

BILL ANALYSIS

C.S.H.B. 3396
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that although current law allows foster children to receive care through Medicaid managed care plans, some foster parents struggle to access certain care for their foster child due to the managed care plan's narrow network and wish they could pay out-of-pocket to obtain certain services for the child. C.S.H.B. 3396 seeks to provide such an opportunity to foster parents by allowing medical consenters to assume financial responsibility for medical care, including behavioral health services, provided to foster children.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3396 amends the Family Code to set out provisions relating to the assumption of financial responsibility for certain out-of-network medical care by a medical conserter, defined by the bill as a person who is authorized by a court to consent to medical care for a foster child. The bill authorizes a medical conserter other than the Department of Family and Protective Services (DFPS) to assume financial responsibility for medical care, including behavioral health services, provided to a foster child by an out-of-network provider engaged by the medical conserter on behalf of the child. For that purpose, assuming financial responsibility may include the medical conserter enrolling the child in a health insurance plan. The bill establishes that DFPS is not liable for the cost of such care, unless a court orders DFPS to cover the cost of the medical care. The bill's provisions relating to the assumption of financial responsibility by medical consenters expressly may not be construed to do the following:

- limit or restrict a foster child's access to Medicaid benefits, including in-network benefits provided under the Medicaid managed care program;
- change or limit the rights of parents of children in temporary managing DFPS conservatorship; or
- limit a court's authority to order DFPS to assume financial responsibility for the cost of services provided to a foster child by an out-of-network provider.

C.S.H.B. 3396 requires a medical conserter, not later than the 10th business day after the date medical care for which the conserter assumes financial responsibility is provided, to notify the child's caseworker of the provision of that care in the form and manner prescribed by DFPS. The bill requires DFPS to ensure the child's health passport includes records of the medical care provided.

C.S.H.B. 3396 defines the following terms:

- "health care provider" as an individual who is licensed, certified, or otherwise authorized to provide health care services in Texas, excluding a pharmacy;
- "managed care plan," "Medicaid," and "Medicaid managed care organization" have the meanings assigned to those terms under applicable Government Code provisions;
- "Medicaid managed care plan" as a managed care plan offered by a Medicaid managed care organization;
- "out-of-network provider" as a health care provider who is not included in the provider network of the Medicaid managed care plan in which a foster child is enrolled; and
- "pharmacy" has the meaning assigned to that term under Occupations Code provisions governing pharmacies and pharmacists.

C.S.H.B. 3396 amends the Government Code to prohibit a Medicaid managed care organization (MCO) from taking adverse action to prevent or discourage a recipient from accessing health care and related services and benefits in accordance with the bill's provisions relating to assumption of financial responsibility by medical consenters. The bill requires a STAR Health program managed care contract between a Medicaid MCO and the Health and Human Services Commission to require that the MCO comply with that prohibition. These provisions may not be construed to confer liability on a Medicaid MCO for the cost of health care and related services provided to a foster child by an out-of-network provider engaged by a medical consenter on behalf of the child.

If before implementing any of the bill's provisions 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 must request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3396 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a provision absent from the introduced establishing that assuming financial responsibility under the bill's provisions may include the medical consenter enrolling the child in a health insurance plan. While both the introduced and the substitute establish that DFPS is not liable for the cost of medical care, the substitute includes an exception to that provision in which a court orders DFPS to cover the cost of such care.

Additionally, both the introduced and the substitute establish that the bill's provisions relating to the assumption of financial responsibility by medical consenters may not be construed to limit or restrict a foster child's access to Medicaid benefits, including in-network benefits provided under the Medicaid managed care program. However, the substitute includes provisions absent from the introduced establishing that those bill provisions may not be construed to do the following:

- change or limit the rights of parents of children in temporary managing DFPS conservatorship; or
- limit a court's authority to order DFPS to assume financial responsibility for the cost of services provided to a foster child by an out-of-network provider.

The substitute includes a provision absent from the introduced defining "pharmacy." The substitute revises the introduced version's provision defining the term "health care provider" by including a specification that the term does not include a pharmacy.