

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1152  
By: Van de Putte  
Health & Human Services  
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Committee Report (Substituted)

### **DIGEST AND PURPOSE**

The objective of the Tex Rx Plan is to provide prescription drug benefits to individuals who are eligible for the plan. C.S.S.B. 1152 outlines eligibility guidelines and enrollment duties of the Texas Department of Health.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Board of Health in SECTION 1 (Sections 65.051, 65.058 and 65.102, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 2C, Health and Safety Code, by adding Chapter 65 as follows:

#### CHAPTER 65. TEX RX PLAN SUBCHAPTER A. GENERAL PROVISIONS

Sec. 65.001. PURPOSE; IMPLEMENTATION. Provides that this chapter is enacted to permit development of a Tex Rx plan to provide prescription drug benefits to individuals in anticipation of federal legislation authorizing the granting of federal money to assist states in providing such plans. Prohibits the Texas Department of Health from implementing the plan until federal and state resources are available for implementation of the plan.

Sec. 65.002. DEFINITIONS. Defines “net family income,” and “plan.”

Sec. 65.003. NOT AN ENTITLEMENT. Provides that this chapter does not establish an entitlement to assistance in obtaining prescription drug benefits.

Reserves Sections 65.004-65.050 for expansion.

#### SUBCHAPTER B. ADMINISTRATION OF PLAN

Sec. 65.051. DUTIES OF DEPARTMENT. (a) Requires the Texas Department of Health (department) to develop, subject to available funds, implement the Tex Rx plan to provide prescription drug benefits for eligible individuals.

(b) Requires the Texas Board of Health (board) to make policy for the plan, including policy related to eligibility for coverage under the plan and to prescription drug benefits provided under the plan.

(c) Requires the board adopt rules as necessary to implement this chapter. Requires the board, in adopting rules under this section, to consider any requirements imposed under a federal program that provides federal matching money for prescription drug benefits.

Sec. 65.052. COORDINATION WITH OTHER PROGRAMS. Authorizes the department to consolidate or coordinate the administration of the plan provided under this chapter with other similar programs provided under state or federal law, including, if appropriate, the Medicaid vendor drug program.

Sec. 65.053. MANUFACTURER REBATES. Requires the department, unless prohibited by the federal program that provides federal matching money for prescription drug benefits, to obtain prescription drug manufacturer rebates for the benefit of enrollees in the plan.

(b) Authorizes the money obtained from the rebates required under this section to be appropriated only for the administration and operation of the plan.

Sec. 65.054. IMPLEMENTATION OF CONTRACTS. (a) Authorizes the department to enter into contracts relating to the purchase and distribution of prescription drugs under the plan.

(b) Requires the board, for any contract entered into under Subsection (a), to retain certain authority and to perform certain functions.

Sec. 65.055. ADMINISTRATION OF ENROLLMENT. Requires the department to accept applications for enrollment under the plan and implement the plan eligibility screening and enrollment procedures, resolve grievances relating to eligibility determinations, and coordinate the plan with Medicare and the Medicaid plan, as necessary.

Sec. 65.056. COMMUNITY OUTREACH CAMPAIGN; TOLL-FREE HOTLINE. (a) Authorizes the department to conduct a community outreach and education campaign to provide information relating to the availability of the plan.

(b) Authorizes the community outreach campaign to include a toll-free telephone number through which individuals may obtain information about the plan.

(c) Authorizes the department to contract with community-based organizations or coalitions of community-based organizations to implement the community outreach campaign and may promote and encourage voluntary efforts to implement the community outreach campaign.

Sec. 65.057. REGIONAL ADVISORY COMMITTEES. Authorizes the board to appoint regional advisory committees to provide recommendations on the implementation and operation of the plan.

Sec. 65.058. FRAUD PREVENTION. (a) Requires the board to adopt and implement rules for the prevention and detection of fraud in the plan.

(b) Provides that the rules may authorize the exclusion from the plan, after notice to the individual and an opportunity for a hearing, of an individual who commits fraud.

Reserves Sections 65.059 - 65.100 for expansion.

