

BILL ANALYSIS

C.S.H.B. 4
By: Price
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

During the COVID-19 pandemic, the Health and Human Services Commission (HHSC) significantly expanded the services Medicaid recipients could receive through remote means. This proved to be popular among recipients and there have been calls for HHSC to make this expansion permanent. C.S.H.B. 4 seeks to answer those calls and provide a pathway to integrating the delivery of services to Medicaid, CHIP, and other public benefits program recipients through remote means into HHSC policies on a permanent basis and in a fiscally responsible manner.

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 rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 1, 2, and 6 of this bill.

ANALYSIS

C.S.H.B. 4 amends the Government Code to require the Health and Human Services Commission (HHSC), to the extent permissible under federal law and to the extent HHSC determines it to be cost-effective and clinically effective, to ensure that Medicaid recipients, CHIP enrollees, and other individuals receiving benefits under a public benefits program administered by HHSC or another health and human services agency, regardless of the service delivery model through which benefits are provided, have the option to receive services as telemedicine medical services, telehealth services, or otherwise using telecommunications or information technology, including certain services specified by the bill. The bill requires HHSC to implement these provisions not later than January 1, 2022.

C.S.H.B. 4 requires HHSC by rule to develop and implement a system to ensure behavioral health services may be provided using audio-only technology to such an individual. If the executive commissioner of HHSC determines that providing services other than behavioral health services is appropriate using audio-only technology under an applicable public benefits program, the executive commissioner may, by rule and in accordance with applicable federal and state law, authorize the provision of those services under the applicable program using that technology. In determining whether the use of audio-only technology in a program is appropriate, the executive commissioner must consider whether using the technology would be cost-effective and clinically effective. The bill requires HHSC to implement these provisions not later than January 1, 2022.

C.S.H.B. 4 requires HHSC to establish policies and procedures to improve access to care under the Medicaid managed care program by encouraging the use of telehealth services, telemedicine medical services, home telemonitoring services, and other telecommunication or information technology under the program.

C.S.H.B. 4 requires HHSC, by rule and to the extent permitted by federal law, to establish policies and procedures that allow a Medicaid managed care organization (MCO) to conduct assessments of and provide care coordination services to recipients receiving home and community-based services through telecommunication or information technology in certain specified circumstances, including when requested by the recipient and when an in-person assessment or activity is not feasible because of the existence of an emergency or state of disaster. The bill requires HHSC, to the extent permitted by federal law, to allow the recipients receiving assessments and services through such remote means to provide consent or other authorizations verbally instead of in writing.

C.S.H.B. 4 requires a Medicaid MCO conducting assessments or providing care coordination services through telecommunications or information technology to monitor the health care services provided to the recipient for evidence of fraud, waste, and abuse and to determine whether additional social services and supports are needed.

C.S.H.B. 4 requires HHSC to determine categories of recipients of home and community-based services who must receive in-person visits and provides for continued in-person visits to these recipients by their applicable MCOs, except during an emergency or state of disaster.

C.S.H.B. 4 requires the executive commissioner of HHSC to ensure by rule that rural health clinics as defined by federal law governing Medicaid may be reimbursed for the originating site facility fee or the distant site practitioner fee or both, as appropriate, for a covered telemedicine medical service or telehealth service delivered by a health care provider to a Medicaid recipient. Implementation of that requirement is mandatory only if a specific appropriation is made for that purpose.

C.S.H.B. 4 authorizes a Medicaid MCO, in order to comply with state and federal requirements to provide access to medically necessary services under the Medicaid managed care program, to reimburse providers for home telemonitoring services provided to persons and in circumstances other than those expressly authorized by applicable state law. In determining whether it should provide reimbursement for those services, an MCO must consider whether reimbursement is cost-effective and whether providing the service is clinically effective.

C.S.H.B. 4 requires the Medicaid managed care provider access standards, to the extent feasible, to consider and include the availability of telehealth services and telemedicine medical services within an MCO's provider network. The bill requires the executive commissioner, not later than January 1, 2022, to adopt and publish guidelines for Medicaid MCOs regarding how MCOs may communicate with their enrolled recipients by text message. Those guidelines must include the standardized consent language to be used by MCOs in obtaining a recipient's consent to receive communications by text message.

C.S.H.B. 4 amends the Health and Safety Code to require a health plan provider to permit covered benefits for a CHIP recipient to be provided through telehealth services in accordance with policies developed by HHSC. The bill applies to those policies the content requirements applicable to policies developed with respect to the delivery of benefits through telemedicine medical services.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4 differs from the original in minor and nonsubstantive ways to conform to certain bill drafting conventions, the following summarizes only the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include a requirement for HHSC to implement reimbursement for telemedicine medical services and telehealth services in certain specified programs, services, and benefits. Instead, the substitute does the following:

- includes a provision requiring HHSC to ensure Medicaid recipients, CHIP enrollees, and other individuals receiving benefits under an applicable public benefits program have the option to receive services as telemedicine medical services, telehealth services, or otherwise using telecommunications or information technology;
- includes a list of specified services to which that requirement applies, which partially overlap with the programs, services, and benefits provided in the original; and
- conditions the requirement on it being permitted by federal law and determined by HHSC to be cost-effective and clinically effective.

The substitute does not include a requirement for HHSC to implement audio-only benefits for behavioral health services but instead includes a requirement for HHSC by rule to develop and implement a system to ensure those services may be provided using audio-only technology to individuals receiving benefits from an applicable public benefits program.

The substitute revises the provision authorizing HHSC to implement audio-only benefits for services other than behavioral services to provide that HHSC may authorize the provision of those services through the rulemaking process.

The substitute includes the following provisions:

- provisions requiring a health plan provider to permit covered benefits for CHIP recipients to be provided through telehealth services; and
- provisions requiring HHSC to implement the provisions providing for services to be provided under applicable public benefits programs through telecommunications and other information technology not later than January 1, 2022.

The substitute changes the bill's effective date from September 1, 2021, to on passage or, if the bill does not receive the requisite vote for immediate effect, September 1, 2021.