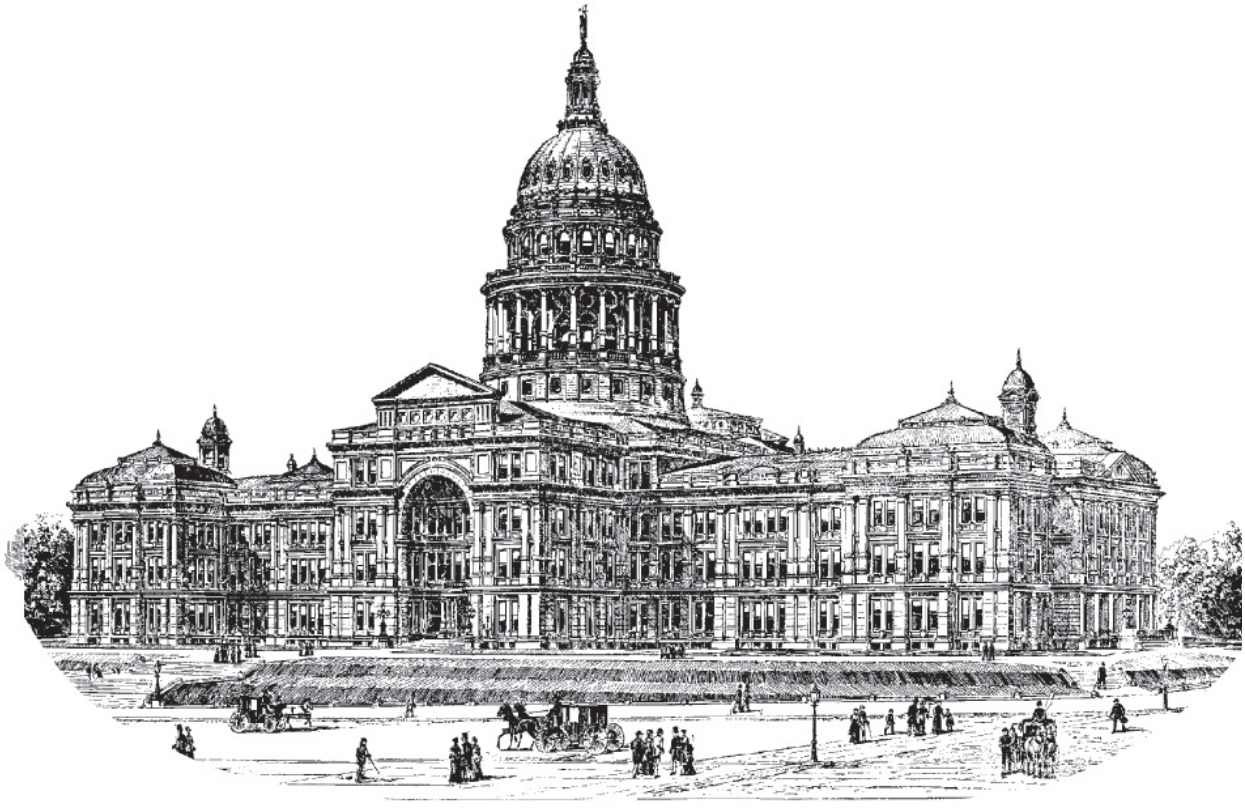
Interim Report

to the 83rd Texas Legislature



House Committee on

Human Services

January 2013

HOUSE COMMITTEE ON HUMAN SERVICES
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2012

A REPORT TO THE
HOUSE OF REPRESENTATIVES
83RD TEXAS LEGISLATURE

RICHARD PEÑA RAYMOND
CHAIRMAN

COMMITTEE CLERK
JIM TERRELL

Committee On
Human Services

January 3, 2013

Richard Peña Raymond
Chairman

P.O. Box 2910
Austin, Texas 78768-2910

The Honorable Joe Straus
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on Human Services of the Eighty-second Legislature hereby submits its interim report including recommendations for consideration by the Eighty-third Legislature.

Respectfully submitted,

Richard Peña Raymond

Geanie W. Morrison, Vice-Chair

Elliott Naishtat

Chuck Hopson

Todd Hunter

Bryan Hughes

Jodie Laubenberg

Van Taylor

Naomi Gonzalez

Geanie W. Morrison
Vice-Chairman

Members: Elliott Naishtat, Chuck Hopson, Todd Hunter, Bryan Hughes, Jodie Laubenberg, Van Taylor, Naomi Gonzalez

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ACKNOWLEDGEMENTS

The House Committee on Human Services would like to thank the legislative members and staffers who invested their time and energy into the development of this interim report.

The committee also extends gratitude to all the expert witnesses, state agency representatives, organizations and members of the public who provided invaluable testimony to the committee that helped to shape the content of this report.

INTERIM STUDY CHARGES

1. Monitor the implementation of Foster Care Redesign. Evaluate the mechanisms for monitoring and oversight, including rates, contracts, and client outcomes.

2. Identify policies to alleviate food insecurity, increase access to healthy foods, and incent good nutrition within existing food assistance programs. Consider initiatives in Texas and other states to eliminate food deserts and grocery gaps, encourage urban agriculture and farmers' markets, and increase participation in the Summer Food Program. Evaluate the desirability and feasibility of incorporating nutritional standards in the Supplemental Nutrition Assistance Program (SNAP). Monitor congressional activity on the 2012 Farm Bill and consider its impact on Texas. (Joint with the House Committee on Public Health)

3. Explore strategies, including those in other states, to support the needs of aging Texans, including best practices in nursing home diversion, expedited access to community services, and programs to assist seniors and their families in navigating the long-term care system, with the goal of helping seniors remain in the community. Assess the feasibility of leveraging volunteer-supported initiatives using existing infrastructure to enhance the ability of seniors to remain active and involved.

4. Monitor the agencies and programs under the committee's jurisdiction and the implementation of relevant legislation passed by the 82nd Legislature, including the implementation of managed care in South Texas.

CHARGE I

Monitor the implementation of Foster Care Redesign. Evaluate the mechanisms for monitoring and oversight, including rates, contracts, and client outcomes.

INTRODUCTION

The House Human Services Committee met in Austin on July 16, 2012 to consider the charge. The committee heard from a large number of stakeholders representing various organizations, state entities and self. The following recommendations and discussions are the result of witness testimony, stakeholder input, staff research and data compilation.

In January 2010, the Department of Family and Protective Services (DFPS) joined other child welfare stakeholders in a united effort to develop recommendations for a redesigned foster care system to address the problems with the current Legacy System and support improved outcomes for children, youth and families. SB 218, 82R, requires DFPS to implement a redesign of the state's foster care system in accordance to the Foster Care Redesign Report.

The proposed redesigned system does not include privatization of case management; casework responsibilities will remain the role of the Child Protective Services (CPS) caseworker. Additionally, the proposed redesigned system does not preclude nor require additional foster care funding, with the exception of funding for normal entitlement caseload growth.

DFPS will contract with a Single Source Continuum Contractor (SSCC). Redesign will give the SSCC flexibility in choosing the type of foster care placement for the child, and instead of paying different rates for children based on their level of need, DFPS will pay one rate for all children the SSCC serves. The rate will be a blended foster care payment based on an average of what DFPS is currently paying for children in foster care in the designated geographic area. Eventually, as part of a staged implementation, the SSCC will provide services to the family as well as the child. At the same time, the SSCC will have performance measures it has to meet with remedies DFPS can pursue if the SSCC falls short.

Twenty-six individuals representing various stakeholder groups were selected for a Public Private Partnership (PPP) Committee that served as the guiding body to develop recommendations for a redesigned foster care system. The PPP includes foster youth alumni, members of the judiciary, foster care providers, child and family advocates, provider associations, a DFPS Advisory Council member, and DFPS staff. In December of 2010, members of the PPP reached consensus on recommendations for a redesigned foster care system geared toward improving outcomes for children, youth and families, increasing accountability, and improving the availability, quality and coordination of services in communities where services are needed.

The recommendations were based upon several contingencies:

- The transfer of DFPS resources commensurate with tasks that are transferred to the SSCC; noting that the amount of administrative resources to be transferred may be unknown until catchment areas are designated through the RFP process.
- Staged implementation and an evaluation of early implementation sites showing positive results prior to expanding roll-out.
- Increased provider authority/participation in making placements within the continuum.
- Increased collaboration and cooperation between DFPS and stakeholders.
- Provider authority/ability to impact outcomes for which they are held accountable.
- Maintaining, at a minimum, current foster funding levels.

In addition, eight quality indicators, as adopted by the PPP, serve as a foundation for the development of a redesigned foster care system. The quality indicators include:

- First and foremost, children are safe in their placements.
- Children are placed in their home communities.
- Children are appropriately served in the least restrictive environment that supports minimal moves for the child.
- Connections to family and others important to the child are maintained.
- Children are placed with siblings.
- Services respect the child's culture.
- To be fully prepared for successful adulthood, children and youth are provided opportunities, experiences and activities similar to those experienced by their non-foster care peers.
- Children and youth are provided opportunities to participate in decisions that impact their lives.

DFPS Commissioner Tom Baldwin testified during the committee's March 21, 2012 public hearing that redesign will be implemented in a three stage, phased-in manner: Stage I includes implementing performance based contracting for a continuum in specific geographic areas and blended rates across all service levels, eliminating the connection between billing and authorized service levels. During Stage II DFPS will seek to increase the providers' role with family and children in their care and address provider allocation for services to family of children in their care. Stage III will include the implementation of a case rate to include a length of stay incentive, a hold harmless clause in regard to financial remedies during first year and the reinvestment of incentives to further improve outcomes for children in foster care.

On August 9, 2012, DFPS announced that it will not award a single source continuum contract (SSCC) for a metropolitan catchment area (DFPS Region 11-Corpus Christi, Valley) as a part of the initial Request for Proposal. The agency intends to move forward with procuring for an SSCC to serve a metropolitan area in the future. DFPS continues with efforts to negotiate an SSCC contract for a non-metropolitan area (DFPS Regions 2/9-Abilene, Wichita Falls, Midland, San Angelo). Despite ongoing delays, DFPS anticipates it will execute the first SSCC contract in January 2013.

In November, DFPS Commissioner Howard Baldwin announced his resignation. Senior district judge John J. Specia, Jr., a founding member and jurist in residence for the Supreme Court Children's Commission was announced as the new DFPS Commissioner. Since Judge Specia's testimony before the Human Services Committee (committee) is cited in this report, it should be noted Judge Specia's appearance before the committee occurred prior to his appointment as DFPS Commissioner.

RECOMMENDATIONS

1) The committee recommends that efforts to implement Foster Care Redesign continue in a phased-in manner as outlined in the Public Private Partnership (PPP) recommendations. The project should be refined as necessary based on the evaluation of each stage of implementation.

2) The Public Private Partnership (PPP) should continue as the primary guiding resource body for the Department of Family and Protective Services (DFPS) during implementation of Foster Care Redesign.

3) The Department of Family and Protective Services (DFPS) should require that the Single Source Continuum Contractor (SSCC) ensures all children and youth under its care directly or through its subcontractors attend each permanency and placement review hearing unless the court has previously excused the child's attendance.

4) The Department of Family and Protective Services (DFPS) should provide adequate and timely notification of all court hearings to the Single Source Continuum Contractor (SSCC).

5) The Department of Family and Protective Services (DFPS) should ensure the attendance of Single Source Continuum Contractor (SSCC) staff with personal knowledge of each individual case at all court hearings unless previously excused by the presiding judge.

6) Texas should consider seeking the appropriate Federal IV-E waiver allowing the state more flexibility in how federal dollars are utilized with an emphasis on promoting and incentivizing innovation. The IV-E waiver should be implemented in Foster Care Redesign catchment areas to increase the Single Source Continuum Contractor's (SSCC) ability to innovate and improve outcomes for children and families.

7) The recommendations made by the Public Private Partnership (PPP) were based on several contingencies, including the prompt transfer of Department of Family and Protective Services (DFPS) resources commensurate with tasks that are transferred to the Single Source Continuum Contractor (SSCC) and maintaining, at a minimum, current foster funding levels. The committee recommends the Legislature ensure these contingencies are met.

