BILL ANALYSIS

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H.B. 3523
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Recently enacted legislation set forth a multi-year redesign of the long-term care services and supports system, including an integration of managed acute care services, for individuals with intellectual and developmental disabilities. The first stage of the system redesign began last fall with the transition of acute care services to the Texas Medicaid managed care program. Interested parties assert the need for certain clarifications and enhancements to the law to ensure that the goals of the system redesign are achieved.

H.B. 3523 amends the Government Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to require the Health and Human Services Commission (HHSC) and the Department of Aging and Disability Services (DADS) to perform specified duties under statutory provisions relating to the system redesign for delivery of Medicaid acute care services and long-term services and supports to individuals with intellectual and developmental disabilities in consultation with the Intellectual and Developmental Disability System Redesign Advisory Committee. The bill authorizes the advisory committee to establish work groups that meet at times other than at the required quarterly meeting for purposes of studying and making recommendations on issues the committee considers appropriate and postpones the date on which the advisory committee is abolished and statutory provisions relating to the committee expire from January 1, 2024, to January 1, 2026. The bill removes a September 1, 2019, expiration date from statutory provisions requiring HHSC to provide Medicaid benefits to recipients who reside in nursing facilities through the STAR + PLUS Medicaid managed care program, requiring HHSC to establish credentialing and minimum performance standards for nursing facility providers seeking to participate in the STAR + PLUS Medicaid managed care program, and prohibiting a managed care organization from requiring prior authorization for a nursing facility resident in need of emergency hospital services.

H.B. 3523 requires the annual report on the implementation of an acute care and long-term services and supports system for individuals with an intellectual or developmental disability under the Medicaid program and the analysis regarding a pilot program implementing such a system to include an assessment of the effects of the system and of the managed care strategies implemented in the pilot program, respectively, on access to long-term services and supports; the quality of acute care services and long-term services and supports; meaningful outcomes using person-centered planning, individualized budgeting, and self-determination, including a person's inclusion in the community; the integration of service coordination of acute care services and long-term services and supports; the placement of individuals in housing that is the least restrictive setting appropriate to an individual's needs; employment assistance and customized, integrated, competitive employment options; and the number and types of fair hearing and appeals processes in accordance with applicable federal law. The bill postpones the expiration date of statutory provisions relating to the annual implementation report from January 1, 2024, to January 1, 2026.

H.B. 3523 postpones the deadline for implementation of any pilot programs established to improve service delivery from September 1, 2016, to September 1, 2017. The bill removes a requirement that such a pilot program operate not less than 24 months and instead authorizes those programs to operate for up to 24 months. The bill removes the dates by which HHSC and DADS are required to review and evaluate the progress and outcomes of each pilot program and specifies that the resulting report be submitted to the legislature as part of the annual report on system implementation. The bill specifies that the review must be done in collaboration with the

Intellectual and Developmental Disability System Redesign Advisory Committee. The bill removes the requirement that a managed care strategy developed for implementation through a pilot program be designed to promote efficiency and the best use of funding.

H.B. 3523 requires the plan for transitioning the provision of Medicaid benefits between a Medicaid waiver program or an ICF-IID program and a pilot program to be developed in consultation and collaboration with the advisory committee and with stakeholder input. The bill requires HHSC and DADS, in consultation and collaboration with the advisory committee, to analyze the outcomes of providing acute care Medicaid benefits to individuals with an intellectual or developmental disability through the STAR + PLUS Medicaid managed care program or other integrated capitated managed care program delivery model and requires the analysis to include an assessment of the effects on access to and quality of acute care services and the number and types of fair hearing and appeals processes in accordance with applicable federal law. The bill requires the analysis to be incorporated into the HHSC annual report to the legislature and to include recommendations for delivery model improvements and implementation for consideration by the legislature, including recommendations for needed statutory changes.

H.B. 3523 authorizes DADS to contract with providers participating in the home and community-based services (HCS) waiver program, the Texas home living (TxHmL) waiver program, the community living assistance and support services (CLASS) waiver program, or the deaf-blind with multiple disabilities (DBMD) waiver program for the delivery of basic attendant and habilitation services for individuals with an intellectual or developmental disability receiving services under the STAR + PLUS Medicaid managed care program. The bill specifies that DADS has regulatory and oversight authority over the providers with which DADS contracts for the delivery of those services.

