

BILL ANALYSIS

Senate Research Center
86R33421 JG-D

C.S.H.B. 1111
By: Davis, Sarah et al. (Kolkhorst)
Health & Human Services
5/19/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

It has been suggested that socioeconomic disparities and a lack of access to adequate health care services are contributors to poor maternal health outcomes. Additionally, recent reports indicate that postpartum depression rates in Texas exceed the national average. H.B. 1111 seeks to implement programs and reporting requirements aimed at improving maternal and newborn health care with care coordination, telemedicine services, and studies on the effectiveness of existing maternal health care practices and creates a designated account for Medicaid reimbursements for newborn screenings. (Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 1111 amends current law relating to maternal and newborn health care.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission (executive commissioner) in SECTION 2 (Section 531.0996, Government Code) and SECTION 11 (Section 1001.262, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the executive commissioner is modified in SECTION 3 (Section 33.004, Health and Safety Code) and SECTION 8 (Section 241.183, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.02163, as follows:

Sec. 531.02163. STUDY ON PROVIDING CERTAIN MATERNAL CARE MEDICAID SERVICES THROUGH TELEMEDICINE MEDICAL SERVICES AND TELEHEALTH SERVICES. (a) Requires the Health and Human Services Commission (HHSC), not later than September 1, 2020, to conduct a study on the benefits and costs of permitting reimbursement under Medicaid for prenatal and postpartum care delivered through telemedicine medical services and telehealth services.

(b) Provides that this section expires September 1, 2021.

SECTION 2. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.0996, as follows:

Sec. 531.0996. PREGNANCY MEDICAL HOME PILOT PROGRAM. (a) Requires HHSC to develop a pilot program to establish pregnancy medical homes that provide coordinated evidence-based maternity care management to women who reside in a pilot program area and are recipients of Medicaid through a Medicaid managed care model or arrangement under Chapter 533 (Medicaid Managed Care Program). Requires HHSC to implement the pilot program in counties that meet certain requirements.

(b) Requires HHSC, in implementing the pilot program, to ensure each pregnancy medical home provides a maternity management team that:

(1) consists of health care providers, including obstetricians, gynecologists, family physicians, physician assistants, certified nurse midwives, nurse practitioners, and social workers, who provide health care services at the same location in:

(A) a zip code with a high rate of maternal mortality and morbidity; or

(B) an area with limited access to health care providers who provide obstetrical care;

(2) conducts a risk assessment of each pilot program participant on her entry into the program to determine the risk classification for her pregnancy based on recognized maternal mortality and morbidity risk assessment tools that indicate the participant's:

(A) maternal age;

(B) maternal race;

(C) prior pregnancies that resulted in a live birth, stillbirth, or miscarriage; and

(D) family history of disease;

(3) based on the assessment conducted under Subdivision (2), establishes an individual pregnancy care plan for each participant; and

(4) follows each participant throughout her pregnancy and for a reasonable amount of time postpartum to reduce poor birth outcomes and pregnancy-related maternal deaths occurring postpartum.

(c) Authorizes HHSC to incorporate as a component of the pilot program financial incentives for health care providers who participate in a maternity management team. Authorizes HHSC to consider as a criteria for the financial incentives whether the health care provider in a maternity management team will implement strategies and best practices recommended by the Maternal Mortality and Morbidity Task Force (task force) established under Chapter 34 (Maternal Mortality and Morbidity Task Force), Health and Safety Code, for reducing maternal mortality rates and maternal health disparities for African American women in this state.

(d) Authorizes HHSC to waive a requirement of this section for a pregnancy medical home located in a rural county.

(e) Authorizes HHSC, notwithstanding Section 531.02176 (Expiration of Medicaid Reimbursement For Provision of Home Telemonitoring Services), to:

(1) provide home telemonitoring services and necessary durable medical equipment to pilot program participants who are at risk of experiencing pregnancy-related complications, as determined by a physician, to the extent HHSC anticipates the services and equipment will reduce unnecessary emergency room visits or hospitalizations; and

(2) reimburse providers under Medicaid for the provision of home telemonitoring services and durable medical equipment under the pilot program.