DISCUSSION

The committee recommends that efforts to implement Foster Care Redesign continue in a phased-in manner as outlined in the Public Private Partnership (PPP) recommendations. The project should be refined as necessary based on the evaluation of each stage of implementation.

Often under the existing system of foster care, children must be moved to locations where services are available rather than the services being offered in the communities where the children live. For many, moving away from their home communities means leaving behind siblings, peers, families, schools, churches and other support networks. The structure of the current foster care system does not adequately encourage providers to establish services where services are needed.

Additionally, the contracting and payment structure of today's foster care system does not adequately acknowledge, compensate, or distinguish providers who offer quality services and improve the well-being and functioning of the children they serve. This can be partially attributed to the direct link between the provider's reimbursement rates and children's individual service levels. Currently, when children make progress and their service levels decrease, providers are reimbursed at the lower foster care rates, which fails to reward the improvements.

Further, a change in service level not only affects the rate of reimbursement but may also increase the likelihood that a placement change will occur. Many providers contract for a specific placement type (i.e. child placing agency, residential treatment center, general residential operation, etc.) to serve children with specific service needs (i.e. basic, moderate, specialized or intense). Very few providers offer a continuum of services or continuum of placement types that can accommodate the changing service needs of children. Many children in foster care are aware of this and some do not work toward improving behavior for fear that it will ultimately lead to changes in placements.

Foster Care Redesign is intended to address these issues by changing the way DFPS procures contracts and pays providers. Under redesign, DFPS will change the way it procures from open enrollment to competitive procurement. DFPS will also switch from effort-based contracts to performance-based contracts that provide financial incentives and disincentives for permanency. A single contract will be awarded to provide all paid foster care services for parents and families in a designated catchment or geographic area.

DFPS will also change the way it pays providers by moving away from the multiple rate model to a single blended rate and by de-linking service levels from rates.

It is the committee’s view that foster care redesign should continue to be implemented in a phased in manner as originally planned and that flexibility is maintained so that issues and difficulties that arise during the process can be addressed.

The Public Private Partnership (PPP) should continue as the primary guiding resource body for the Department of Family and Protective Services (DFPS) during implementation of Foster Care Redesign.

The PPP, a group of stakeholders representing various disciplines and geographic areas, was named the guiding body for the redesign project by the DFPS Commissioner. The PPP was charged with developing recommendations to improve outcomes for children and youth in foster care. The PPP was asked specifically to make recommendations that help to ensure children are placed close to home in the least restrictive settings with siblings, and experience a minimum number of moves.

The 26-member PPP includes a varied group of stakeholders that represent youth alumni, the judiciary, child advocates, providers, members of foster care association, foster care advocates, and DFPS leadership staff.

In a December 13, 2010 letter to then-DFPS Commissioner Anne Heiligenstein, PPP members wrote: "… In January, 2010, the PPP was given the opportunity to develop recommendations for changing the Texas foster care system to improve outcomes for children, youth and families. Specifically, we were asked to make recommendations that would ensure that children in foster care were appropriately placed with siblings and served in their home communities. In addition, we were asked to consider ways to provide incentives for reaching desired outcomes. These recommendations were to be made within two parameters: the redesigned system could not require nor preclude additional funding and the redesigned system could not include transfer of case management responsibilities. Specifically, we were to address the following objectives: How to contract, how to pay, where and what kind of services were needed. During the past year over 3,000 stakeholders participated in foster care redesign presentations, meetings and public forums."

The PPP has served as DFPS's primary advisory body on foster care redesign since the project's beginning. The PPP should continue in that role as the body's recommendations are put into practice.

The Department of Family and Protective Services (DFPS) should require the Single Source Continuum Contractor (SSCC) ensures all children and youth under its care directly or through its subcontractors attend each permanency and placement review hearing unless the court has previously excused the child's attendance.

John J. Specia (Ret), Jurist in Residence, Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families, testified during the July 16, 2012 committee hearing: "Texas law clearly requires that all children attend permanency and placement review hearings."

Two sections of the Texas Family Code mandate the attendance of the child at permanency hearings and placement review hearings unless the court specifically excuses the child's attendance.

Review hearings held during the time that DFPS has temporary managing conservatorship of a

child are called permanency hearings. Texas Family Code § 263.302 provides that the child shall attend each permanency hearing unless the court specifically excuses the child's attendance.

Texas Family Code § 263.501 provides that the child shall attend each placement review hearing unless the court specifically excuses the child's attendance. If DFPS has been named as a child's managing conservator in a final order, the court shall conduct a placement review hearing at least once every six months until the child is adopted or the child becomes an adult.

DFPS should ensure that contracts with SSCCs, or its subcontractors, explicitly address this issue.

DFPS should provide adequate and timely notification of all court hearings to the Single Source Continuum Contractor (SSCC).

The Request for Proposal (RFP) places the burden of providing notice to caregivers of all court hearings on the SSCC. Chapter 263, Family Code requires that DFPS provide notice of review hearings to various individuals in accordance with Texas Rule of Civil Procedure 21a.

It is a frequent complaint by child placing agencies currently contracted with DFPS that they do not receive statutorily required notice in a timely manner, thereby hindering the provider's and caregiver's ability to attend court hearings.

The SSCC can only execute its duty and reliably provide notice to the caregivers responsible for the child, if DFPS accurately and consistently provides timely hearing notices as required by law.

DFPS should ensure that contracts with SSCCs, or its subcontractors, are explicit as to how notice of hearings pursuant to the Family Code are handled, and how timely notice to caregivers will be accomplished. The duties of the individual parties should be clearly defined and ultimately shared with the court.

The Department of Family and Protective Services (DFPS) should ensure the attendance of Single Source Continuum Contractor (SSCC) staff with personal knowledge of each individual case at all court hearings unless previously excused by the presiding judge.

The RFP requires the SSCC to ensure attendance of staff knowledgeable of the case at all court hearings unless excused by the court.

Court hearings are an essential part of the accountability process. However, there is some question as to whether the staff who must attend is required to be the person with personal knowledge about the details of the individual case. As written, the RFP could be interpreted to allow the SSCC to send an administrative employee to the court hearing, and not someone with personal knowledge of the case.

Judge Specia testified as to his concern about possible hearsay problems this might present for DFPS, their legal staff and the judge. "…information offered as evidence by a person who does not have personal knowledge may be objected to as hearsay by other parties," Judge Specia said.

DFPS should amend future RFPs to include this requirement.

Texas should consider seeking the appropriate Federal IV-E waiver allowing the state more flexibility in how federal dollars are utilized with an emphasis on promoting and incentivizing innovation. The IV-E waiver should be implemented in Foster Care Redesign catchment areas to increase the Single Source Continuum Contractor's (SSCC) ability to innovate and improve outcomes for children and families.

Mike Foster, a licensed child placing agency administrator, testified during the July 16, 2012 public hearing: "Federal IV-E waivers have been one of the most crucial components of the success of redesign and reform in other states."

The Child and Family Services Improvement and Innovation Act of 2011 renewed the authority of the United States Health and Human Service Department (HHS) to approve as many as 10 demonstration projects, per year, for three years (FY 2012-FY 2014). HHS could authorize demonstration projects to last for up to five years, and if it determined that the project warranted continuation, it could grant renewals or extension of the authority to operate the waiver beyond that timeframe.

Applicants must demonstrate that the proposed project is designed to accomplish one or more of the following goals:

- To increase permanency by reducing time in foster care and promote successful transition to adulthood for former foster youth;
- To increase positive outcomes for infants, children and families in their homes and communities, including tribal communities, and improve the safety and well-being of infants, children and youth; or
- To prevent child abuse and neglect and re-entry into care.

Michigan was one of nine states chosen for a pilot project waiver starting in 2013. Usually, Title IV-E dollars must be spent for the placement of eligible children into licensed foster care. This waiver permits Michigan to use a portion of these same funds for innovation that helps prevent the need for foster care. The heart of the Michigan project is applying both prevention and preservation services for families with young children at high risk for abuse and neglect. Michigan's Department of Health Services will partner with private agencies and directly engage with families in their own homes to prevent abuse and neglect and to also prevent removal and eventual placement in foster care.

The pilot is expected to launch August 1, 2013, in three counties, all of which have a higher than typical rate of children in the pilot age group having been removed from their homes and placed into foster care.

It is the committee's view Texas children in the foster care system as well as those at-risk of entering the system could benefit from the alternative services available under such a waiver.

The recommendations made by the Public Private Partnership (PPP) were based on several contingencies, including the prompt transfer of Department of Family and Protective Services (DFPS) resources commensurate with tasks that are transferred to the Single Source Continuum Contractor (SSCC) and maintaining, at a minimum, current foster care funding levels. The committee recommends the Legislature ensure these contingencies are met.

Legislation establishing the Foster Care Redesign in Texas called on DFPS to implement a redesign model that neither requires nor precludes additional funding, with the exception of funding for normal entitlement caseload growth.

The PPP's recommendations related to implementing Foster Care Redesign are contingent upon several assumptions, including the prompt transfer of DFPS resources commensurate with tasks that are transferred to the SSCC and maintaining, at a minimum, current foster funding levels.

With the SSCCs representing an additional layer of administration and cost, it is imperative that the maintenance of a dual system of foster care in the redesign catchment areas where SSCCs are operating be phased out as soon as practically possible. Continuing to operate the current Legacy system alongside the redesigned system in the rollout catchment areas could ultimately delay the transfer of much needed funding to the SSCCs and foster caregivers.

It is in the best interest of the state's foster children and families who will rely on the redesigned foster care system that it has the resources and capacity to serve their needs.

It is the committee's view, Texas should honor its commitment to our foster community by maintaining, at a minimum, current funding levels.

CHARGE II

Identify policies to alleviate food insecurity, increase access to healthy foods and incent good nutrition within existing food assistance programs. Consider initiatives in Texas and other states to eliminate food deserts and grocery gaps, encourage urban agriculture and farmers' markets, and increase participation in the Summer Food Program. Evaluate the desirability and feasibility of incorporating nutritional standards in the Supplemental Nutrition Assistance Program (SNAP). Monitor congressional activity on the 2012 Farm Bill and consider its impact on Texas. (Joint charge with the House Committee on Public Health)

INTRODUCTION

The House Committee on Human Services conducted a joint public hearing in Austin with the House Committee on Public Health on May 22, 2012, to hear testimony related to the charge.

The committees heard from a wide variety of witnesses on the topic and a significant amount of new information was obtained. The hearing included witnesses representing various organizations, state entities and self.

"Currently, 4.2 million Texans are considered food insecure," said Jeremy Everett, Director, Texas Hunger Initiative. Everett testified that at some point during the last year, these Texans either experienced hunger outright or altered their consumption patterns to avoid hunger.

Texas' economic competitiveness and prosperity in large part depends on a healthy and well-educated workforce. Children must be well-nourished in mind and body to grow into productive and contributing members of society. Unfortunately, many Texas families struggle with food insecurity or the inability to afford a nutritious diet on a regular basis.

The United States Department of Agriculture (USDA) administers 15 federal programs that contribute to reducing food insecurity. Texas receives 14 of these programs with an estimated allocation of $15 billion. Three state agencies are responsible for implementing the programs in Texas. The Texas Department of Agriculture (TDA) receives federal funds to administer programs to fight childhood food insecurity (i.e., National School Lunch Program and Summer Food Programs), the Texas Health and Human Services Commission (HHSC) administers the Supplemental Nutrition Assistance Program (formerly known as the Food Stamp Program), and the Department of State Health Services (DSHS) administers the Women, Infants, and Children Program.

Texas also has a large non-profit sector and numerous local hunger relief agencies that work to address food insecurity and nutrition issues.

The recommendations and discussions provided in this section are the result of witness testimony, committee staff research, and data compilation on food insecurity, food deserts, nutrition standards, urban agriculture, farmers markets, existing food and nutrition assistance programs and the 2012 Farm Bill.

RECOMMENDATIONS

1) The Legislature should increase its emphasis on promoting state policies that make affordable, fresh and healthy foods more accessible in low-income communities and "food deserts" through the promotion, expansion and utilization of commercial supermarkets, farmers markets, community gardens, food banks and sustainable urban farming.

