

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 445
By: Moncrief
Health Services
3/5/1999
Committee Report (Substitute)

DIGEST

Currently, Texas law does not provide for a child health plan for certain low-income children. The lack of health insurance contributes to poor health and reduces the quality of life for children. Uninsured children are less likely to receive health care when they are sick than children who have some kind of health insurance, and are less likely to receive medical care from a physician even when they need it. C.S.S.B. 445 creates the Texas Children's Health Insurance Program (CHIP) a health plan for certain low-income children.

PURPOSE

As proposed, C.S.S.B. 445 creates a child health plan for certain low-income children.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Health and Human Services Commission in SECTION 1 (Sections 62.051(c), 62.052(b), 62.053(c), and 62.102, Chapters 62B and C, Health and Safety Code); to the Texas Department of Health in SECTION 1 (Sections 62.051(c) and 62.052(b), Health and Safety Code); to the Texas Department of Human Services in SECTION 1 (Section 62.051(c), Health and Safety Code); to any health and human services agency in SECTION 1 (Section 62.051(c), Health and Safety Code); and to the Texas Department of Insurance in Section 1 (Section 62.054(c), Chapter 62B, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 2C, Health and Safety Code, by adding Chapter 62, as follows:

CHAPTER 62. CHILD HEALTH PLAN FOR CERTAIN LOW-INCOME CHILDREN

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 62.001. DEFINITION. Defines "commission," and "commissioner."

Sec. 62.002. NOT AN ENTITLEMENT; TERMINATION OF PROGRAM. Provides that this chapter does not establish an entitlement to assistance in obtaining health benefits for a child. Provides that the program established under this chapter terminates at the time that federal funding terminates under Title XXI of the Social Security Act, as amended, or another law providing federal funding for a state-designed child health plan.

SUBCHAPTER B. ADMINISTRATION OF CHILD HEALTH PLAN PROGRAM

Sec. 62.051. DUTIES OF COMMISSION. Requires the Health and Human Services Commission (commission) to develop a state-designed child health plan program (program) to obtain health benefits coverage for children in low-income families. Requires the commission to ensure that the program is designed and administered in a manner that qualifies it for federal funding. Requires the commission to oversee the implementation of the program and coordinate the activities of each agency necessary to the implementation of the program, including certain departments. Authorizes the commission to adopt rules as necessary to implement this chapter. Authorizes the commission to require certain departments or any other health and human services agency to adopt, with the approval of the commission, any rules that may be adopted under this subsection. Authorizes the commission to delegate to certain agencies the authority to adopt any rules that may be adopted under this subsection.

Sec. 62.052. DUTIES OF TEXAS DEPARTMENT OF HEALTH. Requires the Texas

Department of Health (TDH) to administer the child health plan (plan) under the direction of the commission. Sets forth requirements of TDH. Authorizes the commission, or TDH under the direction of and in consultation with the commission, to adopt rules as necessary to implement this section.

Sec. 62.053. DUTIES OF TEXAS DEPARTMENT OF HUMAN SERVICES. Requires the Texas Department of Human Service (TDHS) to perform certain tasks, under the direction of the commission. Requires TDHS, under the direction of the commission, to perform certain tasks if the commission contracts with a third party administrator. Requires the commission or TDHS, with consultation with the commission, to adopt rules as necessary to implement this section.

Sec. 62.054. DUTIES OF TEXAS DEPARTMENT OF INSURANCE. Requires the Texas Department of Insurance (TDI) to provide any necessary assistance with the development of the plan, at the request of the commission. Requires TDI to monitor the quality of the services provided by health benefit plan providers and resolve grievances relating to the providers. Authorizes the commission and TDI to adopt a memorandum of understanding that addresses the responsibilities of each agency in developing the plan. Requires TDI, in consultation with the commission, to adopt rules as necessary to implement this section.

Sec. 62.055. CONTRACTS FOR IMPLEMENTATION OF CHILD HEALTH PLAN. Authorizes the commission to contract with certain persons in administering the plan. Authorizes a third party administrator or other entity to perform tasks under the contract that would otherwise be performed by TDH to TDHS under this chapter. Authorizes the commission to require TDR or TDHS, as the commission determines is appropriate to take certain action, if the commission enters into a contract with an entity described by Subsection (a)(2).