(f) Requires HHSC, not later than January 1, 2021, to submit to the legislature a report on the pilot program. Requires the report to include certain information.

(f-1) Authorizes the report required under Subsection (f) to include statistical information and findings based on confidential information collected under Section 34.019, Health and Safety Code, provided the information and findings are aggregated and do not include any personally identifying information of a woman, her family, or a health care provider.

(g) Requires the executive commissioner of HHSC (executive commissioner) to adopt rules to implement this section and adopt and implement policies and procedures to ensure that confidential information obtained under this section is not disclosed in violation of state or federal law.

(h) Provides that this section expires September 1, 2023.

SECTION 3. Amends Section 33.004(f), Health and Safety Code, as follows:

(f) Requires, rather than authorizes, the executive commissioner by rule to establish the amounts charged for newborn screening fees, including fees assessed for follow-up services, tracking confirmatory testing, and diagnosis. Requires the executive commissioner, in adopting rules under this subsection, to ensure that amounts charged for newborn screening fees are sufficient to cover the costs of performing the screening.

SECTION 4. Amends Chapter 33, Health and Safety Code, by adding Subchapter D, as follows:

SUBCHAPTER D. NEWBORN SCREENING PRESERVATION ACCOUNT

Sec. 33.051. DEFINITION. Defines "account" to mean newborn screening preservation account established under Section 33.052.

Sec. 33.052. CREATION OF ACCOUNT. (a) Provides that the newborn screening preservation account is a dedicated account in the general revenue fund. Provides that the account is created solely for the perpetual care and preservation of newborn screening in this state.

(b) Authorizes money in the account to be appropriated only to the Department of State Health Services (DSHS) and only for the purpose of carrying out the newborn screening program established under this chapter (Phenylketonuria, Other Heritable Diseases, Hypothyroidism, and Certain Other Diseases).

(c) Requires DSHS, on November 1 of each year, to transfer to the account any unexpended and unencumbered money from Medicaid reimbursements collected by DSHS for newborn screening services during the preceding state fiscal year.

(d) Provides that the account is composed of:

- (1) money transferred to the account under Subsection (c);
- (2) gifts, grants, donations, and legislative appropriations; and
- (3) interest earned on the investment of money in the account.

(e) Provides that Section 403.0956 (Reallocation of Interest Accrued on Certain Dedicated Revenue), Government Code, does not apply to the account.

(f) Provides that DSHS administers the account. Authorizes DSHS to solicit and receive gifts, grants, and donations from any source for the benefit of the account.

Sec. 33.053. DEDICATED USE. (a) Authorizes DSHS to use any money remaining in the account after paying the costs of operating the newborn screening program established under this chapter only to:

(1) pay for capital assets, improvements, equipment, and renovations for the laboratory established by DSHS to ensure the continuous operation of the newborn screening program; and

(2) pay for necessary renovations, construction, capital assets, equipment, supplies, staff, and training associated with providing additional newborn screening tests not offered under this chapter before September 1, 2019, including the operational costs incurred during the first year of implementing the additional tests.

(b) Prohibits DSHS from using money from the account for DSHS's general operating expenses.

Sec. 33.054. REPORT. Requires DSHS, if DSHS requires an additional newborn screening test under Subchapter B (Health Programs) the costs of which are funded with money appropriated from the newborn screening preservation account, to, not later than December 31 of the first even-numbered year following the addition of the test, prepare and submit a written report regarding the actions taken by DSHS to fund and implement the test during the preceding two years to the governor, the lieutenant governor, the speaker of the house of representatives, and each standing committee of the legislature having primary jurisdiction over DSHS.