H.B. 3523 authorizes HHSC to transition the provision of Medicaid benefits to applicable individuals to the STAR + PLUS Medicaid managed care program delivery model or other integrated capitated managed care program delivery model on or after September 1, 2018, and removes the requirement that HHSC conduct the transition not later than September 1, 2017. The bill requires HHSC, in consultation and collaboration with the advisory committee, to analyze the outcomes of the transition of the long-term services and supports under the Texas home living (TxHmL) Medicaid waiver program to a managed care program delivery model and requires the analysis to include an assessment of the effect of the transition on access to long-term services and supports; meaningful outcomes using person-centered planning, individualized budgeting, and self-determination, including a person's inclusion in the community; the integration of service coordination of acute care services and long-term services and supports; employment assistance and customized, integrated, competitive employment options; and the number and types of fair hearing and appeals processes in accordance with applicable federal law. The bill requires the analysis to be incorporated into the HHSC annual report to the legislature and to include recommendations for improvements to the transition implementation for consideration by the legislature, including recommendations for needed statutory changes.

H.B. 3523 authorizes HHSC, after the transition of the provision of Medicaid benefits to recipients of long-term services and supports under the Texas home living (TxHmL) waiver program to an integrated managed care system is implemented, if that transition is implemented, to transition the provision of Medicaid benefits to individuals with intellectual and developmental disabilities who are receiving long-term services and supports under a Medicaid waiver program other than the Texas home living (TxHmL) waiver program or under an ICF-IID program to the STAR + PLUS Medicaid managed care program delivery model or other integrated capitated managed care program delivery model on or after September 1, 2021, and removes the requirement that HHSC conduct the transition not later than September 1, 2020.

H.B. 3523 amends current law relating to improving the delivery and quality of Medicaid acute care services and long-term care services and supports.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 533.00251(g), Government Code, to delete a reference to Subsections (c) (relating to the provision of benefits under the medical assistance program to recipients who reside in nursing facilities), (e) (relating to credentialing and minimum performance standards for certain nursing facility providers), and (f) (prohibiting a managed care organization from requiring prior authorization for a nursing facility resident in need of emergency hospital services) and make a nonsubstantive change.

SECTION 2. Amends Section 534.053, Government Code, by adding Subsection (e-1) and amending Subsection (g), as follows:

(e-1) Authorizes the Intellectual and Developmental Disability System Redesign Advisory Committee (advisory committee) to establish work groups that meet at other times for purposes of studying and making recommendations on issues the committee considers appropriate.

(g) Provides that, on January 1, 2026, rather than January 1, 2024, the advisory committee is abolished and this section expires.

SECTION 3. Amends Section 534.054, Government Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 534.054. ANNUAL REPORT ON IMPLEMENTATION. (a) Requires the Health and Human Services Commission (HHSC), not later than September 30 of each year, in consultation and collaboration with the advisory committee, to prepare and submit a report to the legislature that must include, rather than a report to the legislature regarding:

(1) an assessment of the implementation of the system required by this chapter, including appropriate information regarding the provision of acute care services and long-term services and supports to individuals with an intellectual or developmental disability under Medicaid as described by this chapter;

(2) recommendations regarding implementation of and improvements to the system redesign, including recommendations regarding appropriate statutory changes to facilitate the implementation; and

(3) an assessment of the effect of the system on the following:

(A) access to long-term services and supports;

(B) the quality of acute care services and long-term services and supports;

(C) meaningful outcomes for Medicaid recipients using person-centered planning, individualized budgeting, and self-determination, including a person's inclusion in the community;

(D) the integration of service coordination of acute care services and long-term services and supports;

(E) the placement of individuals in housing that is the least restrictive setting appropriate to an individual's needs;

(F) employment assistance and customized, integrated, competitive employment options; and

(G) the number and types of fair hearing and appeals processes in accordance with applicable federal law.

(b) Provides that this section expires January 1, 2026, rather than January 1, 2024.

SECTION 4. Amends Section 534.104, Government Code, by amending Subsection (a), as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subsections (c), (d), (e), and (g), and adding Subsection (h), as follows:

(a) Requires the Department of Aging and Disability Services (DADS), in consultation and collaboration with the advisory committee, to identify private services providers that are good candidates to develop a service delivery model involving a managed care strategy based on capitation and to test the model in the provision of long-term services and supports under Medicaid to individuals with an intellectual or developmental disability through a pilot program established under this subchapter.

