

By: Coleman

H.B. No. 2962

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to eligibility for and administration of the child health  
3 plan and Medicaid programs.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter B, Chapter 531, Government Code, is  
6 amended by adding Section 531.02417 to read as follows:

7 Sec. 531.02417. ENROLLMENT AND RETENTION MODIFICATIONS FOR  
8 RECEIPT OF FEDERAL BONUS PAYMENTS. (a) Notwithstanding any other  
9 provision of this chapter, Chapter 62, Health and Safety Code,  
10 Chapter 32, Human Resources Code, or any other law, the commission  
11 shall take all necessary actions to modify enrollment and retention  
12 processes employed in the child health plan and Medicaid programs  
13 to ensure that this state receives federal performance bonus  
14 payments made available under Section 2105(a)(3), Social Security  
15 Act (42 U.S.C. Section 1397ee(a)(3)), or, if an enrollment and  
16 retention process employed in those programs does not require a  
17 modification, maintain the process to ensure receipt of those  
18 payments.

19 (b) Actions the commission is required to take under  
20 Subsection (a) include implementing or maintaining the following  
21 with respect to children younger than 19 years of age:

22 (1) a 12-month period of continuous eligibility for  
23 the child health plan and Medicaid programs, as required by Section  
24 62.102, Health and Safety Code, and Section 32.0261, Human

1 Resources Code, respectively;

2 (2) liberalizing asset test requirements for  
3 eligibility determinations for the child health plan and Medicaid  
4 programs, which may include:

5 (A) eliminating the asset test regardless of  
6 whether the test is specifically authorized by statute; or

7 (B) permitting an applicant, or the applicant's  
8 parent or guardian, to certify under penalty of perjury information  
9 relating to assets or using an asset verification process that does  
10 not require an applicant, or the applicant's parent or guardian, to  
11 provide documentation except when discrepancies are discovered or  
12 under other circumstances that justify requiring documentation, as  
13 determined by the executive commissioner in accordance with federal  
14 law;

15 (3) eliminating any personal interview requirements  
16 for determining eligibility for the child health plan or Medicaid  
17 programs, notwithstanding any other law;

18 (4) using the same application, set of supplemental  
19 forms, if applicable, and information verification process for  
20 determining eligibility for the child health plan and Medicaid  
21 programs; and

22 (5) using automatic, administrative processes for  
23 recertifying eligibility for the child health plan and Medicaid  
24 programs that comply with the requirements specified by Section  
25 2105(a)(4)(E), Social Security Act (42 U.S.C. Section  
26 1397ee(a)(4)(E)), including:

27 (A) providing a preprinted form completed by the

1 commission or a person contracting with the commission to perform  
2 eligibility and enrollment functions that is based on available  
3 information, unless other information is provided or obtained  
4 through verification; and

5 (B) using an ex parte process under which no  
6 personal interview is required unless the commission, or the person  
7 contracting with the commission to perform eligibility and  
8 enrollment functions, does not have sufficient information to  
9 recertify eligibility and that information cannot be acquired from  
10 other sources without the participation of an applicant or the  
11 applicant's parent or guardian.

12 SECTION 2. Sections 62.002(2) and (4), Health and Safety  
13 Code, are amended to read as follows:

14 (2) "Executive commissioner" or "commissioner  
15 [~~Commissioner~~]" means the executive commissioner of the Health  
16 [~~health~~] and Human Services Commission [~~human services~~].

17 (4) "Net family income" means the amount of income  
18 established for a family after reduction for offsets for expenses  
19 such as child care and work-related expenses, in accordance with  
20 standards applicable under the Medicaid program.

21 SECTION 3. Section 62.101(b), Health and Safety Code, is  
22 amended to read as follows:

23 (b) The commission shall establish income eligibility  
24 levels consistent with Title XXI, Social Security Act (42 U.S.C.  
25 Section 1397aa et seq.), as amended, and any other applicable law or  
26 regulations, and subject to the availability of appropriated money,  
27 so that a child who is younger than 19 years of age and whose net

1 family income is at or below 300 [~~200~~] percent of the federal  
2 poverty level is eligible for health benefits coverage under the  
3 program. [~~In addition, the commission may establish eligibility~~  
4 ~~standards regarding the amount and types of allowable assets for a~~  
5 ~~family whose net family income is above 150 percent of the federal~~  
6 ~~poverty level.~~]

7 SECTION 4. Section 62.102(a), Health and Safety Code, is  
8 amended to read as follows:

9 (a) The [~~Subject to a review under Subsection (b), the~~]  
10 commission shall provide that an individual who is determined to be  
11 eligible for coverage under the child health plan remains eligible  
12 for those benefits until the earlier of:

13 (1) the end of a period not to exceed 12 months,  
14 beginning the first day of the month following the date of the  
15 eligibility determination; or

16 (2) the individual's 19th birthday.

17 SECTION 5. Section 62.151(b), Health and Safety Code, is  
18 amended to read as follows:

19 (b) In developing the covered benefits, the commission  
20 shall consider the health care needs of healthy children and  
21 children with special health care needs. The child health plan must  
22 provide at least the covered benefits described by the recommended  
23 benefits package described for a state-designed child health plan  
24 by the Texas House of Representatives Committee on Public Health  
25 "CHIP" Interim Report to the Seventy-Sixth Texas Legislature dated  
26 December 1998 and the Senate Interim Committee on Children's Health  
27 Insurance Report to the Seventy-Sixth Texas Legislature dated

1 December 1, 1998. The child health plan must include at least the  
2 covered benefits provided under the plan on June 1, 2003.

