

BILL ANALYSIS

Senate Research Center

H.B. 839
By: Naishtat; Collier (Rodríguez)
Health & Human Services
5/20/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Juveniles committed to a juvenile justice detention facility have higher physical and mental needs than juveniles in the general population and mental health needs are a main driver of a juvenile offender's initial entry into the juvenile justice system and recidivism. A significant number of juveniles committed to the Texas Juvenile Justice Department have a suspected or confirmed substance abuse issue or mental health issue.

According to reports, Texas terminates, rather than suspends, a juvenile's Medicaid benefits when a juvenile enters a detention facility, causing an interruption in the reinstatement of benefits after the juvenile is released from detention. This interruption can result in an inability to obtain necessary medical care. Although state agencies have worked hard to address delayed Medicaid re-enrollment, juvenile probation departments across Texas report that challenges remain with re-enrollment, sometimes resulting in juveniles going without Medicaid benefits for up to a month. H.B. 839 seeks to address these issues.

H.B. 839 amends current law relating to eligibility for Medicaid and the child health plan program for certain children.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 62.101, Health and Safety Code) and SECTION 4 (Section 32.026, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 62.101, Health and Safety Code, by adding Subsections (d) and (e), as follows:

(d) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner), as authorized by 42 U.S.C. Section 1397gg, to adopt rules providing for the determination and certification of presumptive eligibility for the child health plan program of a child under 19 years of age who applies for and meets the basic eligibility requirements for the child health plan program.

(e) Requires that the rules adopted under Subsection (d):

(1) allow only a juvenile facility for the placement, detention, or commitment of a child under Title 3 (Juvenile Justice Code), Family Code, to serve as a qualified entity and make a presumptive eligibility determination for the child health plan program for a child; and

(2) identify the services and benefits, which must include mental health and substance abuse services, prescription drug benefits, and primary care services, that a child who is presumptively eligible for the child health plan program may receive under that program.

SECTION 2. Amends Subchapter C, Chapter 62, Health and Safety Code, by adding Sections 62.106 and 62.107, as follows:

Sec. 62.106. SUSPENSION AND AUTOMATIC REINSTATEMENT OF ELIGIBILITY FOR CHILDREN IN JUVENILE FACILITIES. (a) Defines "juvenile facility."

(b) Requires the Health and Human Services Commission (HHSC), to the extent allowed under federal law, if a child is confined in a juvenile facility, to suspend the child's eligibility for health benefits coverage under the child health plan during the period the child is confined in the facility.

(c) Requires HHSC, not later than 48 hours after HHSC is notified of the release from a juvenile facility of a child whose eligibility for health benefits coverage under the child health plan has been suspended under this section, to reinstate the child's eligibility, provided the child's eligibility certification period has not elapsed. Provides that, following the reinstatement, the child remains eligible until the expiration of the period for which the child was certified as eligible.

Sec. 62.107. NOTICE OF CERTAIN CONFINEMENTS IN JUVENILE FACILITIES. (a) Defines "juvenile facility."

(b) Authorizes a juvenile facility to notify HHSC on the confinement in the facility of a child who is enrolled in the child health plan.

(c) Requires a juvenile facility, if the juvenile facility chooses to provide the notice described by Subsection (b), to provide the notice electronically or by other appropriate means as soon as possible, but not later than the 30th day, after the date of the child's confinement.

(d) Authorizes a juvenile facility to notify HHSC of the release of a child who, immediately before the child's confinement in the facility, was enrolled in the child health plan.

(e) Requires a juvenile facility, if the juvenile facility chooses to provide the notice described by Subsection (d), to provide the notice electronically or by other appropriate means not later than 48 hours after the child's release from the facility.

(f) Requires a juvenile facility, if the juvenile facility chooses to provide the notice described by Subsection (d), at the time of the child's release, to provide the child with a written copy of the notice and a telephone number at which the child's parent or legal guardian may contact HHSC regarding confirmation of or assistance relating to reinstatement of the child's eligibility for health benefits coverage under the child health plan, if applicable.

(g) Requires HHSC to establish a means by which a juvenile facility, or an employee of the facility, may determine whether a child confined in the facility is or was, as appropriate, enrolled in the child health plan for purposes of this section.

(h) Provides that a juvenile facility, or an employee of the facility, is not liable in a civil action for damages resulting from a failure to comply with this section.

SECTION 3. Amends Section 62.154(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(b) Provides that a child is not subject to a waiting period adopted under Subsection (a) (relating to the waiting period and copayments of the child health plan) if:

(1)-(3) Makes no change to these subdivisions;

(4) the child is certified as presumptively eligible for the child health plan program under rules adopted under Section 62.101(d);

(5) Creates this subdivision from existing Subdivision (4) and makes no further change to this subdivision; or

(6) Redesignates existing Subdivision (5) as Subdivision (6) and makes no further change.