(c) Requires that a managed care strategy based on capitation developed for implementation through a pilot program under this subchapter be designed to:

(1) and (2) Makes no change to these subdivisions;

(3) promote meaningful outcomes by using person-centered planning, individualized budgeting, and self-determination, and promote community inclusion, rather than promote meaningful outcomes by using person-centered planning, individualized budgeting, and self-determination, and promote community inclusion;

(4) Makes no change to this subdivision;

(5) promote the placement of an individual in housing that is the least restrictive setting appropriate to the individual's needs, rather than promote efficiency and the best use of funding;

(6) promote employment assistance and customized, integrated, and competitive employment, rather than supported employment;

(7) Redesignates existing Subdivision (8) as Subdivision (7) and makes no further change to this subdivision; and

(8) Redesignates existing Subdivision (9) as Subdivision (8) and makes no further change.

Deletes existing text requiring that a managed care strategy based on capitation developed for implementation through a pilot program under this subchapter be designed to promote customized, integrated, competitive employment.

Makes nonsubstantive changes.

(d) Requires DADS, in consultation and collaboration with the advisory committee, to evaluate each submitted managed care strategy proposal and determine whether:

(1) and (2) Makes no change to these subdivisions.

(e) Authorizes DADS, based on the evaluation performed under Subsection (d), to select as pilot program service providers one or more private services providers with whom HHSC will contract.

(g) Requires DADS, in consultation and collaboration with the advisory committee, to analyze information provided by the pilot program service providers and any information collected by DADS during the operation of the pilot programs for purposes of making a recommendation about a system of programs and services for implementation through future state legislation or rules.

(h) Requires that the analysis under Subsection (g) include an assessment of the effect of the managed care strategies implemented in the pilot programs on:

(1) access to long-term services and supports;

(2) the quality of acute care services and long-term services and supports;

(3) meaningful outcomes using person-centered planning, individualized budgeting, and self-determination, including a person's inclusion in the community;

(4) the integration of service coordination of acute care services and long-term services and supports;

(5) the placement of individuals in housing that is the least restrictive setting appropriate to an individual's needs;

(6) employment assistance and customized, integrated, competitive employment options; and

(7) the number and types of fair hearing and appeals processes in accordance with applicable federal law.

SECTION 5. Amends Sections 534.106(a) and (b), Government Code, as follows:

(a) Requires HHSC and DADS to implement any pilot programs established under this subchapter not later than September 1, 2017, rather than September 1, 2016.

(b) Authorizes a pilot program established under this subchapter to operate for up to 24 months. Authorizes a pilot program to cease operation if the pilot program service provider terminates the contract with HHSC before the agreed-to termination date.

Deletes existing text requiring that a pilot program established under this subchapter operate for not less than 24 months, except that a pilot program may cease operation before the expiration of 24 months if the pilot program service provider terminates the contract with HHSC before the agreed-to termination date.

SECTION 6. Amends Section 534.108(d), Government Code, as follows:

(d) Requires HHSC and DADS, in consultation and collaboration with the advisory committee, to review and evaluate the progress and outcomes of each pilot program implemented under this subchapter and submit, as part of the annual report to the legislature required by Section 534.054, a report to the legislature during the operation of the pilot programs. Deletes existing text requiring HHSC and DADS, on or before December 1, 2016, and December 1, 2017, in consultation with the advisory committee, to review and evaluate the progress and outcomes of each pilot program implemented under this subchapter and submit a report to the legislature during the operation of the pilot programs.

SECTION 7. Amends Section 534.110, Government Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 534.110. TRANSITION BETWEEN PROGRAMS. (a) Creates this subsection from existing text and makes no further change to this subsection.

(b) Requires that the transition plan be developed in consultation and collaboration with the advisory committee and with stakeholder input as described by Section 534.103 (Stakeholder Input).

SECTION 8. Amends Section 534.151, Government Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 534.151. DELIVERY OF ACUTE CARE SERVICES FOR INDIVIDUALS WITH AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY. (a) Creates this subsection from existing text and makes no further change to this subsection.