Sec. 62.056. COMMUNITY OUTREACH CAMPAIGN; TOLL-FREE HOTLINE. Requires the commission to conduct a community outreach and education campaign (campaign) to provide information relating to the availability of health benefits for children. Requires the commission to conduct the campaign in coordination with the Texas Healthy Kids Corporation in a manner that promotes the goals of both programs and minimizes duplication of effort. Requires the campaign to include a toll-free telephone number through which families may obtain information about health benefits coverage for children. Requires the commission to provide grants to community-based organizations to implement the campaign. Authorizes the commission to direct TDH or TDHS to perform all or part of the outreach campaign.

SUBCHAPTER C. ELIGIBILITY FOR COVERAGE UNDER CHILD HEALTH PLAN

Sec. 62.101. ELIGIBILITY. Provides that a child is eligible for health benefits coverage under the plan if the child meets certain requirements. Requires the commission to establish an income eligibility level consistent with Title XXI of the Social Security Act and any other applicable law or regulations, and subject to the availability of appropriated money. Requires children ages birth through 10 years of age whose net family income is at or below 200 percent of the federal poverty level to be eligible for health benefits coverage, at the implementation of the program. Requires children ages 11 through 18 years of age whose net family income is at or below 150 percent of the federal poverty level to also be eligible. Defines "net family income." Requires the Commissioner of Health and Human Services (commissioner) to evaluate enrollment levels and program impact every six months during the first 12 months of implementation and at least annually thereafter and to submit a finding of fact to the Legislative Budget Board and the Governor's Office of Budget and Planning as to the adequacy of funding and the ability of the program to sustain enrollment at higher income eligibility levels for children ages 1 through 18 years of age. Requires the commissioner to adjust the income limits to a higher level after submittal of a finding of fact that funding for the child health plan is sufficient to support and sustain enrollment at the higher level. Requires the commissioner, prior to implementation of the program and on an annual basis thereafter, to evaluate enrollment levels and program impact and submit a finding of fact to the Legislative Budget Board and the Governor's Office of Budget and Planning as to the adequacy of funding and the ability of the program to sustain enrollment of children ages 8 through 10 whose family income is between 150 percent and 200 percent of the federal poverty level. Requires the commissioner to adjust the income limit to a lower level after submittal of a finding of fact that funding for the child health plan is not sufficient to sustain enrollment at the higher level.

Sec. 62.102. CONTINUOUS COVERAGE. Requires the commission, by rule, to provide that an individual who is determined to be eligible for coverage under the child health plan remains eligible for those benefits until a certain time.

Sec. 62.103. APPLICATION FORM AND PROCEDURES. Requires the commission, or TDHS at the direction of and in consultation with the commission, to adopt an application form and application procedures for requesting plan coverage under this chapter. Requires the form and procedures to coordinate with forms and procedures under the Medicaid program and forms and procedures used by the Texas Healthy Kids Corporation so that a person may submit a single consolidated application to seek assistance under this chapter or the Medicaid program or from the corporation. Authorizes the commission to permit application to be made by mail, over the telephone, or through the Internet.

Sec. 62.104. ELIGIBILITY SCREENING AND ENROLLMENT. Requires the commission, or TDHS at the direction and in consultation with the commission, to develop eligibility screening and enrollment procedures for children that comply with the requirements of 42 U.S.C. Section 1397bb, as amended, and any other applicable law or regulations. Requires the procedures to ensure that Medicaid-eligible children are identified and referred to the Medicaid program. Authorizes the Texas Integrated Enrollment Services eligibility determination system or a compatible system to be used to screen and enroll children under the plan.

SUBCHAPTER D. CHILD HEALTH PLAN

Sec. 62.151. CHILD HEALTH PLAN COVER-AGE. Requires the plan to comply with this chapter and the coverage requirements prescribed by 42 U.S.C. Section 1397cc, as amended, and any other applicable law or regulations. Requires the commission to consider the health care needs of certain children. Requires the commission to consider the health benefit plans providing coverage to state employees under the Texas Employees Uniform Group Insurance Benefits Act and may use a health benefit plan providing coverage under that article as a model for the plan. Authorizes the benefits offered under the child health plan to vary from the benefits offered state employees. Requires the plan to allow an enrolled child with a chronic, disabling, or life-threatening illness to select an appropriate specialist as a primary care physician.

Sec. 62.152. APPLICATION OF INSURANCE LAW. Provides that, to provide the flexibility necessary to satisfy the requirements of Title XXI of the Social Security Act, as amended, and any other applicable law or regulations, the plan is not subject to a law that requires certain coverage.

