SUBJECT: Obtaining a Medicaid reform waiver and federal funding changes

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Kolkhorst, Alvarado, S. Davis, S. King, Laubenberg, Schwertner, Truitt, Zerwas

0 nays

1 present not voting — Coleman

2 absent — Naishtat, V. Gonzales

WITNESSES: For — Devon M. Herrick, National Center for Policy Analysis; Arlene Wohlgemuth, Texas Public Policy Foundation; Brian Berger; Donald Draenn; (*Registered, but did not testify:* Bill Hammond, Texas Association of Business; Andrew Kerr, Texans for Fiscal Responsibility; Annie Mahoney, Texas Conservative Coalition; Lee Manross, Texas Coalition of Health Insurance Agents; Michael Gutierrez)

Against — Anne Dunkelberg, Center for Public Policy Priorities; (*Registered, but did not testify:* Miryam Bujanda, Methodist Healthcare Ministries)

On — Amanda Fredriksen, AARP; John Hawkins, Texas Hospital Association; Billy Millwee and Tom Suehs, Texas Health and Human Services Commission

BACKGROUND: Medicaid is a health benefit program that serves certain low-income individuals, primarily children and disabled or elderly people. State expenditures on the Medicaid program are matched by federal funding, and state Medicaid programs must comply with federal requirements regarding eligibility and benefits in order to qualify for federal matching funds. Federal funding formulas are modified every year and take into account the relative per-capita wealth of each state.

The federal regulating agency, the Centers for Medicare and Medicaid Services (CMS), also allows states under certain conditions to petition for waivers from federal requirements.

DIGEST:

CSHB 13 would require the Texas Health and Human Services Commission (HHSC) to seek a waiver from federal Medicaid requirements and modifications in the federal funding formula. The objectives of the Medicaid waiver would be to:

- provide flexibility in income eligibility and benefit design;
- encourage the use of private health benefits rather than public benefit systems;
- create a culture of shared financial responsibility by establishing and enforcing copayment requirements for all eligible persons, and by promoting the use of health savings accounts and vouchers;
- consolidate related federal funding streams, including funds from the disproportionate share hospitals and the upper payment limit supplemental payment programs;
- allow flexibility in the use of state funds to draw federal matching funds;
- empower uninsured individuals to purchase health coverage by promoting cost-effective coverage models using a sliding scale and fees for service;
- allow the redesign of long-term care services and supports to increase patient-centered care; and
- create the Texas Health Insurance Virtual Marketplace on the Internet allowing people to shop and compare private health plan coverage.

In pursuing federal funding modifications, this bill would require HHSC to work with the Texas delegation to the U.S. Congress and CMS and other federal agencies to achieve a federal match formula that accounted for population size and growth and the percentage of people below the federal poverty level. The commission also would have to make efforts to obtain additional federal Medicaid funding for Medicaid services required to be provided to illegal immigrants.

The bill also would create an eight-member Medicaid Reform Waiver Legislative Oversight Committee to facilitate the waiver design and a smooth transition from the existing Medicaid system to the waiver model of care by October 1, 2011. The committee would have to submit a report to the lieutenant governor and the speaker by November 15, 2012, that identified the issues related to the transition, effectiveness, and impact of recommended Medicaid changes.

The bill would abolish the committee and the requirement to seek federal funding modifications on September 1, 2013.

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, 2011.

SUPPORTERS SAY:

CSHB 13 would help to maintain coverage for needy Texans by requesting a waiver to allow Medicaid funds to be used most efficiently to cover as many Texans as possible. Medicaid is the fastest-growing item in the budget. If the program is not fixed, the state will have to impose a significant tax hike or make deeper cuts to provider rates to compensate for the escalating costs. Many states, including Rhode Island and Vermont, have requested waivers to deliver care in a way that best fits their states' needs. CSHB 13 would allow Texas to join their ranks.

The bill would direct HHSC to apply for a federal waiver giving the state five years to demonstrate a successful transition to a block grant system that would allow more flexibility in the operation of the Texas Medicaid program. The waiver would provide the state with more control over program design and encourage the uninsured to seek coverage in the private market through subsidies. It would improve the Medicaid program by creating a culture of personal responsibility and accountability by introducing copayments for users and preventing waste in the health care system.

CSHB 13 would encourage greater provider participation for low-income Texans because more people would be served in the private health insurance market. The state currently lacks enough doctors who are willing to accept patients under Medicaid because the reimbursement rate for Medicaid providers is too low. Reimbursement rates would be higher in the private market, and this should increase the number of participating physicians. Many Texans are enrolled in Medicaid because of low incomes, not because of chronic illness, and these individuals could be better served in the private market. By transitioning individuals to a private health insurance model, recipients would have greater access to care and experience better health outcomes.

The language contained in the bill is deliberately broad to provide the state delegation greater negotiating power with the federal government to ensure that the state received the best deal possible. However, fears that

the state could deny coverage or reduce the income threshold are baseless because the federal guidelines for eligibility and maintenance of effort still would apply to any waiver that was negotiated.

OPPONENTS SAY:

The bill as written contains overly general language that would not provide any guarantees or protections for the level of care provided to low-income and chronically ill Texans. If the Medicaid program received the global demonstration waiver, the state would receive a set amount of funding for five years that would not increase based on inflation or population growth in the state. There would be no assurance that the state would receive additional funds to cover increased caseloads if an economic downturn or natural disaster occurred.

CSHB 13 could dramatically reduce the populations covered under the Texas Medicaid program. The bill would require HHSC to seek a waiver from the federal government to increase flexibility for the eligibility and income thresholds within the programs. The federal government does not currently require a waiver for Texas to change the eligibility criteria to increase coverage for the state's nearly 6.5 million uninsured people. Therefore, it can only be assumed that the waiver authorized under CSHB 13 would seek to lower the income threshold and deny coverage to Texans for some of the programs and services offered.

CSHB 13 would burden poor families and the chronically ill with additional health care expenses and would result in delayed treatment and higher costs. Medicaid and the Children's Health Insurance Program (CHIP) provide health care services for children and very low-income people who also have another medical condition, including pregnant women, the elderly, and people with disabilities. The federal government established guidelines to prevent the denial of coverage or an imposition of copayments for enrollees below the poverty threshold ($22,350 per year for a family of four). This provision ensures that an individual has access to care to prevent major illnesses and high health care expenditures. The bill could discourage these recipients from seeking care until it was urgently needed.

CSHB 13 would place chronically ill and very low-income Texans at the mercy of the unregulated individual insurance market. The costs for health coverage and treatment are escalating faster in the private market than in the Medicaid program. The premiums for individual insurance plans are typically more expensive than employer-based coverage, and customers

commonly experience sharp rate hikes from year to year. Pushing Medicaid recipients onto a voucher system would not guarantee that the coverage could be purchased or that the private insurance plan would meet their health care needs. Given that most Medicaid recipients in Texas receive care through a managed care organization (which is effectively a private health insurance model) this provision seems unnecessary and redundant.

NOTES:

The committee substitute changed the filed bill's requirements from the establishment of a global Medicaid demonstration project to pursuit of a Medicaid reform waiver. The committee substitute also removed from the filed version the establishment of an Office of Individual Empowerment and Employment Opportunities to increase the employment of Medicaid recipients and the extension of the Women's Health Program demonstration project until 2019.