

## **BILL ANALYSIS**

Senate Research Center

H.B. 1398  
By: Coleman (Zaffirini)  
Finance  
5/13/1999  
Committee Report (Amended)

### **DIGEST**

In 1985, the 69th Legislature enacted the Indigent Health Care and Treatment Act to address the problem of medical indigence in Texas and to define the basic indigent health care responsibilities of counties, public hospitals, and hospital districts. In 1997, a joint interim charge was issued to the House Committee on Public Health and County Affairs to review the law and make recommendations. H.B. 1398 would regulate indigent health care.

### **PURPOSE**

As proposed, H.B. 1398 regulates indigent health care.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Department of Health in SECTION 1.04 (Section 61.007, Health and Safety Code), SECTION 1.13 (Section 63.037(h) and (j), Health and Safety Code), the Texas Board of Health in SECTION 2.01 (Section 46.002 and 46.003(b), Health and Safety Code) and the commissioner of insurance in SECTION 5.02 (b) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### **ARTICLE 1. DELIVERY OF INDIGENT HEALTH CARE BY COUNTIES, PUBLIC HOSPITAL, AND HOSPITAL DISTRICTS**

SECTION 1.01. Amends Section 61.002, Health and Safety Code, to delete the definition of "AFDC." Makes conforming changes.

SECTION 1.02. Amends Section 61.004, Health and Safety Code, as follows:

Sec. 61.004. New heading: RESIDENCE OR ELIGIBILITY DISPUTE. Authorizes the provider or governmental entity or hospital district to submit the matter to the Texas Department of Health (TDH), if a provider of assistance and a governmental entity or hospital district cannot agree on a person's residence or whether a person is eligible for assistance under this chapter. Requires the provider of assistance and the governmental entity or hospital district to submit all relevant information to TDH in accordance with the application, documentation, and verification procedure established by the department under Section 61.006. Requires TDH to issue a final decision not later than the 45th, rather than the 21st day, after the date on which the appeal is filed. Makes conforming changes.

SECTION 1.03. Amends Chapter 61A, Health and Safety Code, by adding Section 61.0045, as follows:

Sec. 61.0045. INFORMATION NECESSARY TO DETERMINE ELIGIBILITY. Sets forth information necessary to determine eligibility.

SECTION 1.04. Amends Sections 61.006 and 61.007, Health and Safety Code, as follows:

Sec. 61.007. STANDARDS AND PROCEDURES. Requires TDH to establish minimum eligibility standards and application, documentation and verification procedures for counties to use in determining eligibility under this chapter. Requires the minimum standards to incorporate a net income eligibility level equal to 25 percent of the federal poverty level based on the federal Office of Management and Budget (OMB) poverty index, rather than requiring procedures to be

consistent with the standards and procedures used by the Texas Department of Human Services (TDHS). Requires certain minimum standards to be effective January 1, 2000. Provides that this subsection expires December 31, 2000. Requires certain minimum standard to be effective January 1, 2001. Provides that this subsection expires December 31, 2001. Requires TDH to also define the services and establish the payment standards for the categories of services listed in Sections 61.028(a) and 61.0285 in accordance with the TDHS rules relating to the Temporary Assistance for Needy Families (TANF)-Medicaid. Requires TDH to establish application procedures. Prohibits TDH from adopting a standard or procedure that is more restrictive than TANF-Medicaid, rather than AFDC, or procedures. Requires TDH to notify each county and public hospital of any change to department rules, rather than AFDC or Medicaid guidelines that affect certain provisions. Makes conforming changes.

Sec. 61.007. INFORMATION PROVIDED BY APPLICANT. Requires TDH, by rule, to require each applicant to provide certain items. Makes conforming changes.

SECTION 1.05. Amends Section 61.023(b), Health and Safety Code, to authorize a county to credit toward eligibility for state assistance under this subchapter the services provided to each person who is an eligible resident under a standard that incorporates a net income eligibility level that is less than 50 percent of the federal poverty level based on the federal OMB poverty index.

SECTION 1.06. Amends Section 61.025(d), Health and Safety Code, to make a conforming change.

SECTION 1.07. Amends Section 61.028, Health and Safety Code, as follows:

Sec. 61.028. New heading: BASIC HEALTH CARE SERVICES. Requires a county, in accordance with TDH, to adopt rules adopted under this Section 61.006, to provide certain services. Makes conforming changes.

SECTION 1.08. Amends Chapter 61B, Health and Safety Code, by adding Section 61.0285, as follows:

Sec. 61.0285. OPTIONAL HEALTH CARE SERVICES. Sets forth certain optional health care services. Requires a county to notify TDH of the county's intent to provide services specified by Subsection (a). Authorizes the county to credit the services toward eligibility for state assistance under this chapter, if the services are approved by TDH under Section 61.006, or if TDH fails to notify the county of TDH's disapproval before a certain date. Authorizes a county to provide health care services that are not specified in Subsection (a), or to provide the services specified in Subsection (a) without actual or constructive approval of TDH, but may not credit the services toward eligibility for state assistance.

SECTION 1.09. Amends Section 61.031(b), Health and Safety Code, to require a certain notice to be made within a specific time.