2) The Healthy Students = Healthy Families Advisory Committee should partner with the Texas Hunger Initiative to develop goals and a five-year plan to increase participation in the Summer Food Service Program by eligible children. The plan should focus on but not be limited to increasing participation by children receiving free and reduced-price lunches and increasing the number of meal sites and program sponsors with an emphasis on improving access to summer meals in rural areas.

3) The Texas Department of Agriculture (TDA) should partner with the appropriate stakeholders when necessary to identify and establish alternative meal sites and program sponsors in communities where school districts seek waivers for release of their responsibilities established under SB 89, 82R.

4) The Health and Human Services Commission should seek the appropriate federal authorization or waiver allowing Texas to prohibit the use of Supplemental Nutritional SNAP benefits to purchase Foods of Minimal Nutritional Value (FMNV) as defined by the National School Lunch Program.

5) The Legislature should continue to encourage and fund public-private partnerships aimed at reducing food insecurity, improving nutrition, and supporting Texas agriculture. One example is the Surplus Agricultural Product Grant Program.

6) The Health and Human Services Commission (HHSC) should continue to explore innovative ways to expand the infrastructure for use of Electronic Benefits Transfer (EBT) for Women, Infants and Children (WIC) and Supplemental Nutrition Assistance Program (SNAP) benefits at farmers' markets.

7) The Legislature and affected state agencies should continue to monitor congressional action on the proposed 2012 Farm Bill and its potential impact on Texas.

DISCUSSION

The Legislature should increase its emphasis on promoting state policies that make affordable, fresh and healthy foods more accessible in low-income communities and "food deserts" through the promotion, expansion and utilization of commercial supermarkets, farmers markets, community gardens, food banks and sustainable urban farming.

Texas legislators have long supported policies that seek to streamline efforts to address hunger, particularly among low-income families.

The Legislature should promote policy proposals that seek to strengthen the School Breakfast Program, procedures that streamline SNAP renewal applications, and efforts that increase access to summer meal sites. Policy proposals should also seek to connect the dots between volunteers and state agency personnel committed to addressing food insecurity, the systems in place to produce and distribute food, and the families in need.

Additionally, the Legislature should also consider addressing barriers faced by urban growers, community gardeners and producers operating under Texas' cottage foods law. Citing recent U.S. Census statistics, Judith McGeary, Executive Director, Farm and Ranch Freedom Alliance, testified that there are more than 175,000 farms in Texas with sales of less than $10,000 per year. Encouraging these start ups and very small farming operations to expand would help address food insecurity in Texas and improve access to healthy, nutritious foods in low-income areas.

The Healthy Students = Healthy Families Advisory Committee should partner with the Texas Hunger Initiative to develop goals and a five-year plan to increase participation in the Summer Food Service Program by eligible children. The plan should focus on but not be limited to increasing participation by children receiving free and reduced-price lunches and increasing the number of meal sites and program sponsors with an emphasis on improving access to summer meals in rural areas.

According to the Food and Research Action Center, in 2010, only 8.5 percent of Texas kids who ate a free or reduced-price school lunch participated in summer meals programs.

The Healthy Students = Healthy Families Advisory Committee (committee) is appointed by the commissioner of agriculture and is established within the Texas Department of Agriculture to assist the commissioner with current and future issues associated with the Texas Public School Nutrition Policy, Child Nutrition Programs and other nutrition issues affecting Texas children.

The committee is composed of parents, food service directors, teachers, dieticians and nutritionists, school administrators, health specialists, education service centers, the medical community, physical education specialist and procurement. The committee is tasked with assisting the commissioner with current and future issues associated with the Texas Public School Nutrition Policy (TPSNP) and Child Nutrition Programs (CNP) including, but not limited to, identifying and recommending methods to develop a healthy lifestyle for Texas children and reasonable criteria to obtain these goals, methods to implement the TPSNP and CNP in a fair and balanced manner and methods to decrease childhood obesity rates and to promote wellness and

physical fitness as part of the TPSNP. In addition, the Committee may evaluate the CNP and make recommendations to improve service and communication.

The Texas Hunger Initiative is a statewide capacity-building project within Baylor University School of Social Work that works with national, state and local governments to create an efficient system of accountability that increases food security in Texas. It convenes federal, state and local government stakeholders with non-profits, faith communities and business leaders to utilize existing resources and develop and implement plans to increase Texas families' access to healthy foods.

It is the committee's view that combining the efforts of the Healthy Students = Healthy Families Advisory Committee with the broad-based, capacity-building efforts of the Texas Hunger Initiative, a five-year plan can be forged and implemented to increase participation in the Summer Food Service Program by eligible Texas children. Additionally, the group should identify ways to increase the number of meal sites and program sponsors with an emphasis on improving access to summer meals in rural areas.

The Texas Department of Agriculture (TDA) should partner with the appropriate stakeholders when necessary to identify and establish alternative meal sites and program sponsors in communities where school districts seek waivers for release of their responsibilities established under SB 89, 82R.

Despite the fact that 3 out of every 5 children in Texas qualify for a free or reduced price lunch, Texas participation in the Summer Food Program is among the lowest in the county. Less than 10 percent of eligible low-income Texas children are served through the program.

During the 82nd Legislative Session, the Legislature enacted SB 89, a bill that increased the number of school districts required to offer Summer Food Service Programs by stipulating that school districts offer summer meals if at least 50 percent of its students are eligible for free- and reduced-price lunches unless granted a waiver by TDA. The previous threshold was 60 percent.

School districts have the ability to waive out of service if they cannot afford to provide meals, if transportation is too difficult to arrange, or if they experience other extenuating circumstances.

Many eligible school districts, particularly in rural areas, find it economically unfeasible to operate a Summer Meals Program and have requested waivers from TDA. For the 2011-12 school year, 253 school district requested waivers. Of those, 225 or 89 percent were considered rural school districts.

TDA should continue and expand its efforts to work with local and statewide stakeholders to identify alternate sponsors and meals sites in communities served by school districts that have been granted waivers.

The Health and Human Services Commission should seek the appropriate federal authorization or waiver allowing Texas to prohibit the use of Supplemental Nutrition Assistance Program (SNAP) benefits to purchase Foods of Minimal Nutritional Value (FMNV) as defined by the National School Lunch Program.

The committee in general supports incentives rather than restrictions to encourage purchases of selected foods (fruits and vegetables or whole grains, for example) by SNAP participants. Expanding and strengthening nutrition education and promotion to make sure that participants have the knowledge, skills, and motivation they need to make healthy choices is also desirable.

However, as the state's health care costs continue to rise, it makes little sense to encourage the purchase of so-called "junk food" with taxpayer funds, e.g. SNAP benefits; especially for persons dually-enrolled in food and medical assistance programs.

The National School Lunch Program has regulations that prohibit the sale of Foods of Minimal Nutritional Value (FMNV) in competition with school meals. Foods are prohibited by category: soda water (carbonated beverages), water ices, chewing gum, and certain candies (including hard candies, jellies and gums, marshmallow candies, fondant, licorice, spun candy, and candy-coated popcorn). The definition of FMNV focuses on eight nutrients: protein, vitamin A, vitamin C, niacin, riboflavin, thiamine, calcium, and iron.

FMNV can be exempted from the prohibition if they provide more than five percent of the Reference Daily Intakes per serving and per 100 calories (foods that are artificially sweetened are assessed only on nutrients per serving).

This approach is a conservative one, identifying a limited set of foods that make the least contribution to a healthy diet.

The Legislature should continue to encourage and fund public-private partnerships aimed at reducing food insecurity, improving nutrition, and supporting Texas agriculture. One example is the Surplus Agricultural Product Grant Program.

The Surplus Agricultural Grant Program is an innovative partnership between the Texas Department of Agriculture (TDA), the state's agricultural community and the Texas Food Bank Network (TFBN). Launched in 2002, the Surplus Agricultural Grant Program offers growers an incentive to donate fresh produce what would otherwise be left in the field by offsetting the costs of harvesting, packaging and transport.

The program is intended as a direct link between Texas-based commodity producers and low-income families. According to committee testimony provided by TFBN CEO Celia Cole, TFBN food banks have distributed more than 35 million pounds of fresh, nutritious produce throughout the state since the program's inception.

Currently, the TFBN is the sole recipient of this grant. The TFBN is made up of 20 regional food banks and provides hunger relief to all 254 Texas Counties. Texas growers provide their product at a reduced rate to the TFBN, thus both Texas growers and the hungry benefit from this

program.

Similar public-private partnership programs include Texas Fresh Approach which distributes fresh produce grown on prison farms to food banks and Donated Product that enables farmers to donate produce with decreased shelf life or of substandard size to their local food banks.

The Health and Human Services Commission (HHSC) should continue to explore innovative ways to expand the infrastructure for use of Electronic Benefits Transfer (EBT) for Women, Infants and Children (WIC) and Supplemental Nutrition Assistance (SNAP) benefits at farmers' markets.

Beginning in October 2010, HHSC partnered with the Texas Department of Agriculture (TDA) and USDA's Food Nutrition Service (FNS) to conduct a pilot program to place wireless EBT devices in farmers' markets. According to Stephanie Muth, Deputy Executive Commissioner for Social Services, TDA identified the farmers' markets eligible for the pilot, and HHSC provided wireless EBT devices.

The pilot, conducted from October 2010 through October 2011, was intended to increase opportunities for SNAP and cash assistance program recipients to purchase fresh fruits and vegetables. Thirty-three markets participated in the pilot.

A final report issued in April 2012 showed that 14 markets withdrew from the pilot, citing insufficient staffing to handle the operations and concern over the cost of maintaining the equipment once the pilot ended. Of the 19 markets that completed the pilot the overall volume of SNAP transactions was lower than anticipated.

Congress provided additional funding in May 2012 to help equip farmers' markets not currently participating in SNAP with wireless point-of-sale equipment. Texas' allocation is a maximum of just over $97,000, according to HHSC. HHSC and TDA outreached to 66 potential market locations with 23 markets responding; three new markets have been authorized, and nine are in the process of becoming authorized to conduct SNAP transactions.

According to committee testimony provided by HHSC, USDA/FSN is also conducting the Healthy Incentives Pilot (HIP) to encourage SNAP recipients to purchase more fresh produce with their benefits. A 14-month pilot is underway in Massachusetts and will end in December 2012. The 2008 Farm Bill authorized $20 million to determine if incentives provided to SNAP recipients at the point-of-sale increase the purchase of fruits, vegetables, or other healthful foods. For every SNAP dollar pilot participants spend on fruits and vegetables, 30 cents is added to their benefit balance.

A similar cooperative, community-based endeavor was launched in Austin, Texas in March 2012. At one northeast Austin farmers' market, individuals receiving SNAP (food stamps) or Women, Infant, and Children (WIC) EBT fruit and vegetable benefits will be able to double the dollar amount that they can spend on fruits and vegetables at a farmers' market. Eligible shoppers will be matched dollar for dollar up to $10 each week, totaling $20 to purchase fruits and vegetables. If an individual receives both SNAP and WIC EBT fruit and vegetable benefits

they can receive up to $10 in “Double Dollars” per program, per week. The program is called the Double Dollar Incentive Program (DDIP) and is made possible by funding and support from the Sustainable Food Center (SFC), St. David’s Foundation, Wholesome Wave Foundation and Farm Aid, United States Agriculture Department (USDA) Farmers Market Promotion Program, Texas Department of Agriculture Specialty Crops Grant, and the YMCA East Communities Branch of YMCA of Austin.

It is the committee’s view that HHSC should continue to explore innovative efforts, including incentives, to encourage the consumption of fresh fruits and vegetables by expanding the use of EBT cards at farmers’ markets in low-income and rural areas.

The Legislature and affected state agencies should continue to monitor congressional action on the proposed 2012 Farm Bill and its potential impact on Texas.

The Farm Bill is the federal government’s primary vehicle for establishing policy for programs under the purview of the USDA, including SNAP and other nutrition programs. The standing Farm Bill -- the Food, Conservation, and Energy Act of 2008 went into effect October 1, 2007, and expired September 30, 2012.

