SUBJECT: Amending Medicaid reimbursement for nursing facilities

COMMITTEE: Human Services — favorable, without amendment

VOTE: 6 ayes — Frank, Rose, Hull, Noble, Ramos, Shaheen

0 nays

3 absent — Campos, Klick, Manuel

SENATE VOTE: On final passage (April 20) — 29 - 0

WITNESSES: For — (*Registered, but did not testify*: Joe Sanchez, John Vasquez, AARP; Andrea Earl, Mark Hollis, Rob Schneider, Kenny Scudder, AARP Texas; Melissa Sanchez, Alzheimer's Association; Alyse Meyer, LeadingAge Texas; Mary Nichols, Texas Caregivers for Compromise; Alexa Schoeman, Texas Long-Term Care Ombudsman)

Against — (*Registered, but did not testify*: Ryan Harrington, Trinity Healthcare, LLC)

On — Gavin Gadberry, Texas Health Care Association; Jon Unroe, THCA; Eddie Parades, The Independent Coalition of Nursing Home Providers (*Registered, but did not testify*: Victoria Grady, Health and Human Services Commission)

BACKGROUND: Some have suggested that nursing facility care could be improved by increasing transparency and accountability and directing more funds to care and outcomes for residents.

DIGEST: SB 1629 would establish a direct care expense ratio for Medicaid reimbursements for nursing facility providers and add requirements for an incentive payment program and certain applications.

Direct care expense ratio. SB 1629 would require the Health and Human Services Commission (HHSC) executive commissioner to establish an annual direct care expense ratio applicable to Medicaid reimbursement for nursing facility providers. In establishing the ratio, the executive commissioner would have to require that at least 80 percent of the proportion of Medicaid reimbursement paid to a nursing facility that was attributable to patient care expenses was spent on reasonable and necessary direct care expenses. Direct care expenses would include non-revenue generating support services, ancillary services, and program services. The term would not include administrative costs other than nursing administration, capital or debt costs, and certain other costs.

The HHSC executive commissioner would have to adopt rules necessary to ensure each nursing facility provider participating in Medicaid complied with the direct care expense ratio. To the extent permitted by federal law, HHSC could recoup all or part of applicable reimbursement amounts paid to a nursing facility if the facility failed to spend the reimbursement amounts in accordance with the direct care expense ratio.

HHSC could not require a nursing facility to comply with the direct care expense ratio as a condition of participation in Medicaid. These provisions would not apply to a state-owned facility.

A contract between a managed care organization and HHSC would have to require that each provider agreement between the organization and a nursing facility include a requirement that the facility comply with the direct care expense ratio. In providing Medicaid benefits to recipients who resided in nursing facilities through the STAR+PLUS managed care program, HHSC would have to ensure that nursing facilities complied with the direct care expense ratio.

Direct care incentive payment programs. The HHSC executive commissioner would have to ensure that rules governing an incentive payment program to increase direct care staff and wages and benefits required HHSC to recoup all or part of an incentive payment if the nursing facility failed to satisfy a program requirement. A provider who was the subject of such a recoupment would be prohibited from participating in the program for at least two consecutive years following the recoupment.

HHSC would be required to publish and maintain a list of each provider prohibited from participating in the program on its website.

Application information. An application for a license for nursing facilities and related institutions would have to include the name of each person with an ownership interest of 5 percent or more in the nursing facility and real property on which the nursing facility was located. The application also would have to describe the exact ownership interest of each of these people in relation to the facility or property. A license holder would be required to notify HHSC of any change to the ownership interest application information.

Other provisions. If a state agency determined that a waiver or authorization from a federal agency was necessary to implement the bill, the agency would be required to request the waiver and could delay implementation until the waiver or authorization was granted.

The bill would take effect September 1, 2023.

NOTES:

According to the Legislative Budget Board, SB 1629 would have a negative impact of about $1.5 million on general revenue related funds for fiscal 2024-25.