3 SECTION 6. Section 62.153(b), Health and Safety Code, is  
4 amended to read as follows:

5 (b) Cost-sharing [~~Subject to Subsection (d), cost-sharing~~]  
6 provisions adopted under this section shall ensure that families  
7 with higher levels of income are required to pay progressively  
8 higher percentages of the cost of the plan.

9 SECTION 7. Sections 62.155(c) and (d), Health and Safety  
10 Code, are amended to read as follows:

11 (c) In selecting a health plan provider, the commission:  
12 (1) may give preference to a person who provides  
13 similar coverage under the Medicaid program; and  
14 (2) shall provide for a choice of at least two health  
15 plan providers in each metropolitan [~~service~~] area.

16 (d) The commissioner may authorize an exception to  
17 Subsection (c)(2) if there is only one acceptable applicant to  
18 become a health plan provider in the metropolitan [~~service~~] area.

19 SECTION 8. Chapter 62, Health and Safety Code, is amended by  
20 adding Subchapter F to read as follows:

21 SUBCHAPTER F. BUY-IN OPTION

22 Sec. 62.251. BUY-IN OPTION FOR CERTAIN CHILDREN. The  
23 executive commissioner shall develop and implement a buy-in option  
24 in accordance with this subchapter under which children whose net  
25 family incomes exceed 300 percent of the federal poverty level, but  
26 do not exceed 400 percent of the federal poverty level, are eligible  
27 to purchase health benefits coverage available under the child

1 health plan program.

2 Sec. 62.252. RULES; ELIGIBILITY AND COST-SHARING. (a) The  
3 executive commissioner shall adopt rules in accordance with federal  
4 law that apply to a child for whom health benefits coverage is  
5 purchased under this subchapter. The rules must:

6 (1) establish eligibility requirements;

7 (2) require payment of 100 percent of health benefits  
8 plan premiums, fees to offset administrative costs incurred under  
9 this subchapter, and additional deductibles, coinsurance, or other  
10 cost-sharing payments as determined by the executive commissioner;  
11 and

12 (3) provide for a waiting period comparable to the  
13 waiting period required under Section 62.154(d).

14 (b) Notwithstanding any other provision of this chapter,  
15 the executive commissioner may establish rules and procedures for  
16 children for whom health benefits coverage is purchased under this  
17 subchapter that differ from the rules and procedures generally  
18 applicable to the child health plan program.

19 Sec. 62.253. CROWD-OUT. To the extent allowed by federal  
20 law, the buy-in option developed under this subchapter must include  
21 provisions designed to discourage:

22 (1) employers and other persons from electing to  
23 discontinue offering health benefits plan coverage for employees'  
24 children under employee or other group health benefits plans; and

25 (2) individuals with access to adequate health  
26 benefits plan coverage for their children through an  
27 employer-sponsored group health benefits plan, as determined by the

1 executive commissioner, from electing not to obtain, or to  
2 discontinue, that coverage.

3 SECTION 9. Section 32.0261, Human Resources Code, is  
4 amended to read as follows:

5 Sec. 32.0261. CONTINUOUS ELIGIBILITY. The department  
6 shall adopt rules in accordance with 42 U.S.C. Section  
7 1396a(e)(12), as amended, to provide for a period of continuous  
8 eligibility for a child under 19 years of age who is determined to  
9 be eligible for medical assistance under this chapter. The rules  
10 shall provide that the child remains eligible for medical  
11 assistance, without additional review by the department and  
12 regardless of changes in the child's resources or income, until the  
13 earlier of:

14 (1) the first anniversary of [~~end of the six-month~~  
15 ~~period following~~] the date on which the child's eligibility was  
16 determined; or

17 (2) the child's 19th birthday.

18 SECTION 10. Sections 62.101(b-1), 62.102(b) and (c),  
19 62.151(f), and 62.153(d), Health and Safety Code, are repealed.

20 SECTION 11. Not later than November 1, 2009, the executive  
21 commissioner of the Health and Human Services Commission shall  
22 adopt rules as necessary to implement Subchapter F, Chapter 62,  
23 Health and Safety Code, as added by this Act.

24 SECTION 12. The changes in law made by this Act apply to an  
25 initial determination of eligibility or a recertification of  
26 eligibility for the child health plan program under Chapter 62,  
27 Health and Safety Code, or the medical assistance program under

1 Chapter 32, Human Resources Code, made on or after September 1,  
2 2009.

3 SECTION 13. If before implementing any provision of this  
4 Act a state agency determines that a waiver or authorization from a  
5 federal agency is necessary for implementation of that provision,  
6 the agency affected by the provision shall request the waiver or  
7 authorization and may delay implementing that provision until the  
8 waiver or authorization is granted.

9 SECTION 14. This Act takes effect immediately if it  
10 receives a vote of two-thirds of all the members elected to each  
11 house, as provided by Section 39, Article III, Texas Constitution.  
12 If this Act does not receive the vote necessary for immediate  
13 effect, this Act takes effect September 1, 2009.