

## **BILL ANALYSIS**

Senate Research Center

S.B. 222  
By: Nelson  
Health & Human Services  
8/17/2011  
Enrolled

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

S.B. 222 is intended to support the needs of elderly or disabled Texans by expediting access to community services and helping individuals and their families navigate the long-term care system.

This bill directs the Department of Aging and Disability Services (DADS) to require home and community-based services (HCS) waiver program providers to convert existing three-bed and four-bed residential models to six-bed models. This bill establishes Medicaid community-based entitlement programs as the core programs for Medicaid 1915(c) HCS waivers and allows waiver services to wrap around entitlement programs as needed. This bill directs DADS to develop a public awareness campaign to increase awareness of HCS waiver and then various service delivery options. This bill directs DADS to post on its public website the percentage of individuals on interest lists who historically receive services when their name comes to the top of the list.

S.B. 222 amends current law relating to access to certain long-term care services and supports under the medical assistance program.

### **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 Section 531.0515, as follows:

Sec. 531.0515. **RISK MANAGEMENT CRITERIA FOR CERTAIN WAIVER PROGRAMS.** (a) Defines, in this section, "legally authorized representative."

(b) Requires the Health and Human Services Commission (HHSC) to consider developing risk management criteria under home and community-based services waiver programs designed to allow individuals eligible to receive services under the programs to assume greater choice and responsibility over the services and supports the individuals receive.

(c) Requires HHSC to ensure that any risk management criteria developed under this section include a requirement that if an individual to whom services and supports are to be provided has a legally authorized representative, the representative be involved in determining which services and supports the individual will receive, and a requirement that if services or supports are declined, the decision to decline is clearly documented.

SECTION 2. Amends Section 533.0355, Health and Safety Code, by adding Subsection (h), to require the Department of Aging and Disability Services (DADS) to ensure that local mental retardation authorities are informing and counseling individuals and their legally authorized representatives, if applicable, about all program and service options for which the individuals are

eligible in accordance with Section 533.038(d) (relating to the explanation of services and programs for which a person with mental retardation is eligible), including options such as the availability and types of temporary ICF-MR placements for which and individual may be eligible while the individual is on a DADS interest list or other waiting list for other services.

SECTION 3. Amends Subchapter D, Chapter 161, Human Resources Code, by adding Sections 161.084 and 161.085, as follows:

Sec. 161.084. MEDICAID SERVICE OPTIONS PUBLIC EDUCATION INITIATIVE.

(a) Defines, in this section, "Section 1915(c) waiver program."

(b) Requires DADS in cooperation with HHSC to educate the public on the availability of home and community-based services under a Medicaid state plan program, including the primary home care and community attendant services programs, and under a Section 1915(c) waiver program, and the various delivery options available under the Medicaid program, including the consumer direction models available to recipients under Section 531.051 (Consumer Direction of Certain Services for Persons with Disabilities and Elderly Persons), Government Code.

(c) Authorizes DADS to coordinate the activities under this section with any other related activity.

Sec. 161.085. INTEREST LIST REPORTING. Requires DADS to post on DADS's Internet website historical data, categorized by state fiscal year, on the percentages of individuals who elect to receive services under a program for which DADS maintains an interest list once their names reach the top of the list.

SECTION 4. (a) Defines, in this section, "long-term care services," "medical assistance program," and "nursing facility."

(b) Requires HHSC in cooperation with DADS to prepare a written report regarding individuals who receive long-term care services in nursing facilities under the medical assistance program. Provides that the report should use existing data and information to identify:

(1) the reasons medical assistance recipients of long-term care services are placed in nursing facilities as opposed to being provided long-term care services in home or community-based settings;

(2) the types of medical assistance services recipients in nursing facilities typically receive and where and from whom those services are typically provided;

(3) community-based services and supports available under a Medicaid state plan program, including the primary home care and community attendant services programs, or under a medical assistance waiver granted in accordance with Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c)), for which recipients residing in nursing facilities would be eligible; and

(4) ways to expedite recipients' access to community-based services and supports identified under Subdivision (3) of this subsection for which interest lists or other waiting lists exist.

(c) Requires HHSC, not later than September 1, 2012, to submit the report described by Subsection (b) of this section together with HHSC's recommendations to the governor, the Legislative Budget Board, the Senate Finance Committee, the Senate Health and Human Services Committee, the House Appropriations Committee, and the House Human Services Committee. Requires that the recommendations address options for expediting access to community-based services and supports by recipients described by Subsection (b)(3) of this section.

SECTION 5. Requires the executive commissioner, as soon as practicable after the effective date of this Act, to apply for and actively pursue amendments from the federal Centers for Medicare and Medicaid Services, or any other appropriate federal agency, to the Community Living Assistance and Support Services waiver and the Home and Community-based Services Program waiver granted under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c)) to authorize the provision of personal attendant services through the programs operated under those waivers.

SECTION 6. 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 delay of implementation until such a waiver or authorization is granted.

SECTION 7. Effective date: September 1, 2011.