

SUBJECT: Allowing HHSC to contract with TNCs for medical transport programs

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Frank, Hinojosa, Clardy, Deshotel, Klick, Meza, Miller, Noble

0 nays

1 absent — Rose

WITNESSES: For — Marina Hench, American Cancer Society Cancer Action Network; Chase Bearden, Coalition of Texans with Disabilities; Jill Ann Jarrell, Doctors for Change; Lindsay Lanagan, Legacy Community Health; Jay Brown, Lyft; Chris Miller, Uber Technologies; Jamie Whitney, Zaffirini Law; Karla Quigley; Nicole Schroeder (*Registered, but did not testify*: Jason Neerman, Aetna; Jo DePrang, Children's Defense Fund-Texas; Jeff Miller, Disability Rights Texas; Aaron Gregg, Fresenius Medical Care; Alissa Sughrue and Greg Hansch, National Alliance on Mental Illness-Texas; Eric Kunish, National Alliance on Mental Illness-Austin Affiliate; J.T. Edwards, Southeast Vocational Alliance; David Edmonson, TechNet; Marshall Kenderdine, Texas Academy of Family Physicians; Michelle Romero, Texas Medical Association; Clayton Travis, Texas Pediatric Society; Pamela McPeters, TexProtects, Prevent Child Abuse America-Texas Chapter; Kyle Piccola, The Arc of Texas; Alexis Tatum, Travis County Commissioners Court; Rebecca Cowle; Jordan Weinert)

Against — None

On — Elizabeth Bruchez, Association for Community Transit, Brazos Transit District; Stephanie Muth, Health and Human Services Commission; Steven Feist, Logisticare; Brett Coghlan, Texas Ambulance Association; Butch Oberhoff, Texas EMS Alliance

BACKGROUND: Government Code sec. 531.0057 requires the Health and Human Services Commission (HHSC) to provide medical transportation services for clients of eligible health and human services programs. HHSC is allowed

to contract with any public or private transportation provider or with any regional transportation broker for the provision of public transportation services. Texas Administrative Code sec. 380.205(1) requires program clients to request routine medical transportation at least two working days in advance of an appointment.

Sec. 531.02414 defines the "medical transportation program" as the program that provides nonemergency transportation services to and from covered health care services, based on medical necessity, to recipients under Medicaid, the children with special health care needs program, and the transportation for indigent cancer patients program, who have no other means of transportation. A "regional contracted broker" is defined as an entity that contracts with HHSC to provide or arrange for the provision of nonemergency transportation services under the medical transportation program.

Sec. 533.00257(b) requires HHSC to provide medical transportation services on a regional basis through a managed transportation delivery model using managed transportation organizations and providers that operate under certain conditions and assume full financial risk.

Sec. 533.00257(a)(1) defines a "managed transportation organization" as a rural or urban transit district, a public transportation provider, a regional contracted broker, or a local private transportation provider approved by HHSC to provide Medicaid medical transportation services, or any other entity HHSC determined met certain requirements.

Occupations Code sec. 2402.001(5) defines "transportation network companies" as certain entities that, for compensation, enable a passenger to prearrange with a driver for a ride exclusively through the entities' digital networks.

Interested parties have suggested that transportation network companies could provide a more reliable and efficient means of nonemergency medical transportation for recipients of Medicaid and other health and human services programs.

DIGEST: CSHB 1576 would allow the Health and Human Services Commission (HHSC), Medicaid managed care organizations, other managed care organizations, and certain transportation organizations to contract or subcontract with transportation network companies (TNCs) and transportation vendors for the delivery of nonemergency medical transportation services and nonmedical transportation services under Medicaid.

Nonemergency transportation service. CSHB 1576 would allow a regional contracted broker to subcontract with a TNC to provide nonemergency transportation services, defined as a service to transport a person to or from a medically necessary service covered under a health care program in which the person was enrolled. HHSC rules governing these services would not apply to the TNC or its drivers. HHSC or the regional contracted broker could not require a TNC or TNC driver to enroll as a Medicaid provider, but could require TNCs and their drivers to be periodically screened against the list of excluded individuals and entities maintained by the Office of Inspector General of the U.S. Department of Health and Human Services.

A TNC driver who satisfied statutory driver requirements would be authorized to provide nonemergency medical transportation services, and a regional contracted broker and HHSC could not impose any additional requirements on the driver. A nonemergency transportation service driver could use a wheelchair-accessible vehicle if the vehicle otherwise met statutory requirements for TNCs.