SECTION 4. Amends Section 32.026, Human Resources Code, by adding Subsections (h), (i), and (j), as follows:

(h) Requires the executive commissioner, as authorized by 42 U.S.C. Section 1396r-1a, to adopt rules providing for the determination and certification of presumptive eligibility for medical assistance for a child under 19 years of age who applies for and meets the basic eligibility requirements for medical assistance.

(i) Requires that the rules adopted under Subsection (h):

(1) allow only a juvenile facility for the placement, detention, or commitment of a child under Title 3, Family Code, to serve as a qualified entity and make a presumptive eligibility determination for the medical assistance program for a child, unless the presumptive eligibility determination is being made in accordance with rules adopted under Subsection (b) (relating to the promulgation of rules to provide for determination and certification of presumptive eligibility for any pregnant woman who applies for Medicaid) or Section 32.024(y) (relating to the provision of medical assistance to a person in need of treatment for breast or cervical cancer), or in accordance with 42 U.S.C. Section 1396a(a)(47); and

(2) identify the services and benefits, which must include mental health and substance abuse services, prescription drug benefits, and primary care services, that a child who is presumptively eligible for medical assistance may receive under the medical assistance program.

(j) Provides that Subsections (h) and (i) do not affect the presumptive eligibility of a person under Subsection (b), Section 32.024(y), or 42 U.S.C. Section 1396a(a)(47), including an authorized person's ability to make a presumptive eligibility determination under the medical assistance program or an applicant's eligibility under those provisions.

SECTION 5. Amends Subchapter B, Chapter 32, Human Resources Code, by adding Sections 32.0264 and 32.0265, as follows:

Sec. 32.0264. SUSPENSION AND AUTOMATIC REINSTATEMENT OF ELIGIBILITY FOR CHILDREN IN JUVENILE FACILITIES. (a) Defines "juvenile facility."

(b) Requires HHSC, if a child is confined in a juvenile facility, to suspend the child's eligibility for medical assistance during the period the child is confined in the facility.

(c) Requires HHSC, not later than 48 hours after HHSC is notified of the release from a juvenile facility of a child whose eligibility for medical assistance has been suspended under this section, to reinstate the child's eligibility, provided the child's eligibility certification period has not elapsed. Provides that, following the reinstatement, the child remains eligible until the expiration of the period for which the child was certified as eligible.

Sec. 32.0265. NOTICE OF CERTAIN CONFINEMENTS IN JUVENILE FACILITIES.

(a) Defines "juvenile facility."

(b) Authorizes a juvenile facility to notify HHSC on the confinement in the facility of a child who is receiving medical assistance benefits.

(c) Requires a juvenile facility, if the juvenile facility chooses to provide the notice described by Subsection (b), to provide the notice electronically or by other appropriate means as soon as possible, but not later than the 30th day, after the date of the child's confinement.

(d) Authorizes a juvenile facility to notify HHSC of the release of a child who, immediately before the child's confinement in the facility, was receiving medical assistance benefits.

(e) Requires a juvenile facility, if the juvenile facility chooses to provide the notice described by Subsection (d), to provide the notice electronically or by other appropriate means not later than 48 hours after the child's release from the facility.

(f) Requires a juvenile facility, if the juvenile facility chooses to provide the notice described by Subsection (d), at the time of the child's release, to provide the child with a written copy of the notice and a telephone number at which the child's parent or legal guardian may contact HHSC regarding confirmation of or assistance relating to reinstatement of the child's eligibility for medical assistance benefits, if applicable.

(g) Requires HHSC to establish a means by which a juvenile facility, or an employee of the facility, may determine whether a child confined in the facility is or was, as appropriate, receiving medical assistance benefits for purposes of this section.

(h) Provides that a juvenile facility, or an employee of the facility, is not liable in a civil action for damages resulting from a failure to comply with this section.

SECTION 6. Requires the executive commissioner to adopt the rules required by Section 62.101(d), Health and Safety Code, as added by this Act, and Section 32.026(h), Human Resources Code, as added by this Act, not later than January 1, 2016.

SECTION 7. Provides that Sections 62.106(b) and 62.107(b), Health and Safety Code, as added by this Act, and Sections 32.0264(b) and 32.0265(b), Human Resources Code, as added by this Act, apply to a child whose period of confinement in a juvenile facility begins on or after the effective date of this Act, regardless of the date the child was determined eligible for child health plan coverage under Chapter 62 (Child Health Plan for Certain Low-Income Children), Health and Safety Code, or medical assistance under Chapter 32 (Medical Assistance Program), Human Resources Code.

SECTION 8. Provides that Sections 62.106(c) and 62.107(d), Health and Safety Code, as added by this Act, and Sections 32.0264(c) and 32.0265(d), Human Resources Code, as added by this Act, apply to the release of a child from a juvenile facility that occurs on or after the effective date of this Act, regardless of the date the child was initially confined in the facility.

SECTION 9. 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 10. Effective date: upon passage or September 1, 2015.