#### SUBCHAPTER C. ELIGIBILITY

Sec. 65.101. ELIGIBILITY. Provides that an individual is eligible to participate in the plan if the individual is a resident of this state and meets certain requirements.

Sec. 65.102. ELIGIBILITY OF CERTAIN INDIVIDUALS. Requires the board by rule to authorize the enrollment of individuals who, at any time, are covered by a Medicare supplement

policy that provides prescription drug benefits and who, because of changed circumstances, become unable to continue to pay premiums for the policy or to pay applicable cost-sharing amounts.

Sec. 65.103. APPLICATION FORM AND PROCEDURES. (a) Requires the department to adopt an application form and application procedures for requesting enrollment in the plan under this chapter.

(b) Requires that to the extent possible, the application form be made available in languages other than English.

(c) Authorizes the department to permit application to be made by mail, telephone, or through the Internet.

Sec. 65.104. ELIGIBILITY SCREENING AND ENROLLMENT. (a) Requires the department to develop eligibility screening and enrollment procedures for the plan.

(b) Requires that a determination of whether an individual is eligible to participate in the plan and the enrollment of an eligible individual to be completed not later than the 30th day after the date the individual submits a complete application.

(c) Authorizes the department to establish enrollment periods for the plan.

Reserves section 65.105 - 65.150 for expansion.

#### SUBCHAPTER D. BENEFITS FOR PRESCRIPTION DRUGS

Sec. 65.151. PLAN BENEFITS. Requires the plan to provide benefits for prescription drug benefits as required by any federal program that provides federal matching money for prescription drug benefits. Authorizes the department, in developing the benefits, to consider benefits provided under the Medicaid vendor program.

Sec. 65.152. COST SHARING. Authorizes the department to require an enrollee in the plan to pay a copayment or similar charge for prescription drugs provided under the plan.

Reserves Sections 65.153-65.200 for expansion.

#### SUBCHAPTER E. PHARMACIES

Sec. 65.201. PARTICIPATION CRITERIA. (a) Requires the department to determine the terms and conditions with which a pharmacy must comply to participate in the plan.

(b) Requires the department, and any person with whom the department contracts under Section 65.054, to allow any pharmacy to participate as a pharmacy in the plan if the pharmacy agrees to comply with the terms and conditions established under Subsection (a).

Sec. 65.202. REIMBURSEMENT RATES. Requires the department to determine the reimbursement rates for participating pharmacies under the plan. Authorizes the department, in determining the reimbursement rates, to consider, if appropriate, the reimbursement rates provided under the Medicaid vendor drug program.

Sec. 65.203. SOURCE OR METHOD OF DISTRIBUTION. Prohibits the department, and any person with whom the department contracts under Section 65.054, from varying the amount of enrollee cost-sharing amounts required under Section 65.152 based on certain items.

Sec. 65.204. MEDICATION THERAPY MANAGEMENT. (a) Defines “medication therapy services.”

(b) Requires the department, or any person with whom the department contracts under Section 65.054, to reimburse pharmacies for providing medication therapy management services to patients.

SECTION 2. Amends the heading of Title 2C, Health and Safety Code, to read as follows:

SUBTITLE C. INDIGENT HEALTH CARE AND PUBLIC HEALTH CARE PROGRAMS

SECTION 3. (a) Requires the Texas Department of Health to develop a preliminary plan for implementation of the Tex Rx plan established under Chapter 65, Health and Safety Code, as added by this Act. Prohibits the department from implementing the Tex Rx plan until state and federal matching money becomes available for the plan.

(b) Requires the Texas Department of Health to monitor federal legislation that would authorize the granting of federal money for plans similar to the plan described by Chapter 65, Health and Safety Code, as added by this Act, and to determine the actions required to implement Chapter 65 in coordination with any federal legislation that is enacted. Requires the department to report its determinations, as appropriate, to the governor, the lieutenant governor, the speaker of the house of representatives, the Health and Human and Services Commission, and the Legislative Budget Board.

SECTION 4. Effective date: upon passage or September 1, 2001.