

**SUBJECT:** Allowing for habilitation services in Medicaid managed care

**COMMITTEE:** Human Services — committee substitute recommended

**VOTE:** 8 ayes — Raymond, Rose, Keough, Klick, Naishtat, Peña, Price, Spitzer

0 nays

1 absent — S. King

**WITNESSES:** For — Stacey Mayfield; (*Registered, but did not testify:* Carole Smith, Private Providers Association of Texas; Rachel Hammon, Texas Association for Homecare and Hospice; Danette Castle, Texas Council of Community Centers)

Against — None

On — (*Registered, but did not testify:* Calvin Green, Department of Aging and Disability Services; Susan Murphree, Disability Rights Texas; Gary Jessee, Health and Human Services Commission)

**BACKGROUND:** SB 7 by Nelson, enacted by the 83rd Legislature, required the Health and Human Services Commission (HHSC) to put in place a cost-effective option for attendant and habilitation services for people with disabilities under STAR+PLUS, a Medicaid managed care provider. Texas recently received approval for a federal Medicaid program called Community First Choice that allows the state to provide these services using STAR+PLUS. The state would begin providing habilitation services under STAR+PLUS using the Community First Choice program starting June 1, 2015.

According to the HHSC, individuals on a 1915(c) Medicaid waiver interest list who meet eligibility and coverage requirements for the program would be eligible to get Community First Choice services through the newly approved program. Those individuals already receiving services through a 1915(c) Medicaid waiver would continue to receive services exactly as they do today from their existing providers.

Government Code, sec. 534.001 defines “habilitation services” to include assistance provided to individuals with acquiring, retaining, or improving skills related to the activities of daily living and the social and adaptive skills necessary to enable individuals to live and fully participate in the community.

**DIGEST:**

CSHB 4001 would require a license for the provision of habilitation services delivered by a licensed home and community support services agency. The bill would add the same requirements to the habilitation services license that exist for a license to provide home health, hospice, or personal assistance services.

**Definitions.** CSHB 4001 would define “habilitation” to mean habilitation services, as defined by Government Code, sec. 534.001, delivered by a licensed home and community support services agency. The bill also would add habilitation to the definition of a “home and community support services agency” and a “place of business.”

**Licensing.** The bill would require a person, including a health care facility, to have a license to provide habilitation services. A person would not be required to hold a license for habilitation services until January 1, 2016. An applicant for a license to provide habilitation services would have to provide the same materials and meet the same requirements as currently provided in statute for an application for a license to provide home health, hospice, or personal assistance services. Additionally, the applicant would have to provide a plan for the orderly transfer of care of the applicant’s clients if the applicant could not maintain or deliver habilitation services under the license. The license could designate dialysis and habilitation as the types of services that the home and community support services agency would be authorized to provide.

The bill specifically would exempt the following individuals from licensing:

- a person who provides habilitation services only as an employee of the license holder and who receives no benefit for providing the services other than wages; and
- a person who provides habilitation services only to individuals

who receive benefits under the STAR+PLUS or other Medicaid managed care program under the program's Home and Community Services or Texas Home Living certification.

**Fees.** The bill would require the executive commissioner of the Health and Human Services Commission (HHSC) by rule to set license fees for a habilitation services license of between \$600 and \$2,000, as required for home health, hospice, or personal assistance services licenses. A person who provided habilitation services without a license or represented to the public that the person was a provider of habilitation services without a license would be liable for a civil penalty of between \$1,000 and \$2,500 for each day of violation. The Department of Aging and Disability Services (DADS) also could assess an administrative penalty against a person who violated Occupations Code, sec. 102.001 related to soliciting patients for habilitation services.

**Minimum standards and rules.** The HHSC executive commissioner by rule would set minimum standards for home and community support services agencies licensing relating to habilitation services and would require each person or home and community support services agency providing habilitation to enforce the applicable provisions of Human Resources Code, ch. 102, relating to services for the elderly. The HHSC executive commissioner would adopt rules necessary to implement changes in law made by the bill by December 1, 2015.

**Investigation of complaints.** The bill also would apply the same regulations regarding investigation of complaints to habilitation services as apply to home health, hospice, or personal assistance services. The same complaints records requirements and retaliation provisions in Health and Safety Code, ch. 142 that apply to home health, hospice, or personal assistance services would apply to habilitation services.

**Specialized training.** DADS would have to include information about the provision of person-centered services to training materials for representatives of the department who survey home and community support services agencies. DADS would have to consult with habilitation services providers, recipients, and advocacy organizations in developing

and updating the training.

**Person-centered service delivery.** The bill would add person-centered service delivery as a component of quality care defined under Health and Safety Code, ch. 142, related to home and community support services.

**Effective date.** The bill would take effect September 1, 2015.

SUPPORTERS  
SAY:

CSHB 4001 would add into statute a consistent and agreed-upon definition of “habilitation” that the home and community support services agencies (HCSSAs) could use as their guide to deliver home services under managed care. The bill would update the HCSSA license by incorporating habilitation services. Habilitation services have not yet been delivered through managed care under the Community First Choice Medicaid program, and changes are needed in the applicable statutes to guarantee that home care agencies can deliver the services in a consistent and high-quality manner under managed care.

CSHB 4001 would add person-centered language to ensure that HCSSAs were compliant with the federal Centers for Medicare and Medicaid Services’ home and community-based service requirements. The bill would give DADS clear regulatory oversight and directions for habilitation services delivered by HCSSAs in managed care.

The bill also would add language to ensure individuals who currently are receiving services by certified providers with 1915(c) waivers that will transition into managed care in 2017 or after could retain their current service providers without disruption.

CSHB 4001 would clean up a number of provisions in the Health and Safety Code. Most notably, the bill would add habilitation services to HCSSAs. Habilitation services should be added so that it is clear in the statute that they are authorized and that it is within the scope of HCSSAs to provide this service.

The bill would protect intellectual and developmental disability service providers and would allow them to be providers under STAR+PLUS. This

is important because it would ensure the availability of services to a particularly vulnerable population of Texans.

OPPONENTS  
SAY:

CSHB 4001 is not necessary because habilitation services will be provided under Medicaid managed care regardless of whether the bill is enacted.