Food assistance makes up 68 percent of the 2008 Farm Bill budget, according to the U.S. Department of Agriculture, Economic Research Service -- almost all of it spent on SNAP. Not all food assistance is funded through the Farm Bill. Programs such as school breakfast and school lunch and WIC (aid for women, infants, and children) are part of other legislation, such as the Child Nutrition Reauthorization Act.

Approximately 3.5 million Texans participate in food assistance programs. The majority of food stamp recipients are children, the elderly and those with disabilities.

The Senate passed the Agriculture Reform, Food, and Jobs Act of 2012 on June 21. The House Agriculture Committee passed the Federal Agriculture Reform and Risk Management Act of 2012 (H.R. 6083) on July 12, but it has not been considered by the full House. Prior to the August recess, an effort by House leadership to pass a one-year extension of the current Farm Bill failed. The biggest difference between the two versions is the amount cut from food stamps: The Senate's bill would cut $4 billion from the almost $800 billion program over 10 years; the House's version would cut $16 billion.

Because Congress failed to pass a budget and enact legislation developed by a Joint Select Committee on Deficit Reduction, automatic spending reductions and budget cuts, known as sequestration, are to be invoked as of Jan. 1, 2013 if an agreement is not reached.

While many important programs that assist low-income Americans are exempt from sequestration -- including the Child Nutrition Programs, Supplemental Nutrition Assistance Program, and Temporary Assistance for Needy Families -- discretionary programs like the Women Infants and Children program (WIC), could face significant cuts.

CHARGE III

Explore strategies, including those in other states, to support the needs of aging Texans, including best practices in nursing home diversion, expedited access to community services, and programs to assist seniors and their families in navigating the long-term care system, with the goal of helping seniors remain in the community. Assess the feasibility of leveraging volunteer-supported initiatives using existing infrastructure to enhance the ability of seniors to remain active and involved.

INTRODUCTION

The committee held one hearing on this charge on March 27, 2012. The committee heard from a number of invited and public witnesses on issues including nursing home diversion, culture change models, and long-term care alternatives, community resources for the aging and innovative approaches to long-term care.

An October 2010 Families USA study concluded that more than 4.4 million Texans fall into at least one of the groups that is most likely to need long-term services. In the next 10 years, the number of Texans over 65—just one of the groups that is most likely to need long-term services—is projected to increase by 45 percent, making up 13 percent of the state's population. By 2020, a projected 21 percent of Texans will fall into at least one of the groups that are most likely to need long-term services. By 2030, it will be 23 percent.

Texas is one of 16 states currently operating Medicaid managed Long-term Services and Supports (LTSS).

Through Medicaid Section 1115 authority, Texas STAR+PLUS provides primary, acute, behavioral, and LTSS (Personal Attendant, Assisted Living, nursing, Adult Foster Care, dental, respite, home-delivered meals, OT/PT/ST, consumer directed services, home mods, medical supplies) to adults age 65 and older, as well as eligible adults age 21 and older with disability (SSI), adults age 21 and older in Community-based alternatives HCBS waiver, and full-benefit Medicare-Medicaid enrollees.

Seniors and people with disabilities are the groups of people that are most likely to need long-term services. For example, about 70 percent of people over age 65 will need long-term services at some point. Over the next 20 years, the number of Texans who will need these services is projected to increase dramatically.

Texas's participation in the programs such as Money Follows the Person Demonstration Project (MFP) continues to show great promise and has enabled thousands of Texans receiving long-term care services to transition back to the community. Experience with programs such as MFP has shown that expanding access to home- and community-based services can in the long-run save the state money and serve as a way for people needing long-term care services to receive the care they need in a setting they prefer.

RECOMMENDATIONS

1) The Health and Human Services Commission (HHSC) and Department of Aging and Disability Services should consider the feasibility of implementing expedited limited enrollment for Community-Based Alternative and Home- and Community-Based Services (HCBS) with presumptive Medicaid eligibility for people who are likely to be Medicaid eligible and who are at immediate risk of nursing facility placement.

2) The Health and Human Services Commission (HHSC) and Department of Aging and Disability Services (DADS) should study the feasibility of establishing a process for expedited Medicaid eligibility determination at Aging and Disability Resource Centers (ADRCs).

3) The Health and Human Services Commission (HHSC) and Department of Aging and Disability Services (DADS) should increase efforts to pursue Medicaid program options that strengthen the state's Community Based Services and Supports infrastructure and encourages nursing home diversions.

4) The Legislature should encourage increased availability of suitable housing for aging Texans.

DISCUSSION

The Health and Human Services Commission (HHSC) and Department of Aging and Disability Services (DADS) should consider the feasibility of implementing expedited limited enrollment for Community-Based Alternative and Home- and Community-Based Services (HCBS) with presumptive Medicaid eligibility for people who are likely to be Medicaid eligible and who are at immediate risk of nursing facility placement.

HCBS are popular and cost-effective alternatives to nursing home placement. Consumers prefer living in the community and also prefer community care if services can start quickly. Additionally, community care encourages families to continue as informal caregivers and improves the overall quality of life for the consumer.

Two primary state Medicaid programs provide a variety of HCBS as alternatives to nursing facility care for the aging. Two Section 1915(c) Medicaid waivers, the Community Based Alternatives (CBA) and the (c) waiver portion of the STAR+PLUS program, offer services specifically intended to substitute for nursing facility care. HCBS and other initiatives such as Money Follows the Person (MFP) have enabled thousands of aging Texans to transition successfully into a HCBS environment. According to an August 2012 legislative report prepared by the Department of Aging and Disability Services (DADS), about 200,000 Texans received Medicaid HCBS as of August 2011.

Currently, CBA services are not available for crisis situations for people who are not already Medicaid-eligible, according to HHSC. While there has been a marked decrease in wait times for individuals seeking CBA services, there continues to be some delay in access to services until a waiver slot is available and then must pass eligibility assessments.

One approach to correcting this situation would be to offer short-term (e.g., two-month) waiver services under presumed Medicaid eligibility for people in crisis who appear likely to be Medicaid-eligible. Unlike the time-limited PAS (Personal Assistance Services), these waiver services could be more comprehensive, helping to meet needs that are more complex. Inclusion of durable medical equipment and medical supplies may be especially important.

These services could be limited to two months. At the end of that time, if determined financially eligible, the individual would qualify for continuing PAS services, and be assigned to the interest list for waiver services.

The Health and Human Services Commission (HHSC) and Department of Aging and Disability Services (DADS) should study the feasibility of establishing a process for expedited Medicaid eligibility determination at Aging and Disability Resource Centers (ADRCs).

One of the most effective mechanisms available to aging Texans in their quest to navigate the state's system of long-term services and supports are the state's network of Aging and Disability Resource Centers (ADRC). ADRCs currently serve as an integrated front door for eligible individuals seeking services, however; they lack the ability to make a preliminary Medicaid eligibility determination.

Statewide, there are 14 ADRCs serving aging and disabled Texans. DADS has applied for and will receive $302 million in federal funding over the next three years, part of which will be used to enhance existing ADRCs and expand the number of ADRCs.

DADS Commissioner Chris Traylor testified that the state's network of ADRCs serves as visible and trusted sources of information and assistance for available programs, services and benefits. ADRCs help individuals navigate the system of services and supports and make informed choices, he said. ADRCs also assist individuals connect with programs to help them remain independent and in their homes.

The committee fully supports DADS efforts to improve the scope of services offered by ADRCs and expand ADRC services to more residents of the state. Additionally, it is the committee's view that unnecessary nursing facility placements can further be reduced and consumers in immediate need of long-term services and supports could ultimately benefit from the ability to receive an expedited Medicaid eligibility determination at an ADRC.

The Health and Human Services Commission (HHSC) and Department of Aging and Disability Services (DADS) should increase efforts to pursue Medicaid program options that strengthen the state's Community Based Services and Supports infrastructure and encourages nursing home diversions.

In 2011, federal law established the Balancing Incentive Program which increases the Federal Matching Assistance Percentage (FMAP) to participating states through September 2015 in exchange for states making certain structural reforms to increase access to Medicaid community based long-term services and supports (LTSS).

The BIP allows for state structural reforms that increase nursing home diversions and increase access to non-institutional long term services and supports (LTSS). This option will provide a two percent increase in federal matching funds through September 2015. These required structural reforms include: implementing a "no wrong door" eligibility and enrollment system; developing core standardized assessment instruments; and ensuring case management activities are conflict free.

HHSC submitted an application to the federal Centers for Medicare and Medicaid Services (CMS) to participate in the BIP. In September 2012, CMS approved the state's BIP application.

HHSC has delegated coordination of BIP activities to DADS. The BIP allows the state to build upon its promoting Independence Initiative including the Money Follow the Person (MFP) Demonstration and Texas' Aging and Disability Resource Centers (ADRC) network. HHSC and DADS should also seek to implement the Community First Choice (CFC) option. This is a state plan option for home- and community-based personal attendant services.

States that implement the CFC will receive a six percentage point FMAP increase for costs associated with the program. The CFC option gives states the flexibility to include facility-to-community transition costs and additional items that will increase an individual's independence or substitute for personal assistance. Care must be provided in a setting that allows for the greatest level of independence and integration with the community that is appropriate based on an individual's needs. Services must be provided statewide with no enrollment caps. In addition, states must establish a Development and Implementation Council made up of seniors and people with disabilities, or their representatives, to collaborate on program design and implementation.

The Legislature should encourage increased availability of suitable housing for Aging Texans.

If people are not living in a nursing facility, they need affordable, accessible and integrated housing to remain in a community setting. Texas can help ensure that people who need long-term services and supports (LTSS) have suitable housing in two major ways.

First, Texas can continue to implement policies that promote existing efforts under the Promoting Independence (PI) initiative to work with the Texas Department of Housing and Community Affairs and local public housing authorities to provide housing vouchers to meet the needs of people with very low income who are leaving nursing facilities. The public housing system is complex, has limited funds, and does not routinely have sufficient vouchers for individuals with SSI-level incomes. The PI initiative works with housing agencies to adjust those priorities.

Second, Texas can encourage homeowners to plan and modify their homes to support aging in place. Stakeholders could work with the building and remodeling industries to encourage designs that are both attractive and barrier-free. Internet and print resources for individuals could encourage baby boomers to build homes that will be easy to live in for many years.

CHARGE IV

Monitor the agencies and programs under the committee's jurisdiction and the implementation of relevant legislation passed by the 82nd Legislature, including the implementation of managed care in South Texas.

INTRODUCTION

The committee held its initial and most substantial public hearing related to the Medicaid managed care rollout on November 28, 2011. Formal HHSC updates and invited and public testimony were provided to the committee during public hearings held on March 27th and September 17th. Two informal "town hall" meetings, one in Austin last January and one in Edinburg in November; were organized by Chairman Raymond to bring together providers, state agency representatives and representatives of the participating HMOs.

Certain federal waiver programs grant states permission to deviate from Medicaid requirements if the state's proposal is approved by the federal Centers for Medicare and Medicaid Services (CMS). In December 2011, Texas was granted such a waiver. The Texas waiver was a comprehensive proposal from the Health and Human Services Commission (HHSC) to fully implement a managed care model for the state's Medicaid program.

Texas has had Medicaid managed care for more than a decade though it's been limited to urban areas. The expansion required Medicaid recipients in many rural counties and the Rio Grande Valley to join the plans.

On March 1, 2012 the Health and Human Services Commission (HHSC) replaced the Primary Care Case Management Model utilized in the 10 South Texas counties comprising the Hidalgo Service Area with a managed care model.

The impacted South Texas counties include: Cameron, Duval, Hidalgo, Jim Hogg, Maverick, McMullen, Starr, Webb, Willacy, and Zapata.

The South Texas Medicaid managed care roll-out was part of a broad package of Medicaid cost-containment initiatives adopted during the 2011 legislative session. Medicaid health maintenance organizations (HMO) already operate in most of Texas' metropolitan communities. The Legislature directed that the model be implemented in all remaining Texas counties and extended to additional services, including dental and pharmacy services.