SECTION 5. Amends Chapter 34, Health and Safety Code, by adding Sections 34.0158 and 34.0159, as follows:

Sec. 34.0158. REPORT ON ACTIONS TO ADDRESS MATERNAL MORTALITY RATES. Requires HHSC, not later than December 1 of each even-numbered year, to submit to the governor, the lieutenant governor, the speaker of the house of representatives, the Legislative Budget Board, and the appropriate standing committees of the legislature a written report summarizing the actions taken to address maternal morbidity and reduce maternal mortality rates. Requires the report to include information from programs and initiatives created to address maternal morbidity and reduce maternal mortality rates in this state, including:

- (1) Medicaid;
- (2) the children's health insurance program, including the perinatal program;
- (3) the Healthy Texas Women program;
- (4) the Family Planning Program;
- (5) this state's program under the Maternal and Child Health Services Block Grant Act (42 U.S.C. Section 701 et seq.);
- (6) the Perinatal Advisory Council;
- (7) state health plans; and
- (8) the Healthy Texas Babies program.

Sec. 34.0159. PROGRAM EVALUATIONS. Requires HHSC, in collaboration with the task force and other interested parties, to:

- (1) explore options for expanding the pilot program for pregnancy medical homes established under Section 531.0996, Government Code;

- (2) explore methods for increasing the benefits provided under Medicaid, including specialty care and prescriptions, for women at greater risk of a high-risk pregnancy or premature delivery;
- (3) evaluate the impact of supplemental payments made to obstetrics providers for pregnancy risk assessments on increasing access to maternal health services;
- (4) evaluate a waiver to fund managed care organization payments for case management and care coordination services for women at high risk of severe maternal morbidity on conclusion of their eligibility for Medicaid;
- (5) evaluate the average time required for pregnant women to complete the Medicaid enrollment process;
- (6) evaluate the use of Medicare codes for Medicaid care coordination;
- (7) study the impact of programs funded from the Teen Pregnancy Prevention Program federal grant and evaluate whether the state should continue funding the programs; and
- (8) evaluate the use of telemedicine medical services for women during pregnancy and the postpartum period.

SECTION 6. Amends Chapter 34, Health and Safety Code, by adding Sections 34.019, 34.020, and 34.021, as follows:

Sec. 34.019. DATA COLLECTION. Requires the task force, under the direction of DSHS, to annually collect information relating to maternity care and postpartum depression in this state. Requires the information to be based on statistics for the preceding year and include certain information.

Sec. 34.020. PROGRAM TO DELIVER PRENATAL AND POSTPARTUM CARE THROUGH TELEHEALTH OR TELEMEDICINE MEDICAL SERVICES IN CERTAIN COUNTIES. (a) Defines "postpartum care," "prenatal care," "telehealth service," and "telemedicine medical service" for purpose of this section.

(b) Requires HHSC, in consultation with the task force, to develop a program to deliver prenatal and postpartum care through telehealth services or telemedicine medical services to pregnant women with a low risk of experiencing pregnancy-related complications, as determined by a physician. Requires HHSC to implement the program in certain counties that meet certain criteria.

(c) Requires HHSC to develop criteria for selecting participants for the program by analyzing information in the reports prepared by the task force under this chapter and the outcomes of the study conducted under Section 531.02163, Government Code.

(d) Requires HHSC, in developing and administering the program, to endeavor to use innovative, durable medical equipment to monitor fetal and maternal health.

(e) Authorizes HHSC, notwithstanding Section 531.02176, Government Code, and if HHSC determines it is feasible and cost-effective, to:

- (1) provide home telemonitoring services and necessary durable medical equipment to women participating in the program to the extent HHSC anticipates the services and equipment will reduce unnecessary emergency room visits or hospitalizations; and

(2) reimburse providers under Medicaid for the provision of home telemonitoring services and durable medical equipment under the program.

(f) Requires HHSC, not later than January 1, 2021, to submit to the legislature a report on the program that evaluates the program's success in delivering prenatal and postpartum care through telehealth services or telemedicine medical services under Subsection (b). Provides that this subsection expires September 1, 2023.

Sec. 34.021. APPLICATION FOR FEDERAL GRANTS. (a) Requires the executive commissioner to apply to the United States Department of Health and Human Services for grants under the federal Preventing Maternal Deaths Act of 2018 (Pub. L. No. 115-344).

