

BILL ANALYSIS

Senate Research Center
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S.B. 1580
By: Ogden
Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This bill authorizes state agencies to reduce or recover expenditures by taking action to consolidate reports; extend license, permit, or registration periods; enter into contracts to carry out an agency's duties; adopt additional eligibility requirements for benefits; provide for electronic communication; and adopt and collect fees or charges to recover costs incurred by an agency.

This bill requires the Health and Human Services Commission (HHSC), Department of Aging and Disability Services (DADS), Texas Veterans Commission (TVC), and Veterans Land Board (VLB) to enter into a memorandum of understanding (MOU) to coordinate the collection, use, and analysis of information and data received from the federal Public Assistance Reporting Information System (PARIS) and to report to the Legislative Budget Board and the governor about its use by October 15, 2012. These provisions implement a recommendation related to the report, "Use Federal Data to Help Veterans Access Federal Benefits and Save State Funds" in the Legislative Budget Board's *Government Effectiveness and Efficiency Report* submitted to the 82nd Legislature, 2011.

This bill repeals Section 31.0325 (Electronic Imaging Program), Human Resources Code to eliminate the finger imaging used for the Supplemental Nutrition Assistance Program (SNAP), formerly called food stamps, and the Temporary Assistance for Needy Families (TANF).

This bill requires the Health and Human Services Commission (HHSC) to determine the feasibility of telemonitoring diabetes and other conditions and share information on Medicaid health management organizations (HMOs) telemonitoring programs with other Medicaid providers. These provisions would implement a recommendation in the report, "Increase the Use of Telemonitoring in the Texas Medicaid Program to Improve Patient Outcomes," in the Legislative Budget Board's *Government Effectiveness and Efficiency Report*, submitted to the 82nd Legislature, 2011.

This bill requires HHSC to develop an objective assessment process, including use of a standard form, for acute nursing services in the Medicaid fee-for-service model and the Medicaid Primary Care Case Management managed care model and to take actions to implement the process within the Medicaid STAR and STAR+PLUS managed care programs. This bill authorizes HHSC to implement an assessment process for Medicaid therapy services comparable to the objective assessment process implemented for Medicaid acute nursing services. These provisions implement the recommendation in the Legislative Budget Board's 2011 *Government Effectiveness and Efficiency Report* entitled "Implement an Objective Client Assessment Process for Acute Nursing Services in the Texas Medicaid Program."

This bill requires HHSC to conduct a study to evaluate the cost-effectiveness of the physician incentive programs designed to reduce hospital emergency room use for non-emergent conditions implemented by health maintenance organizations in Medicaid. HHSC is required to submit the evaluation report to the Governor and the Legislative Budget Board by August 31, 2012. This bill also requires HHSC to establish a cost-effective physician incentive program in the Texas Medicaid program. These provisions implement the recommendations in the Legislative Budget Board's 2011 *Government Effectiveness and Efficiency Report* entitled "Reduce the Need for Emergency Room Utilization in the Medicaid Program."

As proposed, S.B. 1580 amends current law relating to state fiscal matters related to health and human services and state agencies administering health and human services programs.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 4.01 (Section 531.02176, Government Code) and SECTION 4.03 (Section 531.0861, Government Code) of this bill.

Rulemaking authority previously granted to the Texas Department of Human Services is rescinded in SECTION 3.01 (Section 31.0325, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. REDUCTION OF EXPENDITURES AND IMPOSITION OF CHARGES AND COST-SAVING MEASURES GENERALLY

SECTION 1.01. Provides that this article applies to any state agency that receives an appropriation under Article II of the General Appropriations Act and to any program administered by any of those agencies.

