SUBJECT: Studying health-care coverage options for working people with disabilities

COMMITTEE: State Health Care Expenditures — favorable, without amendment

VOTE: 6 ayes — Delisi, Capelo, Crownover, Harper-Brown, Miller, Uresti

0 nays

5 absent — Gutierrez, Berman, Deshotel, Truitt, Wohlgemuth

WITNESSES: For — Susanne Elrod, Texas Center for Disability Studies; Jonas Schwartz, Advocacy, Inc.

Against — None

BACKGROUND: Under federal law, people who are disabled and receive Supplemental Security Insurance (SSI) benefits also are eligible for Medicaid, the state-federal health-care program for low-income people. To be eligible for SSI, a person must be disabled and earn below a certain income level. Texas' Medicaid program is funded through the Texas Department of Health and administered by the Texas Department of Human Services (DHS).

As people with disabilities enter the workforce, their income can rise to levels that disqualify them for SSI, causing them to lose Medicaid benefits. SSI regulations allow the agency that determines eligibility to disregard some levels of a person's assets, income, and work-related expenses so that the person remains eligible for Medicaid. However, when a person's income or assets rise above the eligibility levels calculated with the disregards, that person no longer is eligible for Medicaid.

To address this barrier to employment, the federal Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106-170) authorized states to create a Medicaid buy-in program for disabled people who would like to work while retaining their Medicaid benefits. The law directed the U.S. Department of Health and Human Services to establish a grant program to fund states' efforts to change their Medicaid regulations to meet the needs of people with disabilities who want to work.

Funding for these changes comes from the Medicaid Infrastructure Grant program, established in 1999, which is authorized to provide $250 million over six years to support demonstration projects. The federal Centers for Medicare and Medicaid Services (CMS) has released a $500,000 grant for one year to Texas and has indicated that the state is eligible for a second year's grant. Texas also may apply for two additional years of grants.

In 2001, the 77th Legislature enacted SB 831 by Moncrief, which directed DHS to create a demonstration project for a Medicaid buy-in program in accordance with the Ticket to Work and Work Incentives Improvement Act. The Health and Human Services Commission (HHSC), acting as the state Medicaid agency, submitted a concept paper to CMS to apply for a Medicaid waiver, which would enable DHS to implement the demonstration project. CMS declined the proposal because it interpreted the federal law as requiring a statewide Medicaid buy-in, not a demonstration project.

DIGEST:

HB 3484 would establish a work group under HHSC to study health-care coverage options for working people with disabilities.

The study would have to evaluate the extent to which employers of people with disabilities offer health coverage and what type of coverage they offer. It would have to examine the use of Medicaid services by working people with disabilities, the potential for increased use of health insurance premium payment programs, and other possible cost-sharing options and potential savings to the Medicaid program if private coverage were offered. The work group also would have to evaluate the impact of existing federal employment incentive programs and the projected impact of a Medicaid buy-in program on the rate of employment of people with disabilities.

The work group would have to include representatives of HHSC, DHS, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Insurance, the Texas Workforce Commission and local workforce development boards, the Texas Rehabilitation Commission, the Texas Commission for the Blind, the Comptroller's Office, people with disabilities who are employed or have employment goals, and advocates for people with disabilities.

The HHSC commissioner would have to determine the number of members of the work group and the presiding officer. The group would have to meet at the commissioner's call, and members would serve at the will of the appointing official. Members would not be paid but could receive reimbursement for travel expenses, as allowed by the general appropriations act.

The work group would have to report its findings and recommendations, including a proposal for a Medicaid buy-in program or other cost-sharing policies, to HHSC, which would have to report on policy options to the Legislature by November 1, 2004.

HHSC would have to use the 2001 federal Ticket to Work grant to build infrastructure to offer support services to working people with disabilities. The commission would have to pursue additional Ticket to Work grants.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003. Its provisions would expire September 1, 2005.

SUPPORTERS SAY:

HB 3484 would move the state in the right direction in regard to supporting working people with disabilities. The primary concern of the working disabled is their medical coverage, which often is vital to their daily survival. The way that SSI eligibility is determined creates a disincentive to work. People with disabilities who can work often cannot afford the medical costs associated with a disability or the full range of services that Medicaid covers. A person with a disability may be capable of earning enough money to give up the SSI cash benefit, but not enough to replace the Medicaid benefit. This disincentive makes people with disabilities dependent on cash assistance and discourages them from pursuing the therapeutic benefits of work.

The state should evaluate thoroughly the consequences of any new program before it is implemented statewide. SB 831 by Moncrief required the creation of a demonstration project that would have allowed the state to work out the kinks in a new program before going statewide. Though CMS declined the state's proposal for a small program, Texas likely would receive a waiver for a statewide Medicaid buy-in program. Texas should do its homework before applying for the waiver.

A Medicaid buy-in program would promote independence for people with disabilities. Like the Children's Health Insurance Program (CHIP), the buy-in aspect of this demonstration program would encourage graduated self-sufficiency and would remove the "welfare" stigma associated with Medicaid. Also, the program likely would save money for the Medicaid program over time. Recipients who might be reluctant to work because they might lose their benefits would be assured that this would not occur. The program could save money by cost sharing and possibly by offering limited services to fill in what private insurance does not cover.

Texas should help recipients and case managers use options that are available under federal law while Medicaid buy-in is being studied. Many recipients and case managers find the disregards for SSI very confusing and difficult to obtain. Some people with disabilities might be able to work if they could keep their Medicaid benefits. The work group would evaluate the use of these programs and factors related to their improved use.

This study would not cost the state any general revenue. Infrastructure costs associated with the work group would be paid through federal grants, so no additional burden would fall on the agencies that administer Medicaid.

OPPONENTS SAY:

HB 3484 would encourage people with disabilities to remain dependent on the state. SSI has specific income limits because a person who can earn above those levels should not receive public assistance, either in cash or medical benefits. Health insurance is expensive for many people, but the state should encourage people with disabilities to adjust their budgets and pay for it rather than continuing to receive public assistance.

A Medicaid buy-in program would promote a false sense of independence for people with disabilities. If the disabled need benefits provided by Medicaid that exceed the benefits they could obtain in the private insurance market, time in this program is unlikely to change those needs. Unlike CHIP, where there is a reasonable expectation that families will move through the levels of graduated self-sufficiency to full independence, people who buy into Medicaid are unlikely to graduate from the program.

HB 3484 could exacerbate the state's Medicaid caseload problems. The House has passed an emergency appropriations bill (HB 7 by Heflin), in part

to cover a shortfall in Medicaid, and has adopted significant reductions in health and human services funding in the general appropriations bill, HB 1 by Heflin. The state should not consider expanding Medicaid eligibility in the current budget environment.

OTHER OPPONENTS SAY:

Even though CMS has indicated that the strings attached to the grant funding have been loosened in recognition of states' fiscal situations, access to future funding is unclear. Originally, the grant funds were tied to states' level of personal assistance services, but few states were eligible. CMS has allowed states that do not meet the requisite levels to obtain grants, but this could change. Texas might have the funding to perform the study, but ultimately might not be eligible for the grants to initiate the Medicaid buy-in program.

NOTES:

The companion bill, SB 1523 by Deuell, has been referred to the Senate Health and Human Services Committee.