The vast majority of Medicaid patients were required to obtain their health care services through one of the participating Medicaid HMOs. Pregnant women, low-income parents, and most children must select a STAR HMO. (Children in foster care enrolled in STAR Health while children with disabilities enrolled in STAR+PLUS or remained in Medicaid fee-for-service.) Additionally, patients also selected a primary care physician (PCP) or provider within the HMO network to furnish and coordinate their care. Adult patients with disabilities receiving Supplemental Security Income (SSI) were enrolled in a STAR+PLUS HMO. They too selected a PCP.

Patients who are dually-eligible for Medicare and Medicaid and classified as an "MQMB", meaning they are eligible for full Medicaid benefits in addition to Medicare, were steered to a STAR+PLUS plan for any needed long-term care services or supports. Patients residing in nursing homes or other institutions are excluded from the HMO model as are patients classified as Medicaid spend downs.

In May 2011, the state issued a Request for Proposal (RFP) inviting qualified health plans to submit proposals for consideration. The state evaluated each proposal for how well the plan responded to the RFP, the strength of the plan's proposed provider network, and "value added" services the plan proposed offering for patients and providers. STAR (acute care) contracts were ultimately awarded to Driscoll Children's, Molina, Superior and United. STAR+PLUS (long-term care) contracts were awarded to Health Spring, Molina and Superior health plans.

Patients were sent enrollment packets in mid-December, 2011. Enrollment packets were printed in both English and Spanish. The packets included an overview of each Medicaid HMO doing business within the service area, a directory of network physicians/providers for each plan, the value-added benefits offered by each of plan, and a member handbook. Additionally, prior to and since the roll out HHSC staff and representatives from the Medicaid managed care organizations have held numerous meetings and forums throughout Region 11 designed to offer information, provide technical assistance and answer provider and patient questions.

Patients were required to select an HMO and a PCP by mid-February, 2012. Patients who did not select a plan and/or PCP were assigned to one by Maximus, the state's enrollment broker. Patients were able to change plans and/or primary care providers if they were dissatisfied with the assignment. Initial obstacles included:

- Patient confusion about the Medicaid managed care enrollment process;
- Patient uncertainty as to which HMO network their provider(s) belonged;
- Confusion regarding provider credentialing and medical necessity prior authorization requirements;
- Providers complained of being inundated with additional paperwork required by HMOs;
- Provider and patient complaints about long telephone waits to speak with HMO representatives.

After the initial 30 days of implementation, patient confusion lessened as they were enrolled in an HMO and ultimately matched up with their providers of choice. After 60 days, most of the immediate issues impacting Medicaid patient access to their providers had been addressed.

Provider concerns and confusion regarding various pieces of the Medicaid managed care roll out continue. Often cited examples of ongoing issues negatively impacting providers include:

- Lack of standardized medical necessity prior authorization processes among the various HMOs;
- Lack of a standardized provider credentialing process among the various HMOs;
- Additional paperwork and burdensome administrative requirements by multiple HMOs;
- No details from HMOs as to why reimbursement claims are denied;
- Difficulties in resolving disputed or denied reimbursement claims;
- Cuts to Medicaid provider payments for treating dual-eligible patients causing severe financial hardship for some physicians;
- Lack of a "true" single electronic claims filing portal for all providers.

The committee's recommendations target a number of these issues.

RECOMMENDATIONS

1) The Health and Human Services Commission (HHSC) should ensure to the extent possible that health maintenance organizations (HMO) participating in the state's Medicaid program pay clean provider reimbursement claims within 15 days; and incomplete and disputed reimbursement claims are resolved within 30 days.

2) The Health and Human Services Commission (HHSC) should identify and implement methods for reducing the impact of Texas Medicaid policy changes on the state's dual eligible population.

3) The Health and Human Services Commission (HHSC) should establish a single electronic claims filing portal for all medical, dental and pharmacy provider claims and appeals.

4) The Health and Human Services Commission (HHSC) should ensure that health maintenance organizations (HMO) participating in the Texas Medicaid Program increase transparency by including with all reimbursement claim denials the specific reason(s) for the denial.

5) The Health and Human Services Commission (HHSC), to the extent possible, should ensure that health maintenance organizations (HMO) participating in the Texas Medicaid program adopt a standardized provider credentialing process and a standardized medical necessity prior authorization process.

DISCUSSION

The Health and Human Services Commission (HHSC) should ensure to the extent possible that health maintenance organizations (HMO) participating in the state's Medicaid program pay clean provider reimbursement claims within 15 days; and incomplete and disputed reimbursement claims are resolved within 30 days.

Currently, physicians submit claims directly to the patient's HMO. As in Medicaid fee-for-service, claims must be submitted within 95 days of the date of service. HMOs then have up to 30 days to process clean claims.

Prior to the expansion of managed care, Texas Medicaid and Healthcare Partnership (TMHP) served as the contracted fiscal agent for the Texas Medicaid program. The duties performed by TMHP included Medicaid provider claims processing. Claims were accepted and processed in electronic and paper mediums. About 1,600,000 claims were being processed each week in 2011, according to HHSC. Clean Medicaid claims were paid by TMHP on average within seven days.

According to HHSC, the definition of a clean claim is one that can be processed without obtaining additional information from the provider of the service or from a third party.

As providers face cuts in managed care reimbursements, cutbacks in state spending affecting dual-eligible patients and looming Medicare reductions; it is in the state's best interest that clean provider claims should be paid promptly and payment disputes resolved quickly. Slow or non-payment of previously authorized Medicaid provider claims by HMOs can in some cases severely stress a provider's ability to continue as a viable business. As the state increasingly moves toward a Medicaid managed care model that relies upon keeping patients out of hospitals and long-term care facilities, it make little sense to place bureaucratic and financial hardships on the providers who are relied upon to deliver non-institutional care.

The Legislative Budget Board has estimated that diverting patients from the ER to their primary care provider (PCP) or an urgent care clinic could save up to $75 million annually in General Revenue. Additionally, On Sept. 1, 2011, HHSC implemented new rules reducing hospital emergency room payments by 40 percent for services that are non-urgent.

It is the committee's view that HHSC should hold Medicaid HMOs to a high standard with respect to timely payment of clean provider reimbursement claims. South Texas providers are particularly impacted by interruptions and delays in Medicaid reimbursements due to the large number of low-income patients served.

By reducing the time for HMOs to process clean claims it is the committee's desire that in practice clean provider reimbursement claims will be processed more efficiently. It is also the committee's view that HMOs should assume a more proactive role in assisting providers with resolving incomplete and disputed claims in a more timely manner.

The Health and Human Services Commission (HHSC) should identify and implement methods for reducing the impact of Texas Medicaid policy changes on the state's dual eligible population.

Full dual eligible patients are Medicare beneficiaries who are eligible for full Medicaid benefits. These patients are old enough to qualify for Medicare and poor enough to qualify for Medicaid. Medicaid pays the deductible and co-insurance for Medicare services and may cover other Medicaid services not covered by Medicare, such as long-term services and supports. According to HHSC, as of August 2010 there were 349,327 full dual eligible clients in Texas.

As part of an effort to reduce the cost of Medicaid to the state, the 82nd Legislature directed the Health and Human Services Commission to stop paying for Medicare Part B coinsurance and deductibles for patients covered by both Medicare and Medicaid — so-called dual-eligible patients — if the allowable payment for a service exceeds what Medicaid would pay for the same service. For renal dialysis services, cost sharing payments are reduced by five percent pursuant to H.B. 1, which phases in the policy for renal dialysis services. The policy went into effect on Jan. 1, 2012.

This change also applies to services provided through Medicare Part C. Texas makes monthly capitation payments to Medicare Advantage Plans (MAPs) that contract with the state for Medicare Part C services. The monthly capitation payment amount will be changed to $10 based on the policy change for cost sharing for Part B services. For dual eligible patients enrolled in MAPs that do not contract with the state, cost sharing payments are made on a fee-for-service basis.

According to the Kaiser Family Foundation, more than half of dual eligible patients are very poor: 55 percent living on incomes of less $10,000 per year compared to just 6 percent of all other Medicare patients. They are more likely to need help with tasks of daily living. They are generally sicker than other Medicare patients. Half have multiple health conditions, such as diabetes and congestive heart failure, and 54 percent also have a mental illness. The impact is considerably compounded in the Rio Grande Valley as many South Texas doctors — as well as those in some rural and poverty-ridden urban areas — run practices in which 50 to 60 percent of the patients are dual-eligible.

Last May, HHSC submitted an application to the Centers for Medicare and Medicaid Services (CMS) seeking to establish the Texas Dual Eligible Integrated Care Project. The goal of this demonstration project is to achieve savings and reduce costs through integrated and improved care management for Medicaid and Medicare services for these individuals. Participating states will negotiate with CMS to retain a portion of the savings achieved through implementation of this initiative. The Texas Health and Human Services Commission (HHSC) is proposing a fully integrated, capitated approach that involves a three-party agreement between a managed care organization (MCO) that has both an existing STAR+PLUS contract and a Medicare Advantage Special Needs Plan (MA/SNP) contract with the federal government. The three-party agreement will be between that MCO, the state and CMS for the provision of full array of Medicaid and Medicare services.

It is the committee's view HHSC should continue to identify and implement policies that promote both access to preventative health care services for dual-eligible patients and maintenance of an adequate provider base to care for these individuals.

The Health and Human Services Commission (HHSC) should establish a single electronic claims filing portal for all medical, dental and pharmacy provider claims and appeals.

Senate Bill 7, 82nd Legislature, Special Session, 2011, requires the Texas Health and Human Services Commission (HHSC) to provide a single source through which providers can submit Medicaid fee-for-service and Medicaid managed care claims to be routed to the appropriate entity, either the Texas Medicaid and Healthcare Partnership (TMHP) or the Medicaid health maintenance organization (HMO) that administers the client's Medicaid managed care benefits.

In response to the bill's requirements HHSC working with TMHP has established TexMedConnect, a browser-based application offered through TMHP that enables Texas Medicaid providers that are logged into the secure portion of this website to file claims electronically, check on claims status, confirm client eligibility, file appeals and generate remittance and status reports.

TexMedConnect currently has the ability to route Medicaid fee-for-service (FFS) and managed care claims to the appropriate health plan system for adjudication. Both acute care (medical) and dental claims can currently be routed by the claims portal. If a claim is rejected prior to adjudication by an HMO, it can be resubmitted through the portal. The portal accepts claims for the following programs: State of Texas Access Reform (STAR), STAR+PLUS, STAR-Health and Children's Medicaid Dental Services.

This capability reduces administrative requirements for providers and their staffs and increases the amount of time providers can spend with their patients.

HHSC is working to expand the functionality of the claims portal to route all long-term care claims.

It is the committee's view that HHSC should prioritize the expansion of TexMedConnect to accept long-term care claims. HHSC should also expand the capabilities of TexMedConnect to accept Medicaid HMO reimbursement claims submitted by pharmacies.

The Health and Human Services Commission (HHSC) should ensure that health maintenance organizations (HMO) participating in the Texas Medicaid Program increase transparency by including with all reimbursement claim denials the specific reason(s) for the denial.

A common concern raised by providers participating in the Texas Medicaid roll out is a lack of transparency in the claims reimbursement process.

One example often cited by South Texas providers is the lack of specifics provided by HMOs as to why reimbursement claims submitted for previously authorized services and treatments are

denied. This issue was reiterated by providers during an informal town hall meeting in Edinburg that brought together providers, Medicaid HMO representatives and members of the Valley legislative delegation. HMO representatives participating in the forum indicated they will work with providers and HHSC to improve communication and transparency.

It is the committee's view that it is not unreasonable for providers to expect a clear explanation as to why a claim for a previously approved procedure or service is denied. HHSC should work with providers and HMOs to reduce the number of disputed claims. Increasing transparency related to provider claim denials would be one way to accomplish this goal.

The Health and Human Services Commission (HHSC), to the extent possible, should ensure that health maintenance organizations (HMO) participating in the Texas Medicaid program adopt a standardized provider credentialing process and a standardized medical necessity prior authorization process.