SECTION 1.02. Authorizes each state agency to which this article applies, notwithstanding any other statute of this state, to reduce or recover expenditures by:

- (1) consolidating any reports or publications the agency is required to make and filing or delivering any of those reports or publications exclusively by electronic means;
- (2) extending the effective period of any license, permit, or registration the agency grants or administers;
- (3) entering into a contract with another governmental entity or with a private vendor to carry out any of the agency's duties;
- (4) adopting additional eligibility requirements consistent with federal law for persons who receive benefits under any law the agency administers to ensure that those benefits are received by the most deserving persons consistent with the purposes for which the benefits are provided, including under the following laws:
 - (A) Chapter 62 (Child Health Plan for Certain Low-Income Children), Health and Safety Code (child health plan program);
 - (B) Chapter 31 (Financial Assistance and Service Programs), Human Resources Code (temporary assistance for needy families program);
 - (C) Chapter 32 (Medical Assistance Program), Human Resources Code (Medicaid program);
 - (D) Chapter 33 (Nutritional Assistance Programs), Human Resources Code (supplemental nutrition assistance and other nutritional assistance programs); and
 - (E) Chapter 533 (Implementation of Medicaid Managed Care Program), Government Code (Medicaid managed care);
- (5) providing that any communication between the agency and another person and any document required to be delivered to or by the agency, including any application, notice, billing statement, receipt, or certificate, may be made or delivered by e-mail or through the Internet;
- (6) adopting and collecting fees or charges to cover any costs the agency incurs in performing its lawful functions; and

(7) modifying and streamlining processes used in:

- (A) the conduct of eligibility determinations for programs listed in Subdivision (4) of this subsection by or under the direction of the Health and Human Services Commission (HHSC);
- (B) the provision of child and adult protective services by the Department of Family and Protective Services;
- (C) the provision of services for the aging and disabled by the Department of Aging and Disability Services (DADS);
- (D) the provision of services to children and other persons with disabilities by the Department of Assistive and Rehabilitative Services;
- (E) the provision of community health services, consumer protection services, mental health services, and hospital facilities and services by the Department of State Health Services; and
- (F) the provision or administration of other services provided or programs operated by HHSC or a health and human services agency, as defined by Section 531.001 (Definitions), Government Code.

ARTICLE 2. HEALTH AND HUMAN SERVICES BENEFITS IN GENERAL

SECTION 2.01. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.0998, as follows:

Sec. 531.0998. MEMORANDUM OF UNDERSTANDING REGARDING PUBLIC ASSISTANCE REPORTING INFORMATION SYSTEM. (a) Defines, in this section, "system."

(b) Requires HHSC, DADS, the Texas Veterans Commission (TVC), and the Veterans' Land Board (VLB) to enter into a memorandum of understanding for the purposes of:

- (1) coordinating and collecting information about the use and analysis among state agencies of data received from the system; and
- (2) developing new strategies for state agencies to use system data in ways that generate fiscal savings for the state.

(c) Requires HHSC, DADS, TVC, and VLB collectively, not later than October 15, 2012, to submit to the governor and the Legislative Budget Board (LBB) a report describing:

- (1) the frequency and success with which state agencies have used the system;
- (2) the costs to the state that were avoided as a result of state agencies' use of the system; and
- (3) recommendations for future use of the system by state agencies.

(d) Provides that Subsection (c) and this subsection expire September 2, 2013.

SECTION 2.02. Requires HHSC, DADS, VTC, and VLB, not later than December 1, 2011, to enter into a memorandum of understanding as required by Section 531.0998, Government Code, as added by this article.

ARTICLE 3. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAMS

SECTION 3.01. Repealer: Section 31.0325 (Electronic Imaging Program), Human Resources Code.

SECTION 3.02. Requires HHSC and each health and human services agency, as defined by Section 531.001, Government Code, on the effective date of this Act, to discontinue using electronic fingerprint-imaging or photo-imaging of applicants for and recipients of financial assistance under Chapter 31, Human Resources Code, or food stamp benefits under Chapter 33, Human Resources Code.

ARTICLE 4. MEDICAID PROGRAM

SECTION 4.01. (a) Amends Section 531.001, Government Code, by adding Subdivision (7) to define "telemonitoring."

(b) Amends Subchapter B, Chapter 531, Government Code, by adding Sections 531.02176, 531.02177, and 531.02178, as follows:

Sec. 531.02176. MEDICAID TELEMONITORING PILOT PROGRAMS FOR DIABETES. (a) Requires HHSC to determine whether the Medicaid Enhanced Care program's diabetes self-management training telemonitoring pilot program was cost neutral.

