

## **BILL ANALYSIS**

Senate Research Center

H.B. 3720  
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Health & Human Services  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas Medicaid offers the ability for individuals with physical or intellectual and developmental disabilities to live in their home communities and avoid institutional settings through a series of Medicaid Section 1915(c) waiver programs. These programs provide long-term services and supports to these individuals in a setting that best fits their needs. Currently, Texas has limited space in these programs and interested parties who seek program services must add their information to an interest list.

As of January 2021, more than 170,000 people were on at least one interest list, with some people waiting well over a decade for services. The 86th Legislature directed the Health and Human Services Commission to conduct a study of interest lists for certain programs.

H.B. 3720 seeks to incorporate strategies identified in the subsequent report to the legislature to take steps to improve management of the waiver program interest lists, improve the collection of data for people on an interest list, and allow for interest list reduction for priority populations.

H.B. 3720 amends current law relating to interest lists and eligibility criteria for certain Medicaid waiver programs.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter B, Chapter 531, Government Code, by adding Sections 531.06011 and 531.06035, as follows:

Sec. 531.06011. CERTAIN MEDICAID WAIVER PROGRAMS: INTEREST LIST MANAGEMENT. (a) Provides that this section applies only with respect to the following waiver programs:

- (1) the community living assistance and support services (CLASS) waiver program;
- (2) the home and community-based services (HCS) waiver program;
- (3) the deaf-blind with multiple disabilities (DBMD) waiver program;
- (4) the Texas home living (TxHmL) waiver program;
- (5) the medically dependent children (MDCP) waiver program; and
- (6) the STAR+PLUS home and community-based services (HCBS) program.

(b) Requires the Health and Human Services Commission (HHSC), in consultation with the Intellectual and Developmental Disability System Redesign Advisory Committee established under Section 534.053 (Intellectual and Developmental Disability System Redesign Advisory Committee), the state Medicaid managed care advisory committee, and interested stakeholders, to develop a questionnaire to be completed by or on behalf of an individual who requests to be placed on or is currently on an interest list for a waiver program.

(c) Requires that the questionnaire developed under Subsection (b), at a minimum, request the following information about an individual seeking or receiving services under a waiver program:

- (1) contact information for the individual or the individual's parent or other legally authorized representative;
- (2) the individual's general demographic information;
- (3) the individual's living arrangement;
- (4) the types of assistance the individual requires;
- (5) the individual's current caregiver supports and circumstances that may cause the individual to lose those supports; and
- (6) when the delivery of services under a waiver program should begin to ensure the individual's health and welfare and that the individual receives services and supports in the least restrictive setting possible.

(d) Requires HHSC, subject to the availability of funds, to require all individuals on an interest list to annually update the questionnaire developed under Subsection (b).

(e) Requires HHSC, if HHSC determines that it is feasible, to develop an online portal to allow an individual or an individual's parent or other legally authorized representative to:

- (1) request placement on a waiver program interest list; and
- (2) complete and update the questionnaire developed under Subsection (b).

(f) Provides that if an individual is on a waiver program's interest list and the individual or the individual's parent or other legally authorized representative does not respond to a written or verbal request made by HHSC to update information concerning the individual or otherwise fails to maintain contact with HHSC, HHSC:

- (1) is required to designate the individual's status on the interest list as inactive until the individual or the individual's parent or other legally authorized representative notifies HHSC that the individual is still interested in receiving services under the waiver program; and
- (2) at the time the individual or the individual's parent or other legally authorized representative provides notice to HHSC under Subdivision (1), is required to designate the individual's status on the interest list as active and restore the individual to the position on the list that corresponds with the date the individual was initially placed on the list.

(g) Prohibits HHSC's designation of an individual's status on an interest list as inactive under Subsection (f) from resulting in the removal of the individual from that list or any other waiver program interest list.

(h) Requires HHSC, not later than September 1 of each year, to provide to the Intellectual and Developmental Disability System Redesign Advisory Committee established under Section 534.053, or, if that advisory committee is abolished, an appropriate stakeholder advisory committee, as determined by the executive commissioner of HHSC, the number of individuals, including individuals whose status is designated as inactive by HHSC, who are on an interest list to receive services under a waiver program.

Sec. 531.06035. **MEDICALLY DEPENDENT CHILDREN WAIVER PROGRAM (MDCP) INTEREST LIST; MEDICAL NECESSITY ASSESSMENT REQUIRED.** (a) Provides that this section applies only to a child who receives Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.).

(b) Requires to, if a child's parent or other legally authorized representative expresses interest in placing the child on the interest list for the medically dependent children (MDCP) waiver program, to conduct a medical necessity assessment of the child to ensure the child is eligible for services before placing the child on the program's interest list.

SECTION 2. Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.0521, as follows:

Sec. 32.0521. **ELIGIBILITY FOR TEXAS HOME LIVING (TxHmL) WAIVER PROGRAM.** (a) Defines "related condition" and "Section 1915(c) waiver program" in this section.

(b) Provides that to the extent allowed by federal law, an individual is financially eligible to participate in the Texas home living (TxHmL) waiver program if the individual's income is not more than the special income limit established by HHSC for other Section 1915(c) waiver programs, including the home and community-based services (HCS) waiver program.

(c) Requires HHSC to the extent permitted by federal law, to expand medical eligibility criteria under the Texas home living (TxHmL) waiver program to ensure that an individual is medically eligible to participate in the waiver program if the individual:

(1) has a primary diagnosis by a licensed physician of a related condition that is included on the list of diagnostic codes for persons with related conditions that are approved by HHSC; and

(2) has moderate to extreme deficits in adaptive behavior, as determined by HHSC rule, obtained by administering a standardized assessment of adaptive behavior.

SECTION 3. Requires HHSC, as soon as practicable after the effective date of this Act, to:

(1) develop the questionnaire required by Section 531.06011(b), Government Code, as added by this Act, and, subject to the availability of funds, implement Subsection (d) of that section not later than September 1, 2024;

(2) determine the feasibility of developing an online portal under Section 531.06011(e), Government Code, as added by this Act, and if feasible, develop and implement the online portal; and

(3) as appropriate, conduct a medical necessity assessment of each child who is on the interest list for the medically dependent children (MDCP) waiver program on the effective date of this Act to ensure the child's eligibility for program services.

SECTION 4. 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 5. Effective date: September 1, 2021.