2024.

SECTION 3.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.