

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1576
By: Phelan et al. (Buckingham)
Health & Human Services
5/18/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Concerns have been raised about a reported gap in transportation services provided under the state Medicaid program in situations where a recipient's need for transportation to and from a health care service appointment cannot be met due to difficulties in scheduling the transportation within the required time frame. H.B. 1576 seeks to provide for a more efficient model for the delivery of certain nonmedical transportation services through the inclusion of Transportation Network Companies (TNCs) in the Texas Medical Transportation Program (MTP)—a regional, managed transportation program administered by the Health and Human Services Commission.

The bill also creates a new defined category of nonmedical transportation services (NMT) that will be made available under the Texas Medicaid managed care program and reimbursed through managed care organization (MCO) capitation rates. Under the new delivery model, MCOs would be able to schedule transportation for patients in instances where they are unable to give advance notice, including the onset of a sudden illness or when a patient is discharged from the hospital early.

Finally, H.B. 1576 establishes a provider participation safety net program to provide support for ground transport emergency medical services delivered to Texas Medicaid clients. (Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 1576 amends current law relating to the delivery of certain transportation services under Medicaid and certain other health and human services programs.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission (executive commissioner) in SECTION 8 (Sections 533.002571 and 533.00258, Government Code) of this bill.

Rulemaking authority previously granted to the executive commissioner is modified in SECTION 4 (Section 531.02414, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 531.001, Government Code, by adding Subdivision (4-c) to define "Medicaid managed care organization."

SECTION 2. Amends the heading to Section 531.02414, Government Code, to read as follows:

Sec. 531.02414. NONEMERGENCY TRANSPORTATION SERVICES UNDER MEDICAL TRANSPORTATION PROGRAM.

SECTION 3. Amends Section 531.02414(a), Government Code, by amending Subdivision (1) and adding Subdivisions (1-a) and (3), as follows:

(1) Redefines "medical transportation program" as the program that provides nonemergency transportation services to certain persons, including recipients under Medicaid, subject to Subsection (a-1). Deletes existing text relating to

transporting certain persons to and from covered health care services, based on medical necessity.

(1-a) Defines "nonemergency transportation service."

(3) Defines "transportation network company."

SECTION 4. Amends Section 531.02414, Government Code, by adding Subsections (a-1),(i), (j), (k), (l), and (m) and amending Subsections (b), (e), and (f), as follows:

(a-1) Provides that this section (Administration and Operation of Medical Transportation Program) does not apply to the provision of nonemergency transportation services on or after September 1, 2020, to a Medicaid recipient who is enrolled in a managed care plan offered by a Medicaid managed care organization.

(b) Requires the Health and Human Services Commission (HHSC), notwithstanding any other law, to directly supervise the administration and operation of the medical transportation program under this section, rather than the medical transportation program.

(e) Requires the executive commissioner of HHSC (executive commissioner) to adopt rules to ensure the safe and efficient provision of nonemergency transportation services under this section, rather than under the medical transportation program by regional contracted brokers and subcontractors of regional contracted brokers.

(f) Creates an exception under Subsection (j) to the provision requiring HHSC to require compliance with the rules adopted under Subsection (e) in any contract entered into with a regional contracted broker to provide nonemergency transportation services under the medical transportation program.

(i) Prohibits emergency medical services personnel and emergency medical services vehicles, as those terms are defined by Section 773.003 (Definitions), Health and Safety Code, from providing nonemergency transportation services under the medical transportation program.

(j) Authorizes a regional contracted broker to subcontract with a transportation network company to provide services under this section. Provides that a rule or other requirement adopted by the executive commissioner under Subsection (e) does not apply to the subcontracted transportation network company or a motor vehicle operator who is part of the company's network.

(k) Authorizes HHSC or a regional contracted broker that subcontracts with a transportation network company under Subsection (j) to require the transportation network company or a motor vehicle operator who provides services under this section to be periodically screened against the list of excluded individuals and entities maintained by the Office of Inspector General of the United States Department of Health and Human Services (HHS).

(l) Provides that, notwithstanding any other law, a motor vehicle operator who is part of the network of a transportation network company that subcontracts with a regional contracted broker under Subsection (j) and who satisfies the driver requirements in Section 2402.107 (Driver Requirements), Occupations Code, is qualified to provide services under this section. Prohibits HHSC and the regional contracted broker from imposing any additional requirements on a motor vehicle operator who satisfies the driver requirements in Section 2402.107, Occupations Code, to provide services under this section.

(m) Authorizes a motor vehicle operator who provides services under this section, for purposes of this section and notwithstanding Section 2402.111(a)(2)(A) (relating to requiring a transportation network company to, for each motor vehicle used by a driver to provide digitally prearranged rides through the company's digital networks, confirm the

vehicle has four doors), Occupations Code, to use a wheelchair-accessible vehicle equipped with a lift or ramp that is capable of transporting passengers using a fixed-frame wheelchair in the cabin of the vehicle if the vehicle otherwise meets the requirements of Section 2402.111 (Vehicle Requirements), Occupations Code.