(b) Requires HHSC, in determining whether the pilot program described by Subsection (a) was cost neutral, to , at a minimum, compare:

(1) the health care costs of program participants who received telemonitoring services with the health care costs of a group of Medicaid recipients who did not receive telemonitoring services;

(2) the health care services used by program participants who received telemonitoring services with the health care services used by a group of Medicaid recipients who did not receive telemonitoring services;

(3) for program participants who received telemonitoring services, the amount spent on health care services before, during, and after the receipt of telemonitoring services; and

(4) for program participants who received telemonitoring services, the health care services used before, during, and after the receipt of telemonitoring services.

(c) Requires the executive commissioner of HHSC (executive commissioner), if HHSC determines that the pilot program described by Subsection (a) was cost neutral, to adopt rules for providing telemonitoring services through the Medicaid Texas Health Management Program for select diabetes patients in a manner comparable to that program.

(d) Requires HHSC, if HHSC determines that the pilot program described by Subsection (a) was not cost neutral, to develop and implement within the Medicaid Texas Health Management Program for select diabetes patients a new diabetes telemonitoring pilot program based on evidence-based best practices, provided that HHSC determines implementing the new diabetes telemonitoring pilot program would be cost neutral.

(e) Requires HHSC, in determining whether implementing a new diabetes telemonitoring pilot program under Subsection (d) would be cost neutral, to consider appropriate factors, including the following:

- (1) the target population, participant eligibility criteria, and the number of participants to whom telemonitoring services would be provided;
- (2) the type of telemonitoring technology to be used;
- (3) the estimated cost of the telemonitoring services to be provided;
- (4) the estimated cost differential to the state based on changes in participants' use of emergency department services, outpatient services, pharmaceutical and ancillary services, and inpatient services other than inpatient labor and delivery services; and
- (5) other indirect costs that may result from the provision of telemonitoring services.

Sec. 531.02177. MEDICAID TELEMONTORING PILOT PROGRAM FOR CERTAIN CONDITIONS. (a) Requires HHSC to develop and implement a pilot program within the Medicaid Texas Health Management Program to evaluate the cost neutrality of providing telemonitoring services to persons who are diagnosed with health conditions other than diabetes, if HHSC determines implementing the pilot program would be cost neutral.

(b) Requires HHSC, in determining whether implementing a pilot program under Subsection (a) would be cost neutral, to consider appropriate factors, including the following:

- (1) the types of health conditions that could be assessed through the program by reviewing existing research and other evidence on the effectiveness of providing telemonitoring services to persons with those conditions;
- (2) the target population, participant eligibility criteria, and the number of participants to whom telemonitoring services would be provided;
- (3) the type of telemonitoring technology to be used;
- (4) the estimated cost of the telemonitoring services to be provided;
- (5) the estimated cost differential to the state based on changes in participants' use of emergency department services, outpatient services, pharmaceutical and ancillary services, and inpatient services other than inpatient labor and delivery services; and
- (6) other indirect costs that may result from the provision of telemonitoring services.

Sec. 531.02178. DISSEMINATION OF INFORMATION ABOUT EFFECTIVE TELEMONTORING STRATEGIES. Requires HHSC to annually:

- (1) identify telemonitoring strategies implemented within the Medicaid program that have demonstrated cost neutrality or resulted in improved performance on key health measures; and

(2) disseminate information about the identified strategies to encourage the adoption of effective telemonitoring strategies.

(c) Requires the executive commissioner, not later than January 1, 2012, to adopt the rules required by Section 531.02176(c), Government Code, as added by this section, if HHSC determines that the Medicaid Enhanced Care program's diabetes self-management training telemonitoring pilot program was cost neutral.

(d) Requires HHSC, not later than September 1, 2012, to determine whether implementing a new diabetes telemonitoring pilot program would be cost neutral if required by Section 531.02176(d), Government Code, as added by this section, and report that determination to the governor and LBB.