An unfortunate reality of implementing a Medicaid managed care model is the dramatic increase in the amount of paperwork, documentation and administrative procedures required of providers by the various Medicaid HMOs. Where once all Medicaid-related provider credentialing, medical prior authorizations requests and claims processing was handled by one entity, TMHP, under managed care these same procedures often require providers to deal with several separate HMOs.

Providers claim the resulting increase in required credentialing documentation and claims-related paperwork has forced some physicians to reduce time spent with their patients.

Texas Medical Association Board Vice-Chair Dr. Carlos Cardenas, MD, expressed his concern during the committee's September 17th public hearing. Dr. Cardenas also serves as legislative chairman for the Texas Border health Caucus.

"Due to greater requirements for the delivery of care under managed care, physicians have been forced to see less patients in order to meet the administrative requirements of multiple plans," Dr. Cardenas said. "This situation is made worse when considering that reduced reimbursement rates forced many physicians to lay off staff. So many physicians must now cope with greater processing requirements with less staff resources."

It is the committee's view that HHSC should work with the various Medicaid HMOs to identify ways to coordinate and streamline their administrative requirements to reduce duplicity and reduce paperwork. Standardizing the provider credentialing process and medical necessity prior authorization process to the extent possible would be a good start.

AGENCY OVERSIGHT

The committee requested the implementation status of legislation passed by the 82nd Legislature, First-and Second-Called Legislative Sessions, from the Health and Human Services Commission (HHSC), Department of Family and Protective Services (DFPS), Department of Aging and Disability Services (DADS) and the Department of Assistive and Rehabilitative Services (DARS) in order to provide the Legislature with a better understanding of agency programs subject to the committee's oversight.

This portion of the report is included for purely informational purposes.

HEALTH AND HUMAN SERVICES COMMISSION

HB 710 -- Bill removes requirement for electronic finger imaging or photo imaging of Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) applicants and recipients, and requires the Health and Human Services Commission (HHSC) to use appropriate technology to verify identity and prevent duplicate participation.

Implementation: Complete

HB 1481 -- Bill directs the Health and Human Services (HHS) agencies to eliminate phrases that are demeaning to persons with disabilities from agency rules and external communications.

Implementation: Complete

HB 1784 -- Bill requires HHSC to submit data from all HHS programs that may serve veterans to the PARIS system and forward results to the appropriate agencies for follow up and investigation. It also requires HHSC, the Department of Aging and Disability (DADS), the Texas Veterans Commission, and the Texas Veterans Land Board to enter into a memorandum of understanding (MOU) regarding the PARIS system and submit a report describing the frequency and success of using the system.

Implementation: Ongoing

HB 2229 -- Bill establishes the Texas HIV Medication Advisory Committee in statute.

Implementation: Complete

HB 2610 Section 1 -- Section 1 directs HHSC to create a community-based navigator program to assist individuals applying or seeking to apply through the Internet for certain public assistance benefits programs, if the program can be established and operated using existing resources.

Implementation: Complete

HB 2819 -- Bill requires HHSC to adopt new mechanisms for ensuring applicants are aware of eligibility requirements for SNAP, new methods of communicating with clients, use of scanning technology and electronic case files, and consideration of a risk-scoring program for evaluating SNAP applications. It also requires performance expectations, assessments of staffing, training, and compensation, and reporting and data analysis for program performance strategies.

Implementation: Ongoing

HB 2903 -- Bill requires HHSC and Medicaid managed care plans to ensure individuals are offered PACE as an alternative to Medicaid managed care and nursing facility care and it requires HHSC to adopt a standard reimbursement methodology for the payment of PACE organizations.

Implementation: Complete

SB 71 -- Bill modifies or repeals a number of statutory reports required to be completed by HHSC.

Implementation: Complete

SB 78 -- Bill requires DADS, the Department of Family and Protective Services (DFPS), and the Department of State Health Services (DSHS) to keep a record of all applications for initial or renewed licenses, listings or registrations that are denied. While not required by the bill, the agencies will submit their monthly reports to an HHSC database that will provide a consolidated list of the adverse actions.

Implementation: Complete

SB 218 -- Bill allows HHSC to establish different payment rates for 24-hour residential child care as part of the foster care redesign implementation.

Implementation: Ongoing

SB 219 -- Bill requires HHSC to explore increasing access to telemedicine for STAR Health members in medically underserved areas and to offer trauma-informed care training for each physician or provider in the STAR Health program. It also requires HHSC to encourage STAR Health managed care plans to ensure providers comply with the Texas Health Steps program including the requirement to provide a mental health screening during each of the recipient's medical exams.

Implementation: Complete

SB 220 -- Bill authorizes HHSC to deduct an additional personal needs allowance when computing the applied income for a Medicaid recipient from earned and unearned income of the recipient to provide guardianship compensation and legal and administrative costs.

Implementation: Complete

SB 222 -- Bill allows for the development of risk management criteria, education of the public regarding the availability of waiver and Medicaid State plan services, establishment of a separate attendant care service in HCS and CLASS waivers, and reporting of interest list data.

Implementation: Complete

SB 223 -- Bill requires HHSC to place a provider on payment hold and provide notice upon receipt of evidence of a credible allegation of fraud. It also expands HHSC authority to include not only Medicaid providers and persons applying to enroll but additionally any person with an ownership or controlling interest in a provider. The bill authorizes HHSC to impose penalties when providers fail to maintain adequate documentation to support claims or for any other program violation.

Implementation: Ongoing

SB 434 -- Bill creates the Task Force to address the relationship between domestic violence and child abuse and neglect at HHSC and directs it to develop a report of findings and recommendations by September 1, 2012.

Implementation: Complete

SB 501 -- Bill creates an Interagency Council for Addressing Disproportionality at HHSC.

Implementation: Ongoing

SB 7 Section 1.02 -- Section removes the prohibition on health maintenance organizations in Cameron, Hidalgo, and Maverick Counties. It also includes pharmacy benefits into managed care and requires changes to HHSC's process for evaluating Medicaid managed care proposals in new service areas.

Implementation: MCO contracts awarded with a March 1, 2012 start date. This section is yellow because it relates to managed care expansion.

SB 7 Section 1.03 -- Section abolishes the States Kids Insurance Program and requires HHSC to coordinate with ERS to transition those children to CHIP**.**

Implementation: State Plan Amendment submitted to CMS in June and approved in July 2011. Notices to eligible individuals sent in July 2011, including a frequently asked questions document.

SB 7 Section 1.11 -- Section allows for the implementation of an 1115 waiver related to the expansion of managed care and the preservation of UPL funds.

Implementation: The waiver was approved in December 2011. UPL rules have been repealed. Transformation Waiver reimbursement rules have been published in the Texas Register and were effective on July 1, 2012

SB 7 Section 1.15 -- Section prohibits HHSC from contracting with a managed care organization or a pharmacy benefit manager that has been convicted of certain criminal offenses (in general, involving the delivery of services, neglect of patients, fraud, financial misconduct, or certain penalties of $500,000 or more) in connection with a bid, proposal or contract with HHSC in the preceding three years. It also requires managed care organizations and pharmacy benefit

managers to submit a copies of communications with beneficiaries to HHSC for approval and to allow relevant pharmacy providers access to the communication. Requirements included in the uniform managed care contract effective March 1, 2012.

Implementation: Complete

SB 7 Section 1.17 -- Section requires verification of immigration status, verification of alien sponsors, and reimbursement from alien sponsors as allowed by federal regulation**.**

Implementation: OIG completed their evaluation of cost effectiveness in mid-April, and determined that it would not be cost effective to pursue reimbursement from alien sponsors. Policy has been developed and being reviewed by Legal. The updated policy will be included in the October/November 2012 handbook revision.

SB 7 Section 1.21 -- Section prohibits a SNAP applicant or a SNAP recipient from being entitled, receiving, or continuing to receive SNAP benefits if the applicant or recipient is not legally present in the United States.

Implementation: HHSC policy prohibits ineligible aliens, which include persons not legally present in the United States, from receiving SNAP benefits.

DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

HB 1481 – This bill relates to the use of person first respectful language when referring to individuals with disabilities. Person first respectful language is generally considered language that focuses first and primarily on the individual rather than on his/her disability - such as "a person with mental illness" as opposed to "a mentally ill person."

Implementation: Ongoing

HB 753 – This bill requires DFPS to use "special assessment tools" in screening applicants for employment in order to match them with the position for which they would best be suited. The agency currently uses a pre-interview assessment for caseworker positions, but this bill will be implemented by reviewing that process and determining what other tools are available and applicable and issuing a request for information (RFI). "Favorable consideration" must be given to applicants that hold Bachelor and/or Master Degrees in social work. The bill also requires DFPS to study salaries to determine the role of pay in recruitment and retention and must report the results no later than December 1, 2012 to the Governor, Lieutenant Governor, Speaker of the House, House Human Services Committee, and Senate Health and Human Services Committee.

Implementation: Ongoing

HB 807 – This bill requires that DFPS provide at least 48 hours advance written notice to a residential child care facility where a foster child resides, as well as any child placing agency (CPA) involved in the placement of the child before a change in placement is made, except in cases of emergency, as required by a court order, or as agreed upon by the provider and CPA. Current CPS policy requires 14 days advance notice.

Implementation: Ongoing

HB 3234 – This bill seeks to address the issue of individuals who were formerly in foster care trying to obtain their records from DFPS by requiring DFPS to establish guidelines that prioritize requests to release case records. It defines the child's case record to include all records, including audio and video tapes, in DFPS custody.

Implementation: Ongoing

SB 219 – This bill relates to the health and mental health services for children in foster care and kinship care. This bill expands DFPS training requirements for trauma-informed care by amending Texas Family Code 264.015 to include additional provisions; such as training for supervisors, annual refresher courses, assisting CASA volunteers, child advocacy center staff, DSHS therapists at mental health centers, and domestic violence shelter staff in developing training, and annual evaluations of the training. HHSC is in charge of implementation of Sections 2, 3, 4, and 5 of the bill. CPS Medical Services will serve as lead and will coordinate with other DFPS programs.

Implementation: Ongoing

SB 993 – This bill codifies and expands requirements of CPS related to Parent Child Safety Placements (PCSPs). The bill requires that CPS conduct a background check and home assessment on the proposed PCSP caregiver and, in a written agreement signed by the parent and PCSP caregiver, outline specific terms and conditions of the placement and clarify the respective duties of the parents, the PCSP caregiver, and CPS, particularly with respect to obtaining medical treatment and ensuring school attendance. The bill also requires that certain conditions be met before CPS closes a case in which a child is in a PCSP placement, and that the department give the PCSP caregiver priority consideration as a continued placement for the child if it is safe and appropriate. Finally, the bill requires CPS to provide notice within 30 days of removal to all adults related to the child within the third degree of consanguinity.

Implementation: Ongoing

SB 1154 – This bill establishes a task force, referred to as the Blue Ribbon Task Force, which is similar in make-up and mission as the task force created in SB 2080 during the 81st session. It is charged with developing a strategy to reduce child abuse and neglect and improve child welfare. The strategic plan must be submitted to the Governor, Lieutenant Governor, and the Speaker of the House no later than December 1, 2012. The agencies involved now include, DFPS, DSHS, Texas Department of Criminal Justice (TDCJ), Texas Youth Commission (TYC), Texas Juvenile Probation Center (TJPC), UT and A&M. The agencies are required to equally share the costs of

travel and other expenses as well as administrative support. The bill requires that task force members be reimbursed as state employees.

Implementation: Ongoing.

SB 1490 – This bill requires that a record be made of all proceedings regarding a child custody determination made in a foreign country under the Hague Convention, and names DFPS as a placement for Hague Abduction Convention cases if a parent or other suitable caregiver is not available that can demonstrate ties to the jurisdiction in which the court has authority. The county will be required to cover the cost of the foster care placement until a legal petition has been filed for managing conservatorship which will occur within 5 business days. After those 5 business days, State General Revenue will be used to pay for these cases unless a finding of abuse or neglect can be made at which point Title IV-E funds can be used. While this is an additional population to be served, the number of children/youth who will be impacted is unknown, but examples meeting the intent of the legislation will be rare.