SECTION 5. Amends the heading to Section 533.00257, Government Code, to read as follows:

Sec. 533.00257. DELIVERY OF MEDICAL TRANSPORTATION PROGRAM SERVICES THROUGH MANAGED TRANSPORTATION ORGANIZATION.

SECTION 6. Amends Section 533.00257(a), Government Code, by adding Subdivision (2-a) to define "transportation network company."

SECTION 7. Amends Section 533.00257, Government Code, by amending Subsections (b), (d), and (g) and adding Subsections (k), (l), (m), and (n), as follows:

(b) Authorizes HHSC, rather than requiring HHSC, subject to Subsection (i) (relating to authorizing HHSC to delay providing medical transportation services through a managed transportation delivery model in areas of this state in which HHSC is operating a full-risk transportation broker model on a certain date), to provide medical transportation program services in a certain manner.

(d) Requires a managed transportation organization that participates in the medical transportation program, except as provided by Subsections (k) and (m), rather than requiring a managed transportation organization that participates in the medical transportation program, to attempt to contract with medical transportation providers that meet certain standards.

(g) Requires HHSC, except as provided by Subsections (k) and (m), rather than requiring HHSC, to require that managed transportation organizations and providers participating in the medical transportation program meet minimum quality and efficiency measures as determined by HHSC.

(k) Authorizes a managed transportation organization to subcontract with a transportation network company to provide services under this section (Delivery of Medical Transportation Program Services). Provides that a rule or other requirement adopted by the executive commissioner under this section or Section 531.02414 does not apply to the subcontracted transportation network company or a motor vehicle operator who is part of the company's network. Prohibits HHSC or the managed transportation organization from requiring a motor vehicle operator who is part of the subcontracted transportation network company's network to enroll as a Medicaid provider to provide services under this section.

(l) Authorizes HHSC or a managed transportation organization that subcontracts with a transportation network company under Subsection (k) to require the transportation network company or a motor vehicle operator who provides services under this section to be periodically screened against the list of excluded individuals and entities maintained by the Office of Inspector General of HHS.

(m) Provides that, notwithstanding any other law, a motor vehicle operator who is part of the network of a transportation network company that subcontracts with a managed transportation organization under Subsection (k) and who satisfies the driver requirements in Section 2402.107, Occupations Code, is qualified to provide services under this section. Prohibits HHSC and the managed transportation organization from imposing any additional requirements on a motor vehicle operator who satisfies the driver requirements in Section 2402.107, Occupations Code, to provide services under this section.

(n) Authorizes a motor vehicle operator who provides services under this section, for purposes of this section and notwithstanding Section 2402.111(a)(2)(A), Occupations

Code, to use a wheelchair-accessible vehicle equipped with a lift or ramp that is capable of transporting passengers using a fixed-frame wheelchair in the cabin of the vehicle if the vehicle otherwise meets the requirements of Section 2402.111, Occupations Code.

SECTION 8. Amends Subchapter A, Chapter 533, Government Code, by adding Sections 533.002571, 533.00258, and 533.002581, as follows:

Sec. 533.002571. DELIVERY OF NONEMERGENCY TRANSPORTATION SERVICES TO CERTAIN MEDICAID RECIPIENTS THROUGH MEDICAID MANAGED CARE ORGANIZATION. (a) Defines "nonemergency transportation service," "nonmedical transportation service," and "transportation network company" for purposes of this section.

(b) Requires HHSC to require each Medicaid managed care organization to arrange and provide nonemergency transportation services to a recipient enrolled in a managed care plan offered by the organization using the most cost-effective and cost-efficient method of delivery, including by delivering nonmedical transportation services through a transportation network company or other transportation vendor as provided by Section 533.002581, if available and medically appropriate. Requires HHSC to supervise the provision of the services.

(c) Requires the executive commissioner, subject to Subsection (d), to adopt:

(1) rules applicable to the provision of nonemergency medical transportation services by a Medicaid managed care organization that impose the same standards and requirements as those adopted under Section 531.02414(e); and

(2) other rules as necessary to ensure the safe and efficient provision of nonemergency transportation services by a Medicaid managed care organization under this section.

(d) Authorizes a Medicaid managed care organization to subcontract with a transportation network company to provide nonemergency transportation services under this section. Provides that a rule or other requirement adopted by the executive commissioner under Subsection (c) or Section 531.02414 does not apply to the subcontracted transportation network company or a motor vehicle operator who is part of the company's network. Prohibits HHSC or the Medicaid managed care organization from requiring a motor vehicle operator who is part of the subcontracted transportation network company's network to enroll as a Medicaid provider to provide services under this section.

