

BILL ANALYSIS

C.S.S.B. 222
By: Nelson
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have expressed concern for the needs of elderly and disabled Texans regarding access to certain long-term care services and supports under Medicaid and regarding access to community services. The parties note that there is a need to help individuals and their families navigate the long-term care system as well as a need for a public awareness campaign to increase awareness of the availability of certain Medicaid services and delivery options. C.S.S.B. 222 seeks to address matters relating to access to certain long-term care services and supports under the medical assistance program.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 222 amends the Government Code to require 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. The bill requires HHSC to ensure that any risk management criteria developed under the bill's provisions 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. The bill provides for the meaning of "legally authorized representative" by reference.

C.S.S.B. 222 amends the Health and Safety Code 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 provisions of law requiring such an explanation to be provided to a person or the person's legally authorized representative who is seeking residential services, including options such as the availability and types of ICF-MR placements for which an individual may be eligible while the individual is on a DADS interest list or other waiting list for other services.

C.S.S.B. 222 amends the Human Resources Code to require 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 on the various service delivery options available under the Medicaid program, including the consumer direction models available to elderly recipients and recipients with disabilities. The bill authorizes DADS to coordinate the Medicaid service options public education activities with any other related

activity. The bill requires DADS to post on the department'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. The bill provides for the meaning of "Section 1915(c) waiver program" by reference to the Government Code.

C.S.S.B. 222 requires HHSC, in cooperation with DADS, to prepare a written report regarding individuals who receive long-term care services in nursing facilities under Medicaid. The bill provides that the report should use existing data and information to identify the reasons Medicaid 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; the types of Medicaid services recipients residing in nursing facilities typically receive and where and from whom those services are typically provided; 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 Medicaid waiver granted in accordance with Section 1915(c) of the federal Social Security Act for which recipients residing in nursing facilities may be eligible; and ways to expedite recipients' access to available community-based services and supports for which interest lists or other waiting lists exist. The bill requires HHSC, not later than September 1, 2012, to submit the report together with the commission's recommendations to the governor, the Legislative Budget Board, the Senate Committee on Finance, the Senate Committee on Health and Human Services, the House Appropriations Committee, and the House Human Services Committee. The bill requires the recommendations to address options for expediting access to community-based services and supports by recipients residing in nursing facilities. The bill defines "medical assistance program" and "nursing facility" and provides for the meaning of "long-term care services" by reference to the Human Resources Code.

C.S.S.B. 222 requires the executive commissioner of HHSC, as soon as practicable after the bill's effective date, 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 to authorize the provision of personal attendant services through the programs operated under those waivers.

C.S.S.B. 222 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 provision and authorizes the agency to delay implementation until the federal waiver or authorization is obtained.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 222 omits provisions included in the original requiring the Health and Human Services Commission (HHSC) to ensure that recipients who are eligible to receive attendant care services under the community-based alternatives program are first provided those services, if available, under a Medicaid state plan program, including the primary home care and community attendant services programs; authorizing HHSC to allow a recipient to receive such services only under certain conditions; and requiring the executive commissioner of HHSC to adopt associated rules and procedures.