CSHB 1576 would prohibit emergency medical services personnel and vehicles from providing nonemergency transportation services under the medical transportation program.

Nonmedical transportation service under Medicaid. The executive commissioner of HHSC would be required to adopt rules regarding the manner in which nonmedical transportation services, defined as transportation to and from a medically necessary health care service in a

standard passenger vehicle, could be arranged and provided.

The rules would have to require a managed care organization to create a process to:

- verify that a passenger was eligible to receive nonmedical transportation services;
- ensure that nonmedical transportation services were provided only to and from covered health care services in areas where a TNC operated;
- refer a Medicaid recipient enrolled in a plan offered by the managed care organization to the medical transportation program if the managed care organization was not responsible for providing transportation services or the recipient required an accessible or specialized vehicle that was not available through a transportation vendor; and
- ensure the timely delivery of nonmedical transportation services to a Medicaid recipient, including setting reasonable service response goals.

A rule adopted to ensure timely delivery could not penalize a managed care organization that contracted with a transportation vendor if the vendor was unable to provide nonmedical transportation services to a Medicaid recipient after the managed care organization had made a specific request for those services.

Before permitting a driver, vendors would have to be required by rule to:

- confirm that the driver was at least 18 years old, had a valid driver's license, and had proof of registration and automobile financial responsibility for each vehicle used to provide nonmedical transportation;
- conduct a criminal background check for the operator that included the use of a commercial nationwide database and the national sex offender public website maintained by the U.S. Department of Justice;

- confirm that any vehicle to be used for nonmedical transportation services met statutory requirements and had at least four doors, unless it was a wheelchair-accessible vehicle; and
- obtain and review the driver's driving record.

The rules could not permit a driver to provide nonmedical transportation services if the driver had been convicted of certain offenses in the past three years.

HHSC could not require a driver to enroll as a Medicaid provider to provide nonmedical transportation services or require a managed care organization to credential drivers.

HHSC or a managed care organization could require a transportation vendor or driver to be periodically screened against the list of excluded individuals and entities maintained by the Office of Inspector General of the U.S. Department of Health and Human Services.

A TNC driver who satisfied statutory driver requirements for TNCs would be authorized to provide nonmedical transportation services, and HHSC and managed care organizations could not impose any additional requirements on the driver. A driver could use a wheelchair-accessible vehicle if the vehicle otherwise met statutory requirements for TNCs.

Managed care organizations and nonmedical transportation services. Managed care organizations that contracted with HHSC would be required to arrange for the provision of nonmedical transportation services, and would be allowed to contract with a transportation vendor or other third party to do so. If a managed care organization contracted with a third party that was not a transportation vendor, the third party would be required to contract with a transportation vendor to deliver nonmedical transportation services.

If a managed care organization contracted with a third party or transportation vendor, the organization would have to ensure the effective sharing and integration of service coordination, service authorization, and

utilization of management data between the managed care organization and the transportation vendor or third party.

A managed care organization could not require a driver to enroll as a Medicaid provider to provide nonmedical transportation services or to be credentialed to provide those services. A driver would be allowed to use a wheelchair-accessible vehicle if the vehicle otherwise met statutory requirements for TNCs.

Managed transportation organizations. Managed transportation organizations would be allowed to subcontract with a TNC. Any rule or requirement for managed transportation organizations would not apply to the subcontracted TNC or TNC driver. HHSC or the managed transportation organization could not require a TNC driver to enroll as a Medicaid provider.

HHSC or a managed transportation organization subcontracting with a TNC could require the TNC or driver to be periodically screened against the list of excluded individuals and entities maintained by the Office of Inspector General of the U.S. Department of Health and Human Services.

A TNC driver who satisfied statutory driver requirements would be authorized to subcontract for a managed transportation organization. HHSC and managed transportation organizations could not impose any additional requirements on the driver. A driver would be allowed to use a wheelchair-accessible vehicle if the vehicle otherwise met statutory requirements for TNCs.

Rulemaking and federal authorization. The executive commissioner of HHSC would be required to adopt rules as necessary to implement the bill as soon as practicable after the effective date.

If a state agency determined that a waiver or authorization from a federal agency was necessary for implementation of any provision of the bill, the state agency would be required to request the waiver and would be allowed to delay implementation of the provision until the waiver or

authorization was granted.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.