(e) Authorizes HHSC or a Medicaid managed care organization that subcontracts with a transportation network company under Subsection (d) to require the transportation network company or a motor vehicle operator who provides services under this section to be periodically screened against the list of excluded individuals and entities maintained by the Office of the Inspector General of the United States Department of Health and Human Services (HHS).

(f) Provides that, notwithstanding any other law, a motor vehicle operator who is a part of the network of a transportation network company that subcontracts with a Medicaid managed care organization under Subsection (d) and who satisfies the driver requirements in Section 2402.107, Occupations Code, is qualified to provide services under this section. Prohibits HHSC and the Medicaid managed care organization from imposing any additional requirements on a motor vehicle operator who satisfies the driver requirements in Section 2402.107, Occupations Code, to provide services under this section.

(g) Authorizes a motor vehicle operator who provides services under this section, for purposes of Section 2402.111(a)(2)(A), Occupations Code, to use a

wheelchair-accessible vehicle equipped with a lift or ramp that is capable of transporting passengers using a fixed-frame wheelchair in the cabin of the vehicle if the vehicle otherwise meets the requirements of Section 2402.111, Occupations Code.

(h) Authorizes HHSC to temporarily waive the applicability of Subsection (b) to a Medicaid managed care organization as necessary based on the results of a review conducted under Section 533.007 (Contract Compliance) and until enrollment of recipients in a managed care plan offered by the organization is permitted under that section.

(i) Requires HHSC to extend a contract for the provision of nonemergency transportation services under Section 533.00257 or other law as necessary until the requirements of this section are implemented with the respect to each Medicaid managed care organization. Provides that this subsection expires September 1, 2023.

Sec. 533.00258. NONMEDICAL TRANSPORTATION SERVICES UNDER MEDICAID MANAGED CARE PROGRAM. (a) Defines "nonmedical transportation service," "transportation network company," and "transportation vendor" for purposes of this section.

(b) Requires the executive commissioner to adopt rules regarding the manner in which nonmedical transportation services are authorized to be arranged and provided.

(c) Requires the rules to require a Medicaid managed care organization to create a process to:

(1) verify that a passenger is eligible to receive nonmedical transportation services;

(2) ensure that nonmedical transportation services are provided only to and from covered health care services in areas in which a transportation network company operates; and

(3) ensure the timely delivery of nonmedical transportation services to a recipient, including by setting reasonable service response goals.

(d) Prohibits a rule adopted in accordance with Subsection (c)(3), before September 1, 2020, and subject to Section 533.002581(h), from imposing a penalty on a Medicaid managed care organization that contracts with a transportation vendor under this section if the vendor is unable to provide nonmedical transportation services to a recipient after the Medicaid managed care organization has made a specific request for those services.

(e) Requires the rules to require a transportation vendor to, before permitting a motor vehicle operator to provide nonmedical transportation services:

(1) confirm that the operator:

(A) is at least 18 years of age;

(B) maintains a valid driver's license issued by this state, another state, or the District of Columbia; and

(C) possesses proof of registration and automobile financial responsibility for each motor vehicle to be used to provide nonmedical transportation services;

(2) conduct, or cause to be conducted, a local, state, and national criminal background check for the operator that includes the use of:

(A) a commercial multistate and multijurisdiction criminal records locator or other similar commercial national database; and

(B) the national sex offender public website maintained by the United States Department of Justice (DOJ) or a successor agency;

(3) confirm that any vehicle to be used to provide nonmedical transportation services:

(A) meets the applicable requirements of Chapter 548 (Compulsory Inspection of Vehicles), Transportation Code; and

(B) except as provided by Subsection (j), has at least four doors; and

(4) obtain and review the operator's driving record.

(f) Prohibits the rules from permitting a motor vehicle operator to provide nonmedical transportation services if the operator:

(1) has been convicted in the three-year period preceding the issue date of the driving record obtained under Subsection (e)(4) of:

(A) more than three offenses classified by the Department of Public Safety of the State of Texas as moving violations; or

(B) one or more of the following offenses:

(i) fleeing or attempting to elude a police officer under Section 545.421 (Fleeing or Attempting to Elude Police Officer; Offense), Transportation Code;

(ii) reckless driving under Section 545.401 (Reckless Driving; Offense), Transportation Code;

(iii) driving without a valid driver's license under Section 521.025 (License to Be Carried and Exhibited on Demand; Criminal Penalty), Transportation Code; or

(iv) driving with an invalid driver's license under Section 521.457 (Driving While License Invalid), Transportation Code;

(2) has been convicted in the preceding seven-year period of any of the following:

(A) driving while intoxicated under Section 49.04 (Driving While Intoxicated) or 49.045 (Driving While Intoxicated With Child Passenger), Penal Code;

(B) use of a motor vehicle to commit a felony;

(C) a felony crime involving property damage;

(D) fraud;

(E) theft;

(F) an act of violence; or

(G) an act of terrorism; or

(3) is found to be registered in the national sex offender public website maintained by DOJ or a successor agency.