Sec. 62.153. COST SHARING. Authorizes the commission to require enrollees to share the cost of the plan, including provisions requiring enrollees under the plan to pay certain costs. Requires cost-sharing provisions adopted under this section to ensure that families with higher levels of income are required to pay progressively higher percentages of the cost of the plan. Authorizes the commission to specify the manner in which the premiums are to be paid, if cost-sharing provisions imposed under Subsection (a) include requirements that enrollees pay a portion of the plan premium. Authorizes the commission to require that the premium be paid to TDH, TDHS, or the child health plan provider.

Sec. 62.154. CROWD OUT. Provides that, to the extent permitted under Title XXI of the Social Security Act, as amended, and any other applicable law or regulations, the plan may include waiting periods, copayments, and other provisions to discourage certain acts.

Sec. 62.155. CHILD HEALTH PLAN PROVIDERS. Requires the commission or TDH, at the direction of and in consultation with the commission, to select the plan providers under the program through open enrollment or a competitive bid process. Requires a plan provider to meet certain requirements. Makes a conforming change.

SUBCHAPTER E. LEGISLATIVE OVERSIGHT

Sec. 62.201. DEFINITION. Defines "committee."

Sec. 62.202. COMPOSITION OF COMMITTEE; PRESIDING OFFICER. Sets forth the

members of the child health plan legislative oversight committee (committee). Provides that a member of the committee serves at the pleasure of the appointing official. Requires the lieutenant governor and the speaker of the house of representatives to appoint the presiding officer of the committee on an alternating basis. Provides that the officer serves a two-year term expiring August 31 of each odd-numbered year.

Sec. 62.203. COMMITTEE POWERS AND DUTIES. Sets forth requirements for the committee. Authorizes the committee to issue process, in accordance with Section 301.024, Government Code, to compel the attendance of witnesses and the production of books, records, documents, and instruments required by the committee. Requires the committee to monitor the effectiveness and efficiency of the plan program under this chapter. Requires the commission and TDH to report quarterly to the committee on implementation and administration of the plan program and the use of money appropriated for the program. Requires the committee to request additional reports and other information relating to the program from the commission and certain agencies. Requires the committee to use the existing staff resources of the senate and the house of representatives to assist the committee in performing its duties.

Sec. 62.204. REPORT. Requires the committee to report to the governor, lieutenant governor, and speaker of the house of representatives not later than a certain date. Sets forth the requirements of the report.

Sec. 62.205. RIGHTS OF EMPLOYEES; RETALIATION PROHIBITED. Defines "personnel action." Authorizes an employee of any agency described by Section 62.203(d) to cooperate with the committee in the performance of its functions. Prohibits the agency from suspending or terminating the employment of, or taking another adverse personnel action against, an employee of the agency solely because the employee cooperates with the committee on good faith.

Sec. 62.206. EXPIRATION. Provides that the committee is abolished and this subchapter expires September 1, 2003.

SECTION 2. Amends Chapter 109, Health and Safety Code, by adding Subchapter F, as follows:

SUBCHAPTER F. STATE CHILD HEALTH PLAN

Sec. 109.201. DEFINITIONS. Defines "commission," and "state child health plan."

Sec. 109.202. CHILD HEALTH PLAN COVERAGE. Authorizes the commission to use appropriate funds, in accordance with the General Appropriations Act, to purchase coverage under the state child health plan and to contract with the Texas Healthy Kids Corporation (corporation) for other services under this subchapter. Requires the state plan coverage offered under this subchapter to be approved by the commission. Requires the commission to ensure that coverage provided under this subchapter complies with Chapter 62.

Sec. 109.203. ELIGIBILITY. Provides that, notwithstanding any other provision of this chapter or the eligibility criteria established under Section 109.061, an individual who is eligible for coverage under the state plan, as determined by the commission, is eligible for coverage provided through the corporation under this subchapter.

Sec. 109.204. COMMUNITY OUTREACH; ELIGIBILITY SCREENING. Authorizes the corporation, under direction of the commission, in connection with offering a plan under this subchapter, to take certain action. Requires the eligibility screening and enrollment procedures used by the corporation to comply with Chapter 62.

Sec. 109.205. REPORTING AND ACCOUNTABILITY. Requires the corporation to report to the commission as required by the commission or the agency designate under Section 62.055(c) with respect to coverage and services under this subchapter.

