

## **BILL ANALYSIS**

C.S.H.B. 839  
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Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been reported that juveniles committed to a juvenile justice detention facility have higher physical and mental needs than juveniles in the general population and that 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 these 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 reenrollment, juvenile probation departments across Texas report that challenges remain with reenrollment, sometimes resulting in juveniles going without Medicaid benefits for up to a month. C.S.H.B. 839 seeks to address these issues.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 1 and 3 of this bill.

### **ANALYSIS**

C.S.H.B. 839 amends the Health and Safety Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to require the executive commissioner of the Health and Human Services Commission, not later than January 1, 2016, to adopt rules providing for the determination and certification of presumptive eligibility for the child health plan program (CHIP) of a child under 19 years of age who applies for and meets the basic CHIP eligibility requirements. The bill requires the rules to allow only a juvenile facility for the placement, detention, or commitment of a child under the juvenile justice code to serve as a qualified entity and make a presumptive eligibility determination for CHIP for a child and to 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 CHIP may receive under CHIP. The bill exempts a child who is certified as presumptively eligible under the bill's provisions for CHIP from the 90-day waiting period for CHIP coverage.

C.S.H.B. 839 amends the Human Resources Code to require the executive commissioner, not later than January 1, 2016, to adopt rules providing for the determination and certification of

presumptive eligibility for Medicaid for a child under 19 years of age who applies for and meets the basic Medicaid eligibility requirements. The bill requires the rules to allow only a juvenile facility for the placement, detention, or commitment of a child under the juvenile justice code to serve as a qualified entity and make a presumptive eligibility determination for Medicaid for a child, unless the presumptive eligibility determination is being made in accordance with rules or with federal law relating to the presumptive eligibility of a pregnant woman, a person in need of treatment for breast or cervical cancer, and certain other persons, and to 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 Medicaid may receive under Medicaid. The bill specifies that these requirements do not affect the presumptive eligibility of a pregnant woman, of a person in need of treatment for breast or cervical cancer, and of certain other persons under federal law, including an authorized person's ability to make a presumptive eligibility determination under Medicaid or an applicant's eligibility under those laws.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 839 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

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

(d) As authorized by 42 U.S.C. Section 1397gg, the executive commissioner of the commission shall 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:

(1) has been released from:

(A) confinement in a correctional facility, as defined by Section 1.07, Penal Code; or

(B) placement, detention, or commitment in a facility or other setting under Title 3, Family Code; and

(2) applies for and meets the basic eligibility requirements for the child health plan program.

(e) The rules adopted under Subsection (d) must:

(1) specify the period during which a child may apply for presumptive eligibility for the child health plan program following the date of the child's release from a facility or other setting described in Subsection (d)(1);

(2) require that a qualified entity that is making a presumptive eligibility

#### HOUSE COMMITTEE SUBSTITUTE

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

(d) As authorized by 42 U.S.C. Section 1397gg, the executive commissioner shall 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) The rules adopted under Subsection (d) must:

(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 child health plan program for a child; and

determination for a child accept as verification of the child's release from a facility or other setting described in Subsection (d)(1) any discharge or release papers provided to the child on the child's release; and

(3) 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. Section 62.154(b), Health and Safety Code, is amended to read as follows:

(b) A child is not subject to a waiting period adopted under Subsection (a) if:

(1) the family lost coverage for the child as a result of:

(A) termination of employment because of a layoff or business closing;

(B) termination of continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272);

(C) change in marital status of a parent of the child;

(D) termination of the child's Medicaid eligibility because:

(i) the child's family's earnings or resources increased; or

(ii) the child reached an age at which Medicaid coverage is not available; or

(E) a similar circumstance resulting in the involuntary loss of coverage;

(2) the family terminated health benefits plan coverage for the child because the cost to the child's family for the coverage exceeded 10 percent of the family's net income;

(3) the child has access to group-based health benefits plan coverage and is required to participate in the health insurance premium payment reimbursement program administered by the commission; [ø]

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

(5) the commission has determined that other grounds exist for a good cause

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

(b) A child is not subject to a waiting period adopted under Subsection (a) if:

(1) the family lost coverage for the child as a result of:

(A) termination of employment because of a layoff or business closing;

(B) termination of continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272);

(C) change in marital status of a parent of the child;

(D) termination of the child's Medicaid eligibility because:

(i) the child's family's earnings or resources increased; or

(ii) the child reached an age at which Medicaid coverage is not available; or

(E) a similar circumstance resulting in the involuntary loss of coverage;

(2) the family terminated health benefits plan coverage for the child because the cost to the child's family for the coverage exceeded 9.5 percent of the family's household income;

(3) the child has access to group-based health benefits plan coverage and is required to participate in the health insurance premium payment reimbursement program administered by the commission;

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

(5) the commission has determined that other grounds exist for a good cause

exception.

SECTION 3. Section 32.026, Human Resources Code, is amended by adding Subsections (h) and (i) to read as follows:

(h) As authorized by 42 U.S.C. Section 1396r-1a, the executive commissioner of the Health and Human Services Commission shall adopt rules providing for the determination and certification of presumptive eligibility for medical assistance for a child under 19 years of age who:

(1) has been released from:

(A) confinement in a correctional facility, as defined by Section 1.07, Penal Code; or

(B) placement, detention, or commitment in a facility or other setting under Title 3, Family Code; and

(2) applies for and meets the basic eligibility requirements for medical assistance.

(i) The rules adopted under Subsection (h) must:

(1) specify the period during which a child may apply for presumptive eligibility for medical assistance following the date of the child's release from a facility or other setting described in Subsection (h)(1);

(2) require that a qualified entity that is making a presumptive eligibility determination for a child accept as verification of the child's release from a facility or other setting described in Subsection (h)(1) any discharge or release papers provided to the child on the child's release; and

(3) 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.

exception; or

(6) [(5)] federal law provides that the child is not subject to a waiting period adopted under Subsection (a).

SECTION 3. Section 32.026, Human Resources Code, is amended by adding Subsections (h), (i), and (j) to read as follows:

(h) As authorized by 42 U.S.C. Section 1396r-1a, the executive commissioner shall 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) The rules adopted under Subsection (h) must:

(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) or Section 32.024(y), 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) 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 4. The executive commissioner of the Health and Human Services Commission shall 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 4. Same as introduced version.

SECTION 5. The changes in law made by this Act apply to a child who is released from a facility or other setting described by Section 62.101(d)(1), Health and Safety Code, as added by this Act, or Section 32.026(h)(1), Human Resources Code, as added by this Act, on or after January 1, 2016, regardless of the date the child was confined in, placed in, detained in, or committed to the facility or other setting.

No equivalent provision.

SECTION 6. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 5. Same as introduced version.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 6. Same as introduced version.