(b) Provides that this section expires September 1, 2027.

SECTION 7. Amends Section 81.090(c), Health and Safety Code, as follows:

(c) Requires a physician or other person in attendance at a delivery to:

(1) makes no changes to this subdivision; and

(2) submit the sample of blood or other appropriate specimen to an appropriately certified laboratory for diagnostic testing approved by the United States Food and Drug Administration for hepatitis B infection and syphilis, rather than hepatitis B infection.

SECTION 8. Amends Section 241.183(a), Health and Safety Code, as follows:

(a) Requires the executive commissioner, in consultation with DSHS, to adopt rules:

(1)–(6) makes no changes to these subdivisions;

(7) requiring payment, other than quality or outcome-based funding, to be based on services provided by the facility, regardless of the hospital's, rather than regardless of the facility's, level of care designation;

(8) makes a nonsubstantive change to this subdivision;

(9) establishing a process through which a hospital is authorized to obtain a limited follow-up survey by an independent third party to appeal the level of care designation assigned to the hospital;

(10) permitting a hospital to satisfy any requirement for a Level I or II level of care designation that relates to an obstetrics or gynecological physician by:

(A) granting maternal care privileges to a family physician with obstetrics training or experience; and

(B) developing and implementing a plan for responding to obstetrical emergencies that requires services or procedures outside the scope of privileges granted to the family physician described by Paragraph (A);

(11) clarifying that, regardless of a hospital's level of care designation, a health care provider at a designated facility or hospital is authorized to provide the full range of health care services;

(A) that the provider is authorized to provide under state law; and

(B) for which the hospital has granted privileges to the provider; and

(12) requiring DSHS to provide to each hospital that receives a level of care designation a written explanation of the basis for the designation, including, as applicable, specific reasons that prevented the hospital from receiving a higher level of care designation.

SECTION 9. Amends Subchapter H, Chapter 241, Health and Safety Code, by adding Sections 241.1835, 241.1836, and 241.1865, as follows:

Sec. 241.1835. USE OF TELEMEDICINE MEDICAL SERVICES. (a) Defines "telemedicine medical service" for purposes of this section.

(b) Requires the rules adopted under Section 241.183 to allow the use of telemedicine medical services by a physician providing on-call services to satisfy certain requirements identified by the executive commissioner in the rules for a Level I, II, or III level of care designation.

(c) Requires the executive commissioner, in consultation with DSHS, physicians of appropriate specialties, statewide hospital associations, and other appropriate interested persons, in identifying a requirement for a level of care designation that may be satisfied through the use of telemedicine medical services under Subsection (b), to ensure that the provision of a service or procedure through the use of telemedicine medical services is in accordance with the standard of care applicable to the provision of the same service or procedure in an in-person setting.

(d) Requires telemedicine medical services to be administered under this section by a physicians licensed to practice medicine under Subtitle B (Physicians), Title 3, Occupations Code.

(e) Provides that this section does not waive other requirements for a level of care designation.

Sec. 241.1836. APPEAL PROCESS. (a) Requires the rules adopted under Section 241.183 (Rules) establishing the appeal process for a level of care designation assigned to a hospital to allow a hospital to appeal to a three-person panel that includes:

(1) a representative of DSHS;

(2) a representative of HHSC; and

(3) an independent person who:

(A) has expertise in the specialty area for which the hospital is seeking a level of care designation;

(B) is not an employee of or affiliated with either DSHS or HHSC; and

(C) does not have a conflict of interest with the hospital, DSHS, or HISC.

(b) Requires the independent person on the panel described by Subsection (a) to rotate after each appeal from a list of five to seven similarly qualified persons. Requires DSHS to solicit persons to be included on the list. Requires a person to apply to DSHS on a form prescribed by DSHS and be approved by the commissioner to be included on the list.

