

By: Turner

H.B. No. 1009

A BILL TO BE ENTITLED

AN ACT

1
2 relating to criminal history record information reviews of certain
3 individuals providing services to individuals with an intellectual
4 or developmental disability under Medicaid; providing an
5 administrative penalty.

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

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

9 Sec. 411.11061. ACCESS TO CRIMINAL HISTORY RECORD
10 INFORMATION: CERTAIN MEDICAID PROVIDERS. (a) In this section,
11 "residential caregiver" has the meaning assigned by Section
12 531.02485.

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

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

24 Sec. 531.02485. REQUIRED REVIEW OF CRIMINAL HISTORY RECORD

1 INFORMATION FOR CERTAIN RESIDENTIAL CAREGIVERS. (a) In this
2 section, "residential caregiver" means an individual who provides,
3 through a group home or other residential facility licensed by or
4 operated under the authority of the commission, community-based
5 residential care services:

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

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

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

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

1 (d) A Medicaid provider shall immediately discharge any
2 individual the provider employs or contracts with as a residential
3 caregiver who is convicted of an offense described by Section
4 250.006, Health and Safety Code.

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

- 13 (1) the nature and seriousness of the violation;
14 (2) the history of previous violations; and
15 (3) any other matter justice may require.

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

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

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