SECTION 3. Amends Section 4, Article 3.51-6, Insurance Code, as follows:

Sec. 4. EXEMPTIONS. Prohibits the provisions of this article from being applicable to any policy or contract of insurance with a state agency, department, or board providing health services to eligible persons under Chapter 32, Human Resources Code, or in accordance with 42 U.S.C.

Sections 1396-1396g, or 42 U.S.C. Section 1397aa et seq., as amended, under a state plan. Makes standard recodification and conforming changes.

SECTION 4. Requires the Health and Human Service Commission, by September 1, 1999, to develop the plan and a plan amendment.

SECTION 5. Provides that if the Health and Human Services Commission determines that a waiver of authorization from a federal agency is necessary for implementation of that provision, the commission shall request the waiver or authorization and may delay implementing that provision until the waiver of authorization is granted.

SECTION 6. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 62.001, Health and Safety Code, to add a definition of "commissioner."

Adds a new Section 62.002, Health and Safety Code, to provide that the program established under this chapter terminates at the time that federal funding terminates under Title XXI of the Social Security Act, as amended, or another law providing federal funding for a statedesigned child health plan.

Amends Section 62.055, Health and Safety Code, to provide a new heading: CONTRACTS FOR IMPLEMENTATION OF CHILD HEALTH PLAN. Authorizes the commission to contract with certain persons in administering the plan. Authorizes a third party administrator or other entity to perform tasks under the contract that would otherwise be performed by the TDH to TDHS under this chapter. Authorizes the commission to require the TDH or TDHS, as the commission determines is appropriate, to take certain action, if the commission enters into a contract with an entity described by Subsection (a)(2). Deletes a provision requiring the commission to contract with a third party administrator to provide enrollment services under the program. Authorizes the third party administrator to perform tasks under the contract that would otherwise be performed by TDHS.

Amends Section 62.101, Health and Safety Code, to require children ages birth through 10 years of age whose net family income is at or below 200 percent of the federal poverty level to be eligible for health benefits coverage, at the implementation of the program. Requires children ages 11 through 18 years of age whose net family income is at or below 150 percent of the federal poverty level to also be eligible. Provides that "net family income" includes offsets for such expenses as child care and work-related expenses consistent with Medicaid standards, in this subsection. Requires the Commissioner of Health and Human Services (commissioner) to evaluate enrollment levels and program impact every six months during the first 12 months of implementation and at least annually thereafter and to submit a finding of fact to the Legislative Budget Board and the Governor's Office of Budget and Planning as to the adequacy of funding and the ability of the program to sustain enrollment at higher income eligibility levels for children ages 11 through 18 years of age. Requires the commissioner to adjust the income limits to a higher level after submittal of a finding that the child health plan is sufficient to support and sustain enrollment at the higher level. Requires the commissioner, prior to implementation of the program and on an annual basis thereafter, to evaluate enrollment levels and program impact and submit a finding of fact to the Legislative Budget Board and the Governor's Office of Budget and Planning as to the adequacy of funding and the ability of the program to sustain enrollment of children ages 8 through 10 whose family income is between 150 percent and 200 percent of the federal poverty level Requires the commissioner to adjust the income limit to a lower level after submittal of a finding of fact that funding for the child health plan is not sufficient to sustain enrollment at the higher level. Deletes provisions prohibiting the income eligibility level from being set at a level higher than 200 percent of the federal poverty level based on the federal Office of Management and Budget poverty index.

Amends Sections 62.153(b) and (c), Health and Safety Code, to require cost-sharing provisions adopted under this section to ensure that families with higher levels of income are required to pay

progressively higher percentages of the cost of the plan. Requires the commission to specify the manner in which the premium is paid, if cost-sharing provisions imposed under Subsection (a) include requirements that enrollees pay a portion of the plan premium. Authorizes the commission to require that the premium be paid to the TDH, the TDHS, or the child health plan provider.

Amends Section 62.155(a), Health and Safety Code, to require the commission or TDH, at the direction of and in consultation with the commission, to select the plan providers under the program through open enrollment or a competitive bid process. Requires a plan provider to meet certain requirements. Makes a conforming change.

SECTION 2.

Adds SUBCHAPTER F, Health and Safety Code, regarding the state child health plan.

SECTIONS 3 - 6.

Redesignated from SECTIONS 2-5.