(e) Requires HHSC, not later than September 1, 2012, to determine whether implementing a telemonitoring pilot program for health conditions other than diabetes would be cost neutral as required by Section 531.02177(a), Government Code, as added by this section, and report that determination to the governor and LBB.

SECTION 4.02. Amends Subchapter B, Chapter 531, Government Code, by adding Sections 531.02417 and 531.024171, as follows:

Sec. 531.02417. MEDICAID NURSING SERVICES ASSESSMENTS. (a) Defines, in this section, "acute nursing services."

(b) Requires HHSC to develop an objective assessment process for use in assessing the needs of a Medicaid recipient for acute nursing services. Requires HHSC to require that:

(1) the assessment be conducted by a state employee or contractor who is not the person who will deliver any necessary services to the recipient and is not affiliated with the person who will deliver those services; and

(2) the process include:

(A) an assessment of specified criteria and documentation of the assessment results on a standard form; and

(B) completion by the person conducting the assessment of any documents related to obtaining prior authorization for necessary nursing services.

(c) Requires HHSC to:

(1) implement the objective assessment process developed under Subsection (b) within the Medicaid fee-for-service model and the primary care case management Medicaid managed care model; and

(2) take necessary actions, including modifying contracts with managed care organizations under Chapter 533 to the extent allowed by law, to implement the process within the STAR and STAR+PLUS Medicaid managed care programs.

Sec. 531.024171. THERAPY SERVICES ASSESSMENTS. (a) Defines, in this section, "therapy services."

(b) Requires HHSC, after implementing the objective assessment process for acute nursing services as required by Section 531.02417, to consider whether implementing a comparable process with respect to assessing the needs of a Medicaid recipient for therapy services would be feasible and beneficial.

(c) Authorizes HHSC, if HHSC determines that implementing a comparable process with respect to one or more types of therapy services is feasible and would be beneficial, to implement the process within:

- (1) the Medicaid fee-for-service model;
- (2) the primary care case management Medicaid managed care model; and
- (3) the STAR and STAR+PLUS Medicaid managed care programs.

SECTION 4.03. Amends Subchapter B, Chapter 531, Government Code, by adding Sections 531.086 and 531.0861, as follows:

Sec. 531.086. STUDY REGARDING PHYSICIAN INCENTIVE PROGRAMS TO REDUCE HOSPITAL EMERGENCY ROOM USE FOR NON-EMERGENT CONDITIONS. (a) Requires HHSC to conduct a study to evaluate physician incentive programs that attempt to reduce hospital emergency room use for non-emergent conditions by recipients under the medical assistance program. Requires that each physician incentive program evaluated in the study:

- (1) be administered by a health maintenance organization participating in the STAR or STAR + PLUS Medicaid managed care program; and
- (2) provide incentives to primary care providers who attempt to reduce emergency room use for non-emergent conditions by recipients.

(b) Requires that the study conducted under Subsection (a) evaluate:

- (1) the cost-effectiveness of each component included in a physician incentive program; and
- (2) any change in statute required to implement each component within the Medicaid fee-for-service or primary care case management model.

(c) Requires the executive commissioner, not later than August 31, 2012, to submit to the governor and LBB a report summarizing the findings of the study required by this section.

(d) Provides that this section expires September 1, 2013.

Sec. 531.0861. PHYSICIAN INCENTIVE PROGRAM TO REDUCE HOSPITAL EMERGENCY ROOM USE FOR NON-EMERGENT CONDITIONS. (a) Requires the executive commissioner by rule to establish a physician incentive program designed to reduce the use of hospital emergency room services for non-emergent conditions by recipients under the medical assistance program.

(b) Authorizes the executive commissioner, in establishing the physician incentive program under Subsection (a), to include only the program components identified as cost-effective in the study conducted under Section 531.086.

(c) Requires the executive commissioner, if the physician incentive program includes the payment of an enhanced reimbursement rate for routine after-hours appointments, to implement controls to ensure that the after-hours services billed are actually being provided outside of normal business hours.

ARTICLE 5. FEDERAL AUTHORIZATION; EFFECTIVE DATE

SECTION 5.01. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 5.02. Effective date: September 1, 2011.