SECTION. 1.10. Amends Section 61.032(a), Health and Safety Code, to make a conforming change.

SECTION 1.11. Amends Section 61.034, Health and Safety Code, as follows:

Sec. 61.034. New heading: PAYMENT STANDARDS FOR HEALTH CARE SERVICES. Makes conforming changes.

SECTION 1.12. Amends Section 61.036(b), Health and Safety Code, to make a conforming change.

SECTION 1.13. Amends Sections 61.037, 61.038, and 61.039, Health and Safety Code, as follows:

Sec. 61.037. COUNTY ELIGIBILITY FOR STATE ASSISTANCE. Requires a county to take certain action except as provided by Subsection (g). Requires the TDH to waive the requirement that the county meet the minimum expenditure level imposed by Subsection (b), (d), or (e) and provide state assistance under this chapter at a lower level determined by the TDH if the county demonstrates through an appropriate actuarial analysis, that the county is unable to satisfy the eight percent expenditure level because of certain circumstances. Requires TDH to adopt rules governing the circumstances under which a waiver may be granted under Subsection (g) and the procedure to be used by a county to apply for the waiver. Requires the procedures to provide that

TDH shall make a determination with respect to an application for a waiver not later than a certain date. Requires a county to submit monthly financial reports, in the form required by the department, covering the 12-month period preceding the date on which the assistance is sought, to be eligible for state assistance under Subsection (g). Provides that the minimum expenditure level imposed under those subsections is 10 percent of the county general revenue levy for the year and the notice required to be made to TDH under Subsection (b)(2) is not required to be made before the county has spent at least 8 percent of the applicable general revenue for that year. Authorizes TDH to adopt rules as necessary to implement the transition contemplated by this subsection. Provides that this subsection expires August 31, 2001. Makes conforming changes.

Sec. 61.038. DISTRIBUTION OF ASSISTANCE FUNDS. Makes conforming changes.

Sec. 61.039. FAILURE TO PROVIDE STATE ASSISTANCE. Makes conforming changes.

SECTION 1.14. Amends Section 61.041, Health and Safety Code, to require TDH from establishing reporting requirements for a county seeking state assistance and establish procedures necessary to determine if the county is eligible for state assistance. Requires the TDH to establish annual reporting requirements for each county that is required to provide indigent health care under this chapter but that is not required to report under Subsection (a). Provides that a county satisfies the annual reporting requirement of this subsection if the county submits information to TDH as required by law to obtain an annual distribution.

SECTION 1.15. Amends Section 61.052, Health and Safety Code, by adding Subsection (g), to authorize a county that provides health care services to its eligible residents through a hospital established by a board of managers jointly appointed by a county and a municipality under Section 265.011 and that establishes an income and resources standard in accordance with Subsection (a)(2) to credit the services provided to all persons who are eligible under that standard toward eligibility for state assistance as described by Section 61.037(e).

SECTION 1.16. Amends Section 61.054, Health and Safety Code, as follows:

Sec. 61.054. New heading: BASIC HEALTH CARE SERVICES PROVIDED BY A PUBLIC HOSPITAL. Requires a public hospital to endeavor to provide the basic health care, rather than inpatient and outpatient hospital, services a county is required to provide under Section 61.028, rather than 61.028(a)(1). Requires a public hospital to coordinate the delivery of basic health care services to eligible residents and to provide any basic health care services that the hospital was not providing on January 1, 1999, but only to the extent the hospital is financially able to do so. Authorizes a public hospital to provide health care services in addition to basic health care services.

SECTION 1.17. Section 61.055, Health and Safety Code, as follows:

Sec. 61.055. New heading: BASIC HEALTH CARE SERVICES PROVIDED BY HOSPITAL DISTRICTS. Requires a hospital district to endeavor to provide the basic health care services a county is required to provide under Section 61.028, together with any other services required under the Texas Constitution and the statute creating the district. Requires a hospital district to coordinate delivery of basic health care services to eligible residents and may provide any basic health care services the district was not providing on January 1, 1999, but only to the extent the district is financially able to do so. Prohibits this section from being construed to discharge a hospital district from its obligation to provide the health care services required under the Texas Constitution and the statute creating the district.

SECTION 1.18. Amends Section 61.058(b), Health and Safety Code, to make conforming changes.

SECTION 1.19. Amends Section 61.059(a), Health and Safety Code, to make conforming changes.

SECTION 1.20. Amends Section 61.062, Health and Safety Code, to make conforming changes.

SECTION 1.21. Amends Section 61.064(a), Health and Safety Code, to make conforming changes.

SECTION 1.22. Amends Chapter 281C, Health and Safety Code, by adding Section 281.0514, as follows:

Sec. 281.0514. HARRIS COUNTY HOSPITAL DISTRICT; CONTRACT WITH CERTAIN HOSPITALS. Authorizes the Harris County Hospital District to contract for indigent health care services with at least one certain hospital. Provides that a contract under this section is subject to Section 281.051(a).

SECTION 1.23. Amends Section 531.204(b), Government Code, to require the report to include certain information. Makes conforming changes.

