

BILL ANALYSIS

C.S.H.B. 2962
By: Coleman
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The children's health insurance program (CHIP) was established by the 76th Legislature, Regular Session, 1999, to provide primary and preventive health care to children from working class families that earn too much to be eligible for Medicaid but too little to afford private health insurance from their employers. Under current law, CHIP contains a number of stringent eligibility requirements that bar enrollment and increase disenrollment for children from working families.

Several provisions of C.S.H.B. 2292, 78th Legislature, Regular Session, 2003, restricted access to CHIP for hundreds of thousands of low-income families, including asset restrictions, restrictions on the ability to renew coverage, and restrictions on taking deductions when calculating income.

The purpose of C.S.H.B. 2962 is to increase enrollment in and public awareness of CHIP. The bill seeks to restore CHIP to pre-2003 levels and to ensure that children who are eligible but not enrolled in CHIP are targeted and enrolled in the program.

C.S.H.B. 2962 provides for changing the assets test and simplifying the application for renewal; expanding eligibility, providing a buy-in option for children with a net family income of 300 to 400 percent of the federal poverty level, and addressing the issues of crowd-out to ensure private insurance is not being substituted by CHIP coverage. The bill provides for increased community outreach and education.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 5, 13, and 15 of this bill.

ANALYSIS

C.S.H.B. 2962 amends the Health and Safety Code to increase the maximum income level used to determine a child's eligibility for CHIP from a net family income at 200 percent of the federal poverty level to a net family income at 300 percent of the federal poverty level. The bill increases the net family income threshold above which the Health and Human Services Commission (HHSC) is authorized to establish additional eligibility standards regarding the amount and types of allowable assets for a family with a child otherwise eligible for the children's health insurance program from 150 percent of the federal poverty level to 250 percent of the federal poverty level. The bill increases from \$10,000 to \$20,000 the minimum amount in allowable assets the eligibility standards for the children's health insurance program are required to allow a family to own. The bill removes the limitation on consideration of the value of a family's highest valued vehicle to the first \$18,000 of value, for purposes of calculating the amount of allowable assets if no vehicle qualifies for an exemption based on its use under commission rule.

C.S.H.B. 2962 specifies that HHSC's requirement that children's health insurance program

enrollees share the cost of the program applies to enrollees whose net family incomes are at or below 200 percent of the federal poverty level. The bill requires HHSC to require enrollees whose net family incomes are greater than 200 percent but not greater than 300 percent of the federal poverty level to pay a share of the cost of the children's health insurance program through copayments, fees, and a portion of the plan premium. The bill requires the total amount of the share required to be paid to include a portion of the plan premium set at an amount determined by HHSC that is approximately equal to 2.5 percent of an enrollee's net family income, exceed the amount required to be paid by an enrollee whose net family income is at or below 200 percent of the federal poverty level except that the total amount to be paid may not exceed five percent of an enrollee's net family income, and increase incrementally, as determined by HHSC, as an enrollee's net family income increases. The bill requires HHSC, in establishing the cost to be paid by an enrollee, to ensure that the cost progressively increases as the number of covered children in the enrollee's family increase. The bill requires HHSC to develop an option for an enrollee to pay monthly premiums using direct debits to bank accounts or credit cards.

C.S.H.B. 2962 specifies that the 90-day waiting period for coverage under the children's health insurance program applies to a child whose net family income is at or below 200 percent of the federal poverty level. The bill requires, for a child whose net family income is greater than 200 percent but not greater than 300 percent of the federal poverty level, a 180-day waiting period that extends from the last date on which the applicant was covered under a health benefits plan and applies only to a child who was covered by a health benefits plan at any time during the 180 days before the date of application for coverage under the program.

C.S.H.B. 2962 requires the executive commissioner of HHSC to develop and implement a buy-in option under the children's health insurance program under which children whose net family incomes exceed 300 percent, but do not exceed 400 percent, of the federal poverty level are eligible to purchase health benefits coverage available under the program. The bill requires the executive commissioner to adopt rules in accordance with federal law that apply to a child for whom health benefits coverage is purchased through the buy-in option. The bill requires the rules to establish eligibility requirements, ensure that premiums are set at a level to cover the costs of coverage for participating children and progressively increase as the number of covered children in the enrollee's family increases, require payment of 100 percent of the health benefits plan premium, fees to offset administrative costs, and any cost-sharing payments as determined by the executive commissioner, provide for a waiting period, and include direct debit or credit card payment options. The bill requires the rules to provide that a child is eligible for the buy-in option if the child was eligible for and enrolled in the children's health insurance program, but the child's enrollment was not renewed because the child's net family income exceeded the limit at the time of eligibility redetermination. The bill authorizes the executive commissioner to establish rules, benefit coverage, and procedures for children for whom health benefits coverage is purchased under the buy-in option that differ from the rules, coverages, and procedures generally acceptable to the children's health insurance program.