(g) Prohibits HHSC from requiring:

(1) a motor vehicle operator to enroll as a Medicaid provider to provide nonmedical transportation services; or

(2) a Medicaid managed care organization to credential a motor vehicle operator to provide nonmedical transportation services.

(h) Authorizes HHSC or a Medicaid managed care organization that contracts with a transportation vendor to require the transportation vendor or a motor vehicle operator who provides services under this section to be periodically screened against the list of excluded individuals and entities maintained by the Office of Inspector General of HHS.

(i) Provides that, notwithstanding any other law, a motor vehicle operator who is part of a transportation network company's network and who satisfies the driver requirements of Section 2402.107, Occupations Code, is qualified to provide nonmedical transportation services. Prohibits HHSC and a Medicaid managed care organization from imposing any additional requirements on a motor vehicle operator who satisfies the driver requirements under Section 2402.107, Occupations Code, to provide nonmedical transportation services.

(j) Authorizes a motor vehicle operator who provides services under this section, for purposes of this section and notwithstanding Section 2402.111(a)(2)(A), Occupations Code, to use a wheelchair-accessible vehicle equipped with a lift or ramp that is capable of transporting passengers using a fixed-frame wheelchair in the cabin of the vehicle if the vehicle otherwise meets the requirements of Section 2402.111, Occupations Code.

Sec. 533.002581. DELIVERY OF NONMEDICAL TRANSPORTATION SERVICES UNDER MEDICAID MANAGED CARE PROGRAM. (a) Defines "nonmedical transportation service" and "transportation vendor" for purposes of this section.

(b) Requires HHSC to designate managed care service areas in which to require, beginning not later than January 1, 2020, each Medicaid managed care organization with which HHSC has a contract that is anticipated to be in effect on September 1, 2020, and that operates in a designated service area to arrange for the provision of nonmedical transportation services to recipients enrolled in a managed care plan offered by the organization. Requires HHSC to designate at least three, but not more than four, managed care service areas for purposes of this subsection. Requires at least one of the designated service areas to be located in an urban area, and requires at least one to be located in a rural service area. Provides that this subsection expires September 1, 2021.

(c) Requires HHSC to require each Medicaid managed care organization to arrange for the provision of nonmedical transportation services to recipients enrolled in a managed care plan offered by the organization.

(d) Authorizes a Medicaid managed care organization to contract with a transportation vendor or third party to arrange for the provision of nonmedical transportation services. Requires the third party, if a Medicaid managed care organization contracts with a third party that is not a transportation vendor to

arrange for the provision of nonmedical transportation services, to contract with a transportation vendor to deliver the nonmedical transportation services.

(e) Requires a Medicaid managed care organization that contracts with a transportation vendor or other third party to arrange for the provision of nonmedical transportation services to ensure the effective sharing and integration of service coordination, service authorization, and utilization management data between the managed care organization and the transportation vendor or third party.

(f) Prohibits a Medicaid managed care organization from requiring:

(1) a motor vehicle operator to enroll as a Medicaid provider to provide nonmedical transportation services; or

(2) the credentialing of a motor vehicle operator to provide nonmedical transportation services.

(g) Authorizes a motor vehicle operator who provides services under this section, for purposes of this section and notwithstanding Section 2402.111(a)(2)(A), Occupations Code, to use a wheelchair-accessible vehicle equipped with a lift or ramp that is capable of transporting passengers using a fixed-frame wheelchair in the cabin of the vehicle if the vehicle otherwise meets the requirements of Section 2402.111, Occupations Code.

(h) Authorizes HHSC to waive the applicability of Subsection (c) to a Medicaid managed care organization for not more than three months as necessary based on the results of a review conducted under Section 533.007 and until enrollment of recipients in a managed care plan offered by the organization is permitted under that section.

SECTION 9. Repealer: Section 533.00257(i) (relating to authorizing HHSC to delay providing medical transportation program services through a managed transportation delivery model in which HHSC is operating a full-risk transportation broker model on a certain date), Government Code.

SECTION 10. Provides that, notwithstanding Sections 533.002571(b) and 533.002581(b), Government Code, as added by this Act, HHSC is not required to implement those subsections until September 1, 2020.

SECTION 11. 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 12. Requires the executive commissioner, as soon as practicable after the effective date of this Act, to adopt rules as necessary to implement the changes in law made by this Act.

SECTION 13. Effective date: upon passage or September 1, 2019.