Implementation: Ongoing**.**

SB 78 – This bill addresses a goal identified by HHSC for more consistency in the licensure of facilities among the various HHS agencies. The concern arises when one HHS agency takes adverse action against a person's license due to egregious circumstances, and then another HHS agency issues that same person a license.

This bill would require the HHS agencies that regulate the specified facility types to maintain certain information about adverse actions for a period of ten years, to provide each other with monthly reports about that information, and authorizes an HHS agency to deny a person a permit based on adverse action taken by another HHS agency if the previous adverse action was based on certain facts.

Implementation: Ongoing

HB 79 and SB 1 – SB 1 sets out certain statutory changes in order to comply with the General Appropriations Act and addresses certain state fiscal concerns. Although several provisions in SB 1 are of interest to DFPS, the only provisions requiring implementation action are in Article 63, which contains the same provisions that are in HB 79 of the Special Session concerning the extended jurisdiction of a family law court over a CPS youth who remains in DFPS conservatorship on the day before the youth turns 18. This bill allows that the court must continue its jurisdiction over a youth who remains in extended foster care after turning 18 and continue to conduct review hearings at least every six months and make certain specified findings.

Implementation: Complete

HB1, Rider 27 – This rider provides that a total of $2 million appropriated to DFPS for FY 2012-13 be used to hire contract labor and pay other operating expenses to reduce the backlog of due process appeals pending in the DFPS Hearings unit and EMR Hearings unit.

Implementation: Complete

HB1, Rider 41 – This rider requires DADS to report quarterly to LBB the number of abuse, neglect, and exploitation allegations deemed to be confirmed and the number deemed to be unfounded by DFPS investigators for each State Supported Living Center (SSLC).

Implementation: Complete

HB1, Rider 47 – This rider calls on DFPS, DSHS, and DADS to each submit a report to the LBB by May 15, 2012 identifying gaps, corrective actions, and efforts taken toward interagency coordination on reporting, to their respective licensing boards, licensed professionals who have committed confirmed acts of abuse, neglect, or exploitation (ANE), and providing the number of these individuals reported by fiscal year, beginning in FY 2012.

Implementation: Complete

SB 76 – This bill requires providers of state-subsidized relative child care to become listed family homes subject to DFPS regulation, including background checks. DFPS and the Texas Workforce Commission (TWC) must enter into an MOU relating to the administration of this new chapter no later than October 1, 2011. Relative providers who care for a child in the child's home are exempt from having to pay application and other fees applicable to listed family homes.

Implementation: Complete

SB 221 – This bill makes several changes to the Adult Protective Services In-Home program. The bill covers a number of topics and issues; most will only result in the need for updated policy, limited training, and dissemination to staff of new changes/resources, or, in some cases, rule changes.

Implementation: Complete

SB 260 – This bill increases the number of initial training hours for certain employees of day care facilities and homes other than listed family homes. Eight hours of the initial training must be completed prior to a person being given responsibility for a group of children. Orientation must be completed within the first week of employment and DFPS is prohibited from requiring training in excess of the statutorily required levels. The bill also increases annual training hours for employees, directors, and operators of day care centers and licensed child care homes. The new requirements for initial training do not apply to anyone whose employment began before the effective date of the bill, while the annual training applies to everyone regardless of when first employed.

Implementation: Complete

SB 265 – This bill amends Human Resources Code 42.0421, relating to minimum training standards primarily applicable to daycare providers, to require that all training under the section be conducted by trainers with certain expertise and experience and be appropriately targeted and relevant to the age of the children who will be cared for by the trainee.

Implementation: Complete

SB 321 – This bill seeks to prohibit an employer from prohibiting an employee who lawfully possesses a firearm or ammunition from transporting or storing the firearm or ammunition in a locked, privately owned motor vehicle in a parking area the employer provides for employees, with certain exceptions.

Implementation: Complete

HB 452 – This bill seeks to ensure that former foster youth have living arrangements both during and between academic semesters. The bill adds a new section to the Texas Education Code to require institutions of higher education to assist enrolled students who are aging out of DFPS conservatorship in finding housing between academic terms, and would allow the school to assist with financing the temporary housing for the student. The student must have been in conservatorship the day before their 18th birthday and must be enrolled full-time. Students must request the assistance, and the school may provide a stipend which will not prohibit students receiving additional assistance.

Implementation: Complete

SB 434 – This bill establishes a task force charged with addressing and examining the relationship between domestic violence and child abuse and neglect; developing policy recommendations, if needed, to address issues resulting from that relationship; and developing comprehensive statewide best practice guidelines for both child protective services and family violence shelter centers. The task force is composed of one member from the HHSC Family Violence Program, appointed by the HHSC executive commissioner to serve as the presiding officer, and must include at least one DFPS representative. The task force must submit a report of the findings and recommendations to the governor and legislature no later than September 1, 2012.

Implementation: Complete

SB 471 – This bill requires CPAs and day care centers to develop policies and provide training that facilitates the prevention and the recognition of symptoms of sexual abuse and other maltreatment. DFPS must develop rules relating to such training for regulated providers. Training and policies must include information on community organizations that provide training or resources regarding child abuse, neglect, and sexual abuse. Furthermore, child care facilities must adopt policies to address the education of parents on how to obtain assistance for a child who is a victim of abuse or neglect.

Implementation: Complete

SB 482 – This bill makes several amendments to Chapter 34 of the Family Code, relating to authorization agreements. It adds a definition of the term "parent" (which excludes alleged fathers); provides that only one authorization agreement may be in effect for a child at any time; requires that a copy of the authorization agreement be mailed to a non-signing parent by certified mail, return receipt requested (subject to certain exceptions); and waives the duty to mail a copy of the authorization agreement to a non-signing parent who has previously committed an act of violence or sexual assault against the other parent, the child, or a sibling of the child unless the non-signing parent has court-ordered rights of possession or access to the child.

Implementation: Complete

SB 501 – This bill relates to the establishment of an interagency council for addressing disproportionality. It calls for the interagency council, named Interagency Council for Addressing Disproportionality, to be led by the Center for the Elimination of Disproportionality and Disparities (CEDD) at HHSC. Several agencies, including DFPS, would be required to provide one representative to the Council with an understanding of the agency's mission and substantial experience in the administration of policies and programs. The DFPS Commissioner must designate a representative.

Implementation: Complete

HB 848 – This bill allows a parent to enter into an authorization agreement with any person with whom a child is placed under an approved parental child safety placement (PCSP) agreement while DFPS is conducting an investigation or providing services to the family. Prior to this legislation, parents could only enter into such agreements with certain specified relatives of the child. An authorization agreement grants non-parents the ability to engage in certain actions on behalf of a child, such as enrolling the child in school, obtaining medical treatment, and applying for benefits or insurance on behalf of the child; the bill specifies that an authorization agreement may not confer the right to authorize the performance of an abortion or administration of contraception.

Implementation: Complete

HB 943 – This bill amends the Texas Family Code by adding Section 264.123 which contains explicit steps that DFPS must take when a child under its managing conservatorship is discovered missing from substitute care. The amendment applies to children who are missing from substitute care for any reason including, but not limited to, abduction or running away. This bill closely follows current CPS policy. The only deviation between existing CPS policy and the new law is the inclusion of the guardian ad litem in the notification.

Implementation: Complete

SB 1178 – This is the omnibus child care licensing bill.

Implementation: Complete

HB 1615 – Known as Nathan's Law, this bill is named for Nathan King, an infant who died at a day care in Bryan, Texas in the fall of 2008. He was given Benadryl without his parents' permission and then left tummy down on a foam pad, where he stopped breathing. The bill concerns the administration of medication (except for non-prescription topical ointments) by day care providers, including centers and licensed, registered, or listed homes. The legislation generally requires written authorization from a parent before a medication may be administered unless the parent authorizes by phone for a single dose to be administered or if medication is administered as prescribed, directed, or intended to in a medical emergency. Violation of this new provision is a Class A misdemeanor.

Implementation: Complete

HB 2367 -- This bill establishes the Parental Rights Advisory Panel with the purpose of studying and providing recommendations to the legislature regarding a parent's right to possession of or access to the parent's child, including a situation in which the other parent has interfered with possession and access. The panel will consist of nine members appointed by the Governor by December 31, 2011. The Governor shall designate one of the appointees as the presiding officer of the panel. Members of the panel are not entitled to compensation or reimbursement for expenses. No agency is designated in the bill to provide administrative support to the panel. A report with recommendations from the panel is due not later than December 31, 2012, and the panel is abolished on September 13, 2013.

Implementation: Complete

HB 2560 – This bill prohibits DFPS from banning a foster parent who is licensed to carry a concealed handgun from having a handgun in a vehicle used to transport his or her foster child, provided the hand gun is in the "possession and control" of the foster parent.

Implementation: Complete

HB 3531 – This bill effectively codifies current processes; it requires HHSC to implement a system under which HHSC will use Medicaid prescription drug data to monitor the prescribing of psychotropic drugs for children who are in DFPS conservatorship and enrolled in STAR Health. The monitoring system must include a medical review of a psychotropic medication prescription "when that review is appropriate." This bill was initially brought to Rep. Strama by the DFPS Council chair, but was amended considerably over the course of the session.

Implementation: Complete

HB 3833 – This bill relates to the adoption of a new Uniform Collaborative Family Law Act. This new chapter will provide the policy, general provisions, including definitions, applicability, and uniformity with other states, and procedures relating to the collaborative family law ("CFL") process. Generally, the CFL process is a voluntary process that is intended to resolve family law matters without court intervention. All parties are represented by attorneys and agreements and settlements are reached by cooperation among the participants.

Implementation: Complete

DEPARTMENT OF AGING AND DISABILITY SERVICES

HB 1481 -- Relating to the use of person first respectful language in reference to individuals with disabilities.

Implementation: Ongoing

HB 2109 -- Relating to agency action concerning assisted living facilities, including regulation of inappropriate placement of residents at facilities; providing a penalty. The bill authorizes an assisted living facility (ALF) to retain and not move a resident who may be inappropriately placed if the facility obtains the required written statements and the inappropriate placement waiver. The bill also prohibits DADS employees from retaliating against a facility owner, controlling person or employee if the facility complains about the DADS employee's conduct or if the facility employee disagrees with the DADS employee or asserts a state or federal right

Implementation: Ongoing

HB 2609 -- Relating to convictions barring employment at or by certain facilities serving the elderly or persons with disabilities. The bill added obstruction or retaliation and cruelty to livestock and non-livestock animals to the list of offenses which bar a person from employment at nursing facilities, assisted living facilities, adult day care centers, intermediate care facilities and home health agencies.

Implementation: Complete

HB 2903 -- Relating to the program of all-inclusive care for the elderly. The bill required HHSC to ensure participation in the program of all-inclusive care for the elderly (PACE) is available as an alternative to enrollment in a Medicaid managed care plan and required managed care organizations consider the availability of PACE when co whether to refer a recipient to a nursing home or other long-term care facility.

Implementation: **Ongoing**

HB 3197 -- Relating to creating a pilot program to implement the culture change model of care at certain state supported living centers. The bill required the creation of a pilot program implementing the culture change model of care
at one state supported living center (SSLC). The bill required DADS to file a quarterly report with the Legislative Budget Board (LBB) for each SSLC that includes the numbers of unfounded and confirmed allegations of abuse, neglect or exploitation and to submit a report on the pilot program to the governor and the LBB by September 1, 2012. Brenham SSLC was chosen as the site for the culture change pilot.

Implementation: Ongoing

SB 78 -- Relating to adverse licensing, listing or registration decisions by certain health and human services agencies.

Implementation: Ongoing

SB 220 -- Relating to guardianships, including the assessment of prospective wards for, and the provision of, guardianship services by the Department of Aging and Disability Services.

Implementation: Complete

SB 222 -- Relating to access to certain long-term care services and supports under the medical assistance program. The bill required HHSC to consider developing risk management criteria that would allow persons in home and community-based services (1915(c) waiver programs) to assume greater choice and responsibility over their services and supports.