C.S.H.B. 2962 requires the buy-in option, to the extent allowed by federal law, to include provisions designed to discourage employers and other persons from electing to discontinue offering health benefits plan coverage for employees' children under employee or other group health benefits plans and to discourage individuals with access to adequate health benefits plan coverage for their children from electing not to obtain, or to discontinue, that coverage. The bill requires HHSC to establish point-of-service copayments for the buy-in option that are higher than point-of-service copayments required for a child whose net family income is at or below 300 percent of the federal poverty level. The bill requires HHSC to include a lock-out period for the buy-in option to provide a disincentive for a parent to drop a child's coverage when a child is healthy and re-enroll only when health care needs occur. The bill requires the executive commissioner to adopt rules as necessary to implement the buy-in option not later than January 1, 2010.

C.S.H.B. 2962 adds reductions for offsets for child support payments within the meaning of "net

family income" for purposes of establishing eligibility for the children's health insurance program.

C.S.H.B. 2962 prohibits HHSC, for purposes of determining whether a child meets family income and resource requirements for eligibility for the children's health insurance program, determining eligibility for the Temporary Assistance for Needy Families program, or determining eligibility for the Medicaid program, from considering as income or resources a right to assets held in or a right to receive payments or benefits under any fund or plan established under the prepaid high education tuition program, any fund or plan established under the higher education savings plan, or any qualified tuition program of any state that meets the requirements of the Internal Revenue Code relating to tax exempt tuition programs. The bill authorizes HHSC, in determining eligibility and need for Medicaid assistance for an applicant who meets the requirements of federal law with regard to eligibility for the aged, blind, or disabled, to consider as assets or resources a right to assets held in or a right to receive payments or benefits under any such fund, plan, or tuition program. The bill requires HHSC to seek a federal waiver authorizing the department to exclude, for purposes of determining the eligibility of a Medicaid applicant, the right to assets held in or a right to receive payments or benefits under any such fund, plan, or tuition program if the fund, plan, or program was established before the 21st birthday of the beneficiary of the fund, plan, or program.

C.S.H.B. 2962 requires HHSC to improve the effectiveness of community outreach efforts with respect to benefits programs by increasing the capacity of existing outreach efforts implemented through community-based organizations by providing those organizations with adequate resources to educate the public about the programs and assist applicants with the eligibility and recertification processes; establish a partnership with stakeholders who will provide certain outreach and application assistance; and focus the outreach efforts particularly on enrolling eligible persons in the children's health insurance program and the Medicaid program. The bill requires the partnership with stakeholders to include entities that contract with the commission to perform children's health insurance program and Medicaid eligibility determination and enrollment functions, community-based organizations that contract with HHSC, health benefit plan providers, Texas Health Steps program contractors, health care providers, consumer advocates, and other interested stakeholders. The bill authorizes HHSC to improve the effectiveness of community outreach efforts with respect to benefits programs by contracting with one or more persons to provide outreach and application assistance for the programs. The bill requires HHSC to require each potential contractor to indicate the person's interest in writing before submitting a proposal for a contract, and requires HHSC to encourage multiple persons from a geographical area determined by HHSC who submit a letter of interest to collaborate on a proposal for the contract. The bill requires the commission to give preference in awarding contracts to proposals submitted by collaborations that include multiple entities with experience in serving a variety of populations.

C.S.H.B. 2962 requires HHSC to take all actions necessary to qualify Texas for the temporary increase in the federal medical assistance percentage as authorized under the American Recovery and Reinvestment Act of 2009, and for the temporary increase in the state's federal disproportionate share hospital funding allotment authorized under that legislation.

C.S.H.B. 2962 requires HHSC to apply the prospective payment system established under the federal Social Security Act in providing children's health insurance program coverage for rural health clinic services provided through rural health clinics and federally-qualified health center services provided through federally-qualified health centers in accordance with provisions of the Social Security Act.

C.S.H.B. 2962 requires the executive commissioner by rule, not later than September 1, 2010, to develop a strategic plan designed to intensify community outreach and education relating to the availability of benefits under the children's health insurance and Medicaid programs, and to reduce the paperwork and other administrative burdens associated with determining eligibility

for and enrolling eligible individuals in those programs. The bill requires HHSC to implement the strategic plan not later than September 1, 2011.

C.S.H.B. 2962 repeals provisions requiring the commission to review an individual's net family income, for purposes of continuous coverage under the children's health insurance program, during the sixth month following initial enrollment of the individual and makes related conforming changes. The bill repeals a provision relating to a limit on brand-name prescription drugs for a child enrolled in the children's health insurance program.

C.S.H.B. 2962 defines "benefits program," "child health plan program," "commission," "commissioner," "DSH allotment," "executive commissioner," "federally-qualified health center," "federally-qualified health center services," "lock-out period," "Medicaid," "Medicaid FMAP," "net family income," "rural health clinic," and "rural health clinic services."

C.S.H.B. 2962 requires a state agency that is affected by a provision of the bill to request a federal waiver or authorization if the agency determines that a waiver or authorization is necessary for the implementation of the provisions, and it authorizes the agency to delay implementation until the federal waiver or authorization is obtained.