Sec. 241.1865. WAIVER FROM LEVEL OF CARE DESIGNATION REQUIREMENTS; CONDITIONAL DESIGNATION. (a) Requires DSHS to develop and implement a process through which a hospital is authorized to request and enter into an agreement with DSHS to:

(1) receive or maintain a level of care designation for which the hospital does not meet all requirements conditioned on the hospital, in accordance with a plan approved by DSHS and outlined under the agreement, satisfying all requirements for the level of care designation within a time specified under the agreement, which is prohibited from exceeding the first anniversary of the effective date of the agreement; or

(2) waive one specific requirement for a level of care designation in accordance with Subsection (c).

(b) Authorizes a hospital to submit a written request under Subsection (a) at any time. Requires DSHS to make a determination on a request submitted under that subsection at any time.

(c) Requires DSHS to enter into any agreement with a hospital to waive a requirement under Subsection (a)(2) only if DSHS determines the waiver is justified considering:

(1) the expected impact on the accessibility of care in the geographical area served by the hospital if the waiver is not granted;

(2) the expected impact on quality of care;

(3) the expected impact on patient safety; and

(4) whether health care services related to the requirement can be provided through telemedicine medical services under Section 241.1835.

(d) Provides that a waiver agreement entered into under Subsection (a):

(1) is required to expire not later than at the end of each designation cycle but is authorized to be renewed on expiration by DSHS under the same or different terms; and

(2) is authorized to specify any conditions for ongoing reporting and monitoring during the agreement.

(e) Provides that a hospital that enters into a waiver agreements under Subsection (a) is required to satisfy all other requirements for a level of care designation that are not waived in the agreement.

(f) Requires DSHS to post on DSHS's Internet website and periodically update:

(1) a list of hospitals that enter into an agreement with DSHS under this section; and

(2) an aggregated list of the requirements conditionally met or waived in agreement entered into under this section.

(g) Requires a hospital that enters into an agreement with DSHS under this section to post on the hospital's Internet website the nature and general terms of the agreement.

SECTION 10. Amends Section 241.187, Health and Safety Code, by amending Subsection (l) and adding Subsections (m) and (n), as follows:

(l) Provides that the Perinatal Advisory Council (advisory council) is subject to Chapter 325, Government Code (Texas Sunset Act). Requires the advisory council to be reviewed during the period in which DSHS is reviewed. Deletes existing text providing that unless continued in existence as provided that that chapter, the advisory council is abolished and this section expires September 1, 2025.

(m) Requires DSHS, in consultation with the advisory council, to:

(1) conduct a strategic review of the practical implementation of rules adopted in consultation with DSHS under this subchapter that a minimum identifies:

(A) barriers to a hospital obtaining its requested level of care designation;

(B) whether the barriers identified under Paragraph (A) are appropriate to ensure and improve neonatal and maternal care;

(C) requirements for a level of care designation that relate to gestational age; and

(D) whether, in making a level of care designation for a hospital, DSHS or the perinatal advisory council should consider:

(i) the geographic area in which the hospital is located; and

(ii) regardless of the number of patients of a particular gestational age treated by the hospital, the hospital's capabilities in providing care to patients of a particular gestational age;

(2) based on the review conducted under Subdivision (1), recommend a modification of rules adopted under this subchapter, as appropriate, to improve the process and methodology of assigning level of care designations; and

(3) prepare and submit to the legislature;

(A) not later than December 31, 2019, a written report that summarizes DSHS's review of neonatal care conducted under Subdivision (1) and on actions taken by DSHS and executive commissioner based on that review; and

(B) not later than December 31, 2020, a written report that summarizes DSHS's review of maternal care conducted under Subdivision (1) and on actions taken by DSHS and executive commissioner based on that review.

(n) Provides that Subsection (m) and this subsection expire September 1, 2021.

SECTION 11. Amends Chapter 1001, Health and Safety Code, by adding Subchapter K, as follows:

SUBCHAPTER K. HIGH-RISK MATERNAL CARE COORDINATION
SERVICES PILOT PROGRAM

Sec. 1001.261. DEFINITIONS. Defines "pilot program," "promotora," and "community health worker" for purposes of this section.