(b) Requires HHSC and DADS, in consultation and collaboration with the advisory committee, to analyze the outcomes of providing acute care Medicaid benefits to individuals with an intellectual or developmental disability under a model specified in Subsection (a). Requires that the analysis:

(1) include an assessment of the effects on access to and quality of acute care services and the number and types of fair hearing and appeals processes in accordance with applicable federal law;

(2) be incorporated into the annual report to the legislature required under Section 534.054; and

(3) include recommendations for delivery model improvements and implementation for consideration by the legislature, including recommendations for needed statutory changes.

SECTION 9. Amends the heading to Section 534.152, Government Code, to read as follows:

Sec. 534.152. DELIVERY OF CERTAIN OTHER SERVICES UNDER STAR + PLUS MEDICAID MANAGED CARE PROGRAM AND BY WAIVER PROGRAM PROVIDERS.

SECTION 10. Amends Section 534.152, Government Code, by adding Subsection (g), as follows:

(g) Authorizes DADS to contract with providers participating in the home and community-based services (HCS) waiver program, the Texas home living (TxHmL) waiver program, the community living assistance and support services (CLASS) waiver program, or the deaf-blind with multiple disabilities (DBMD) waiver program for the delivery of basic attendant and habilitation services described in Subsection (a) for individuals to which that subsection applies. Provides that DADS has regulatory and oversight authority over the providers with which DADS contracts for the delivery of those services.

SECTION 11. Amends Section 534.201, Government Code, by amending Subsections (b) and (e), as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subsection (d), and adding Subsection (g), as follows:

(b) Authorizes HHSC, on or after September 1, 2018, rather than requires HHSC, not later than September 1, 2017, to transition the provision of Medicaid benefits to individuals to whom this section applies to the STAR + PLUS Medicaid managed care program delivery model or the most appropriate integrated capitated managed care program delivery model, as determined by HHSC based on cost-effectiveness and the experience of the STAR + PLUS Medicaid managed care program in providing basic attendant and habilitation services and of the pilot programs established under Subchapter C (Stage One: Programs to Improve Service Delivery Models), subject to Subsection

(c)(1) (requiring HHSC, at the time of a certain transition, to determine whether to continue operation of certain programs).

(d) Requires HHSC, in consultation and collaboration with the advisory committee, in implementing the transition described by Subsection (b), to develop a process to receive and evaluate input from interested statewide stakeholders, rather than requiring HHSC, in implementing the transition described by Subsection (b), to develop a process to receive and evaluate input from interested statewide stakeholders that is in addition to the input provided by the advisory committee.

(e) Requires HHSC, in consultation and collaboration with the advisory committee, to ensure that there is a comprehensive plan for transitioning the provision of Medicaid benefits under this section that protects the continuity of care provided to individuals to whom this section applies.

(g) Requires HHSC, in consultation and collaboration with the advisory committee, to analyze the outcomes of the transition of the long-term services and supports under the Texas home living (TxHmL) Medicaid waiver program to a managed care program delivery model. Requires that the analysis:

(1) include an assessment of the effect of the transition on:

(A) access to long-term services and supports;

(B) meaningful outcomes using person-centered planning, individualized budgeting, and self-determination, including a person's inclusion in the community;

(C) the integration of service coordination of acute care services and long-term services and supports;

(D) employment assistance and customized, integrated, competitive employment options; and

(E) the number and types of fair hearing and appeals processes in accordance with applicable federal law;

(2) be incorporated into the annual report to the legislature required under Section 534.054; and

(3) include recommendations for improvements to the transition implementation for consideration by the legislature, including recommendations for needed statutory changes.

SECTION 12. Amends Section 534.202(b), Government Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(b) Authorizes HHSC, after implementing the transition required by Section 534.201, if that transition is implemented, on or after September 1, 2021, rather than requires HHSC, after implementing the transition required by Section 534.201, but not later than September 1, 2020, to transition the provision of Medicaid benefits to individuals to whom this section applies to the STAR + PLUS Medicaid managed care program delivery model or the most appropriate integrated capitated managed care program delivery model, as determined by HHSC based on cost-effectiveness and the experience of the transition of Texas home living (TxHmL) waiver program recipients to a managed care program delivery model under Section 534.201, subject to Subsections (c)(1) and (g).

SECTION 13. 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 14. Effective date: upon passage or September 1, 2015.