SECTION 1.24. Amends Chapter 26, Tax Code, by adding Section 26.0441, as follows:

Sec. 26.0441. TAX RATE ADJUSTMENT FOR INDIGENT HEALTH CARE. Sets forth a formula for the tax rate. Requires the taxing unit to include a notice of the increase in its effective maintenance and operation rate provided by this section, including certain information. Defines “enhanced indigent health care expenditures.” Provides that in the 2000 and 2001 tax years, a taxing unit’s enhanced indigent health care expenditures for the 2000 tax year are computed under Subsection (d) using the taxing unit’s expenditures for the maintenance and operation costs of providing indigent health care at the increased minimum eligibility standards described by Subsection (d) for the period beginning on January 1, 2000, and ending on June 30, 2000, instead of for the period described by Subsection (d). Provides that this subsection expires January 1, 2002.

SECTION 1.25. Provides that the change in law made by this article to Chapter 61, Health and Safety Code, applies to certain services and assistance. Provides that health care services under Chapter 61, Health and Safety Code, as amended by this Article, that are delivered before January 1, 2000, and state assistance for those services are governed by the law as it existed immediately before the that date and that law is continued in effect for this purpose.

SECTION 1.26. Requires TDH to study the feasibility of requiring or permitting a county, public hospital, and hospital district to issue a uniform identification card to an eligible county resident or eligible service area resident, as appropriate, that identifies the resident as eligible for health care assistance under Chapter 61, Health and Safety Code. Requires TDH to report the results of its study to the governor, lieutenant governor, and speaker of the house of representatives.

## ARTICLE 2. TERTIARY CARE

SECTION 2.01. Amends Title 2B, Health and Safety Code, by adding Chapter 46, as follows:

### CHAPTER 46. TERTIARY MEDICAL CARE

Sec. 46.001. DEFINITIONS. Defines “tertiary care facility,” “tertiary medical services,” and “unreimbursed tertiary medical services.”

Sec. 46.002. RULES. Authorizes the Texas Board of Health (board) to adopt rules to implement this chapter.

Sec. 46.003. TERTIARY CARE FACILITY ACCOUNT. Sets forth requirements for the Tertiary care facility account (account).

Sec. 46.004. COLLECTION OF INFORMATION. Requires a tertiary care facility (facility) that seeks payment under this chapter to submit to TDH, the manner and at the time required by TDH, information that relates to the unreimbursed tertiary medical services provided to persons who reside outside the service area of the county, public hospital, or hospital district that is responsible for indigent health care under Chapter 61 in the area in which the tertiary care facility is located. Requires the board to adopt rules governing the collection of the information under Subsection (a).

Sec. 46.005. CERTIFICATION TO COMPTROLLER. Requires TDH to certify to the comptroller certain information regarding each facility.

Sec. 46.006. CERTIFICATION OF EMERGENCIES. Requires TDH to certify certain extraordinary emergencies, for the purpose of reimbursing extraordinary emergencies under this

chapter. Requires TDH to certify to the comptroller the amount of unreimbursed tertiary medical services incurred by a tertiary care facility during the emergency. Requires the comptroller to pay the facility the certified amount declared under Subsection (b) from allocated funds specified under Section 46.003. Requires TDH to allocate the amount available under Section 46.003(e) to each facility based on the percentage computed by a certain formula. Requires the comptroller to pay each facility based on the allocation made under this subsection.

### ARTICLE 3. FEDERAL AUTHORIZATION FOR STATE MEDICAID PROGRAM

SECTION 3.01. FEDERAL AUTHORIZATION. Sets forth the intent of the 76th Legislature.

### ARTICLE 4. STUDY RELATING TO BASIC HEALTH CARE SERVICES AND STATE ASSISTANCE

SECTION 4.01. STUDY. Requires TDH to take certain actions.

SECTION 4.02. REPORT. Requires TDH to submit a report to certain persons, not later than December 1, 2000. Requires the report to include certain information.

SECTION 4.03. EXPIRATION. Provides that this article expires August 31, 2001.

SECTION 5.01. DEFINITIONS. Defines “commissioner” and “pilot program.”

SECTION 5.02. PILOT PROGRAM. Requires the commissioner of health and human services (commissioner) to establish a regional health care delivery system pilot program to coordinate the use of health care resources in a region of the state, not later than January 1, 2000. Requires the pilot program to take certain action. Authorizes the commissioner to adopt rules as necessary to implement the pilot program. Authorizes the rules to provide an alternative funding structure to the funding established under Chapter 61, Health and Safety Code. Prohibits the commissioner from requiring a county, public hospital, hospital district, or other entity to participate in the pilot program.

SECTION 5.03. REPORT. Requires the commissioner to submit a report to certain persons relating to the pilot program not later than January 1, 2003. Requires the report to include certain information.

SECTION 5.04. EXPIRATION; TERMINATION OF PILOT PROGRAM. Provides that this section expires and the pilot program is terminated August 31, 2003.

### ARTICLE 6. EFFECTIVE DATE; EMERGENCY

SECTION 6.01. Effective date: September 1, 1999.

SECTION 6.02. Emergency clause.