Implementation: Ongoing

SB 223 -- Relating to certain facilities and care providers, including providers under the state Medicaid program; providing penalties. The bill gave Consumer Directed Services Agencies (CDSAs) authority to access the secure Department of Public Safety (DPS) criminal history website to conduct criminal history checks for potential providers on behalf of Consumer Directed Services (CDS) employers and to share the results with the CDS employer.

Implementation: Ongoing

DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES

HB 442 -- Relating to the establishment of an emergency radio infrastructure account. HB 442 increases the percentage of fees appropriated to CRS from the fund from payments collected on court costs, fines and convictions from 5.3218 percent to 9.8218 percent. As a result of increased appropriations, DARS has served more clients in the program.

Implementation: Complete

SB 501 -- Relating to the establishment of an interagency council for addressing disproportionality. Requires the Health and Human Services Commission to establish the Interagency Council for Addressing Disproportionality and requires DARS to appoint an executive member to participate in the council activities. DARS appointed a member in accordance with the timelines set forth in the bill.

Implementation: Complete

SB 867 -- Relating to testing accommodations for a person with dyslexia taking a licensing examination administered by a state agency. The bill requires a state agency administering a licensing examination to provide reasonable examination accommodations to examinees with dyslexia. Although DARS had policy to comply with the bill, the agency adopted rules as mandated. The rules were adopted in December 2011, as mandated by the bill.

Implementation: Complete

SB 1106 -- Relating to the exchange of confidential information among certain governmental entities concerning certain juveniles. Required state agencies, including DARS, make available to other agencies that provide services to a juvenile any educational records, juvenile offense records and personal health information on juveniles. DARS policy was drafted and adopted on January 9, 2012 to comply with the bill requirements.

Implementation: Complete

SUPPLEMENTAL MATERIALS
WITNESS LISTS

Human Services Committee
November 28, 2011 - 9:00 AM
Medicaid Managed Care Roll Out

For:

Adams, Cindy (Superior Health Plan)
Cardenas M.D., Carlos (TMA - Border Health Caucus)
Garza, Mario (Self)
Jett, Clay (Family Service Association)
Peterson, Mary Dale (Driscoll Children's Health Plan)
Trevino, Dee (Self)

Against:

Reyna, Jaime (Mercy Rehab Services - CORF)
Solis, Carlos (Self)

On:

De Los Santos, Mario (Self)
Fredriksen, Amanda (AARP)
Hairston, Don (Molina Healthcare of Texas)
Hard, Nancy (Non-profits in San Antonio Non-Profit Council Family Service Association)
HAWKINS, JOHN (TEXAS HOSPITAL ASSN.)
Luna, Michael (Self)
Martin, Dorinda (Self)
Millwee, Billy (HHSC)
Moore, William (Self)
Navarro, Jesus (Texas Healthcare Advocacy Association)
Riggs, Jennifer (TEXAS TRUECARE PHARMACIES)
Rogers, Bruce (Texas Community Pharmacy, Texas Pharmacy Business Council)
Rumsey, Ronald (Self)
Shepherd, Marv (Self)
Suehs, Tom (HHSC)
Theiss, John (Mental Health America of Texas)
Traylor, Chris (Dept. of Aging & Disability Services (DADS))
Vela, Danny (Rio Grande Valley Independent PHR)
Wiesner, Dennis (HEB, Texas Federation of Drug Stores)
Wolfe, Leslie (Maximus, Inc.)
Yukon, Norine (United Healthcare Community Plan)

Registering, but not testifying:

Against:

Muniz, Jose (Self)
Muniz, Michael (Self)
Rios, Jesus (Self)

Villarreal, Yolanda (Self)

On:

Green, Benjy (Health Spring)
Jessee, Gary (Dept. of Aging & Disability Services (DADS))
Metteauer, Melinda (MAXIMUS, INC)
Rodriguez, Miguel (Texas Pharmacy Business Council)
Rymal, Greta (HHSC)
Saenz, Jesus (Self)
Tyson, Robert (Self)
Vesowate, Joe (HHSC)
Walsh, Edgar (Self)
Ware, Terri (Department of Family & Protective Services)

Human Services Committee
March 27, 2012 - 9:00 AM
Supporting Needs of Aging Texans

On:

Baker, Norma (Texas Legal Services Center)
Baldwin, Candace (Community Southwest Group, NCB Capital Impact)
Berndt, Trey (AARP)
Borel, Dennis (Coalition of Texans with Disabilities)
Burgett, Debby (Texas Culture Change Coalition)
Covington, Lucila (Self)
Higgens, Carlos (Texas Silver-Haired Legislature)
Jesse, Gary (Department of Aging & Disability Svs.)
Klein, Sandy (Touchstone Communities)
Lee, Kristen (Alzheimer's Association, Houston and Southeast Texas Chapter)
Luck, Dorothy (Self; GRADE & NOTEGA)
Luft, Gary (Texas Association of Area Agencies on Aging (T4A))
Machado, Marissa (Texas Association for Home Care and Hospice)
McGinty, Ione (Guardianship Reform Advocates for the Disabled & Elderly)
McPhail, Jennifer (ADAPT of Texas)
Morriset, Lin (Self)
Ring, Latifa (Self; NOTEGA)
Scarbro, Jodi (THCA - Texas Healthcare Association)
Strickland, Britta (Touchstone Communities)
Suehs, Thomas (HHSC)
Thomas, Stephanie (Self; ADAPT of Texas)
Traylor, Chris (Department of Aging & Disability Svs.)
Urban, Karl (Department of Family & Protective Services)
Valdez, Debby (Guardianship Reform Advocates for the disabled and elderly)
Vesowate, Joseph (HHSC)

Registering, but not testifying:
On:

Cook, Don (Capital City Village)
Higgins, Pam (Capital City Village)
Hoffman, Leslie Sue (Capital City Village)
Thomas, Dyana (Capital City Village)
Vasper, Beth (Capital City Village)
Warren, Kevin (Texas State Veterans Home Program)

Human Services Committee
May 22, 2012 - 10:00 AM
Food Nutrition
(Joint Hearing with Public Health Committee)

On:

Anding, Jenna (Tx AgriLife Extension Service)
Arredondo, Melissa (Council Member Stephen Costello & Stephen Williams, Director City of Houston)
Buuck, Adam (DSHS, Meat Safety Assurance Unit)
Cole, Celia (Texas Food Bank Network)
Cooper, Jason (Brookshire Grocery Company)
DeBerry, Drew (Texas Department of Agriculture)
Dimitry, Lauren (Texans Care for Children & The Partnership for a Healthy Texas)
Everett, Jeremy (Texas Hunger Initiative, Baylor University)
Gonzalez, Hector (City of Laredo & Health Department)
Gonzalez, Mona (River City Youth Foundation)
Green, Kathy (Capital Area Food Bank of Texas)
Hersh, Sharon (Comptroller of Public Accounts, Property Tax Assistance Division)
Jones, Sheila (Incorporating Nutritional Standards into SNAP)
Kimball, Mandi (Children at Risk)
Lewis, Jonathan (Center for Public Policy Priorities)
Loera, Julie (DSHS Food Safety)
Marshall, Susie (Texas Organic Farmers and Gardeners Association (TOFGA))
McGeary, Judith (Farm and Ranch Freedom Alliance)
Miller, Bert (City of Navasota)
Montgomery, Mike (DSHS)
Moorhead, Bee (Texas Impact)
Muth, Stephanie (Texas Health & Human Services Commission)
Rehkopf, Ron (Texas Retailers Assoc)
Rutledge, Ronda (Sustainable Food Center)
Smiley, Andrew (Sustainable Food Center)
Waite, John (Self; Farm Owner, Agua Dulce Farm)
Wengrovian, Emily (Nat'l Conference of State Legislatures)
Wilkinson, Vince (Walgreens Co.)

Registering, but not testifying:
On:
Donovan, Jeanie (Center for Public Policy Priorities)

Human Services Committee
July 16, 2012 - 10:00 AM
Foster Care Redesign

For:
Clements, Irene (Texas foster parents association)
Etheridge, Susan (Self; Texas CASA and CASA of Collin County)
Holman, Nancy (Texas alliance of child and family services)
Lundy, Scott (Arrow child and family ministries)
Against:
Dolores, Sister Raquel (Self; The ark assessment center and emergency shelter for youth)
Edwards, Lisa (Self; Circles of Care)
Kinman, Rahman (Self; The open arms agency)
Oerter, Charles (The giocosa Foundation)
Trejo, Delma (Self; The ark assessment center and emergency shelter for youth)
On:
Allen, Rebecca (Texas association of Child Placing Agencies)
Amberboy, Tina (Supreme court children's commission)
Baldwin, Howard (TX Department of Family and Protective Services)
Card, Chris (Providence service corp of Texas)
Deckinga, Audrey (Tx Dept. of Family and Protective Services)
Ferrino, April (Legislative budget board)
Foster, Mike (Self; A world for children)
Harris, Ashley (Texans CAre for children)
Mathison, Tony (Self)
Shell, Randy (Self)
Specia, John (Self; Supreme court commission)
Wagner, Laquinton (Self)
Registering, but not testifying:
For:
Redden, Michael (New Horizons)
Rodriguez, Annette (Self; The Children's Shelter)
Against:
Esquivel, Michael (Self; Circles of care)
Gomez, Jose Mario (Self; Beacon of hope foster care agency)
Jackson, Kathryn (The open arms agency)
Orozco, Adriana (Self; Beacon of hope foster care agency)
Rivera, Anita (Self; The ark assessment center)
Salas., Margaret (Self; Ark emergency shelter)
On:
Guthrie, Betsy (Lutheran Social Services)

Human Services Committee
September 17, 2012 - 10:00 AM
Medicaid Managed Care Update --Agency Oversight

DADS

On:

Taylor, Gordon (Department of Aging & Disability Svs.)

DARS

On:

Wanser, Debra (Dept. of Assistive & Rehabilitative Services)

Registering, but not testifying:

On:

Wright, Mary (Dept. of Assistive & Rehabilitative Services)

DFPS- FCR & LAR

On:

Baldwin, Howard (Department of Family & Protective Services)
Cody, Beth (Department of Family & Protective Services)

Foster Care Redesign

For:

Harrison, Lee (Self; CASA volunteer from Corpus Christi)

Registering, but not testifying:

Against:

Flores, Susie (Parental Rights U.S.A.)

On:

Holman, Nancy (TX. Alliance of Child and Family Services)
Health & Human Svs Agency Updates

On:

Weizenbaum, Jon (Department of Aging & Disability Svs.)

HHSC Items

On:

Janek, Kyle (HHSC)
Muth, Stephanie (Health and Human Services Commission)
Rymal, Greta (HHSC)
Traylor, Chris (HHSC)
Vesowate, Joe (HHSC)

HHSC Managed Care

On:

Baird, Jeanie (Self)
Hammon, Rachel (Texas Association for Home Care & Hospice)

Sandoval, Vanessa (Texas Visiting Nurse Service; Texas Assoc Home Care and Hospice)
Scepanski, Jon (Apex Primary Care)

HHSC- Managed Care

On:

Cardenas, Carlos (TMA)

HSC Public Hearing

On:

Langer, Donald (United Health Care, Community & State)

Human Service - Managed Expansion

On:

Munin, Holly (Superior Health Plan)

Implementation of Managed Care-Medicaid

On:

Gonzalez, Esmeralda (Self)

Implementation of Managed Health Care

On:

Narvaez, Laura (1st Choice Therapy)

Interim Charge

Registering, but not testifying:

On:

Coleman, Glenda (United Health Care Community Plan of Texas)

LAR-DARS

For:

Mills, Sarah (Disability Rights Texas (DRTX))

Managed Care

On:

Ramos, Rick (Laredo Kids Advanced Therapy)

Managed Care Expansion In South Texas

On:

Green, Benjy (HealthSpring)

Managed Care Expansion South Texas

Registering, but not testifying:

On:

Gore, Johnny (Health Spring)

Medicaid Managed Care Roll Out

On:

Bass, Craig (Molina Healthcare)

South Texas HMO Roll Out

Registering, but not testifying:

On:

Garza, Mario (Advocates for patient Access)

South Texas Managed Care Rollout

On:

Reimer, David (Kids Care Therapy, Texas Ass. of Home Care & Hospice)