C.S.H.B. 2962 repeals Sections 62.102(b) and (c) and Section 62.151(f), Health and Safety Code.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2962 omits provisions included in the original relating to the requirement that the Health and Human Services Commission (HHSC) modify or maintain Medicaid and children's health insurance program enrollment and retention processes as necessary to ensure the state receives federal bonus payments.

C.S.H.B. 2962 omits provisions included in the original requiring the children's health insurance program to provide at least the covered benefits described by the recommended benefits package described for a state-designed child health plan by the Texas House of Representatives Committee on Public Health "CHIP" Interim Report and the Senate Interim Committee on Child's Health Insurance Report to the 76th Texas Legislature. The substitute omits a provision included in the original that required the program to include at least the covered benefits provided under the children's health insurance program on June 1, 2003.

C.S.H.B. 2962 omits a provision included in the original that clarified the requirement for HHSC to provide for a choice of at least two children's health insurance program plan providers in each metropolitan area, rather than in each service area.

C.S.H.B. 2962 differs from the original by increasing the amount of allowable assets and the income threshold for those assets under the children's health insurance program, whereas the original removed the provision authorizing the commission to consider the amounts and types of allowable assets in the eligibility determination process. The substitute adds a provision not in the original that removes the limitation on consideration of the value of a family's highest valued vehicle to the first \$18,000 of value, in calculating the amount of allowable assets.

C.S.H.B. 2962 adds provisions not in the original relating to cost-sharing requirements for children's health insurance program for enrollees whose net family incomes are at or below 200 percent of the federal poverty level and separate requirements for enrollees whose net family incomes are greater than 200 percent but not greater than 300 percent of the federal poverty

level. The substitute adds a provision not included in the original providing for the progressive increase in the cost required to be paid by an enrollee based on increases in the number of children in the enrollee's family provided coverage increases and providing for direct debit or credit card payment options.

C.S.H.B. 2962 adds provisions not included in the original relating to differing reenrollment waiting periods for a child whose net family income is at or below 200 percent of the federal poverty line and a child whose net family income is greater than 200 percent but not greater than 300 percent of the federal poverty level.

C.S.H.B. 2962 adds a provision not included in the original clarifying that eligibility requirements established by rules adopted by the executive commissioner for the buy-in option are to include a requirement that a child must lack access to adequate health benefits plan coverage through an employer-sponsored group health benefits plan and ensure that premiums are set at a level to cover costs of coverage for children participating in the buy-in option and progressively increase based on increases in the number of children in the enrollee's family provided coverage. The substitute adds a provision not included in the original providing an option for an enrollee to pay monthly premiums using direct debits to bank accounts or credit cards. The substitute adds a provision not included in the original relating to a child's eligibility for health benefits coverage if the child was eligible and enrolled in the program, but enrollment was not renewed because, the child's net family income exceeded the specified limit at the time of the redetermination. The substitute differs from the original by including within the executive commissioner's authority under the buy-in program the authority to establish benefit coverage and procedures for participating children that differs from benefit coverage generally applicable to the program.

C.S.H.B. 2962 differs from the original by requiring the executive commissioner to adopt rules as necessary to implement the buy-in option not later than January 1, 2010, rather than November 1, 2009. The substitute adds a provision not included in the original requiring HHSC to establish point-of-service copayments for the buy-in option and to include a lock-out period for the buy-in option.

C.S.H.B. 2962 differs from the original by defining "net family income" to mean the amount of income established for a family after reduction for offsets for child care expenses and child support payments, rather than expenses such as child care and work-related expenses, for purposes of establishing eligibility for the children's health insurance program.

C.S.H.B. 2962 adds provisions not included in the original relating to the exclusion of certain college savings plans as income for purposes of eligibility for the children's health insurance, Temporary Assistance for Needy Families, and the Medicaid programs.

C.S.H.B. 2962 adds provisions not included in the original requiring the commission to improve the effectiveness of community outreach efforts with respect to benefits programs and sets forth related provisions and requiring the commission to take all actions necessary to qualify the state for temporary increased Medicaid FMAP and DSH allotment.

C.S.H.B. 2962 adds a provision not included in the original requiring the commission to apply the prospective payment system for certain rural health clinic services and federally-qualified health center services.

C.S.H.B. 2962 adds definitions not included in the original for "benefits program," "child health plan program," "commission," "DSH allotment," "federally-qualified health center," "federally-qualified health center services," "lock-out period," "Medicaid," "Medicaid FMAP," "rural health clinic," and "rural health clinic services."

C.S.H.B. 2962 adds a provision not included in the original requiring the executive

commissioner by rule, not later than September 1, 2010, to develop a strategic plan designed to intensify community outreach and education relating to the availability of benefits under the child health plan and Medicaid programs and reduce the paperwork and other administrative burdens associated with determining eligibility for and enrolling eligible individuals in these programs.

C.S.H.B. 2962 retains current law by omitting repealers included in the original repealing Sections 62.101(b-1) and 62.153(d), Health and Safety Code, relating to allowable assets and cost-sharing, respectively.

C.S.H.B. 2962 provides for an effective date of September 1, 2009, whereas the original provides for an effective date of September 1, 2009, unless the bill receives the necessary vote to become effective on passage.