Sec. 1001.262. ESTABLISHMENT OF PILOT PROGRAM; RULES. (a) Requires DSHS to develop and implement a high-risk maternal care coordination services pilot program (pilot program) in one or more geographic areas in this state.

(b) Requires DSHS, in implementing the pilot program, to:

(1) conduct a statewide assessment of training courses provided by promotoras or community health workers that target women of childbearing age;

(2) study existing models of high-risk maternal care coordination services;

(3) identify, adapt, or create a risk assessment tool to identify pregnant women who are at a higher risk for poor pregnancy, birth, or postpartum outcomes; and

(4) create educational materials for promotoras and community health workers that include information on the:

(A) assessment tool described by Subdivision (3); and

(B) best practices for high-risk maternal care.

(c) Requires the executive commissioner to adopt rules as necessary to implement this subchapter and prescribe the types of information to be collected during the course of the pilot program and included in the report described by Section 1001.264.

Sec. 1001.263. DUTIES OF DEPARTMENT. (a) Requires DSHS to provide to each geographic area selected for the pilot program the support, resources, technical assistance, training, and guidance necessary to:

(1) screen all or a sample of pregnant patients with the assessment tool described by Section 1001.262(b)(3); and

(2) integrate community health worker services for women with high-risk pregnancies in:

(A) providing patient education on health-enhancing behaviors and chronic disease management and prevention;

(B) facilitating care coordination and navigation activities; and

(C) identifying and reducing barriers to the women's access to health care.

(b) Requires DSHS to develop training courses to prepare promotoras and community health workers in educating and supporting women at high risk for serious complications during the pregnancy and postpartum periods.

Sec. 1001.264. PILOT PROGRAM REPORT. (a) Requires DSHS, not later than December 1 of each even-numbered year, to prepare and submit a report on the pilot program to the executive commissioner and the chairs of the standing committees of the senate and the house of representatives with primary jurisdiction over public health and human services. Authorizes the report to be submitted with the report required under Section 34.0156 (Maternal Health and Safety Initiative).

(b) Requires the report submitted under this section to include an evaluation from the commissioner of state health services of the pilot program's effectiveness.

(c) Requires the report submitted under this section to include a recommendation from DSHS on whether the pilot program should continue, be expanded, or be terminated.

Sec. 1001.265. EXPIRATION. Provides that this subchapter expires September 1, 2023.

SECTION 12. Requires the executive commissioner to adopt rules as required by:

(1) Section 33.004(f), Health and Safety Code, as amended by this Act, and Section 1001.262(c), Health and Safety Code, as added by this Act, not later than December 1, 2019, subject to Subsection (b) of this section; and

(2) Section 241.183, Health and Safety Code, as amended by this Act, as soon as practicable after the effective date of this Act.

(b) Provides that, notwithstanding Subchapter K, Chapter 1001, Health and Safety Code, as amended by this Act, DSHS and the executive commissioner are not required to comply with that subchapter unless a specific appropriation for the implementation of the subchapter is provided in a general appropriation act of the 86th Legislature.

SECTION 13. (a) Requires the executive commissioner to complete for each hospital in this state the maternal level of care designation required under Subchapter H, Chapter 241, Health and Safety Code, as amended by this Act, not later than August 31, 2021.

(b) Provides that, notwithstanding Section 241.186, Health and Safety Code, a hospital is not required to have a maternal level of care designation as a condition of reimbursement for maternal services through the Medicaid program before September 1, 2021.

(c) Authorizes a hospital that submits an application to DSHS for a maternal level of care designation under Subchapter H, Chapter 241, Health and Safety Code, before the effective date of this Act to amend the application to reflect the applicable changes in law made by this Act.

SECTION 14. Requires the executive commissioner, as soon as practicable after the effective date of this Act, to apply to the United States Department of Health and Human Services for grants as required by Section 34.021, Health and Safety Code, as added by this Act.

SECTION 15. Requires a state agency affected by a provision of this Act to request a waiver or authorization from a federal agency if the state agency determines that such a waiver is necessary for implementation of a provision of this Act, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 16. Effective date: upon passage or September 1, 2019.