



## **HB 1630 by Naishtat: Suspending Medicaid and CHIP in Juvenile Justice Facilities**

Senate Health and Human Services Committee

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Chairwoman Nelson and members, thank you for this opportunity to provide testimony. Texans Care for Children is a statewide nonpartisan, nonprofit advocacy organization dedicated exclusively to the children of Texas. We look to our broad base of community-based experts—our members and partners who together represent thousands of Texas children—to inform our work and help us in developing our legislative agenda. These partners have empowered Texans Care to mobilize coalition groups to work together towards common solutions to the difficult conditions many Texas children and youth face and to assist local communities in advocating for their own children's needs. Our focus areas are: family economic security; infant, child and maternal health; children's mental health; child welfare; and juvenile justice and at-risk youth.

### Problem

In Texas, youth who have Medicaid or CHIP coverage lose it when they become incarcerated. Their healthcare is provided by the juvenile justice system while in custody. However, neither the Texas Youth Commission (TYC) or Texas Juvenile Probation Commission (TJPC) had a process for re-activating CHIP or Medicaid coverage for eligible youth before their release, which creates a gap in access to mental and physical health care at the critical time when youth are reintegrating back into their communities and are at higher risk for reoffending. In the fall of 2006, Texans Care began working with several advocacy organizations and multiple state agencies on the issue of youth leaving detention without healthcare coverage. What became apparent through the working group is that youth were experiencing a gap in healthcare coverage at a crucial time because no one entity was looking at the bigger picture of how a youth interacts with multiple systems.

### First Attempted Solution

TYC, TJPC, and the Health and Human Services Commission (HHSC) all recognized this problem and the need for action and began working with advocates in November 2006 to identify a

reasonable process for incorporating CHIP/Medicaid eligibility screening into a youth's transition plan so that CHIP or Medicaid coverage would be in place on the day a child leaves a secure facility. A model was developed where screening and completion of applications would be done by TYC caseworkers and TJPC Probation Officers; with applications then sent to the HHSC Centralized Benefits Office, which handles other special populations, for expedited processing. The agencies identified four counties for TJPC (Bexar, Hays, Harris, and Dallas) and three TYC facilities (Gainesville, Ron Jackson II, and the Corsicana Residential Treatment Center) to pilot test the new process. Forms and procedures were developed, staff trained, and the pilot began in April 2007.

### Implementation

At TYC, the process was never fully implemented because the systems reforms resulting from SB 103 in the 80<sup>th</sup> Legislature were consuming so much of the agency's attention. Implementation began at the facility level, but focus was lost to the other reforms. Doing Medicaid/CHIP screening is now part of the re-entry plan TYC is working to implement at the facilities, but re-establishing Medicaid/CHIP coverage before release is not yet standard practice within TYC.

Since TJPC cannot require county juvenile probation departments to implement changes, the agency encouraged counties to participate. Several counties in the pilot did a great job (particularly Bexar County), and more have participated in a statewide training that TJPC offered on this issue. The most recent reports, however, are that HHSC is receiving few Medicaid/CHIP applications for youth in secure facilities, and there does not seem to be robust adoption of this enrollment process at the county level.

### A Better Solution

There is a more efficient and effective way to address the problem of discontinued healthcare for youth leaving the juvenile justice system: suspend, rather than terminate, Medicaid/CHIP while a child is in a secure facility. The National Academy for State Health Policy recommends this strategy (see [http://www.nashp.org/Files/transitional\\_youth.pdf](http://www.nashp.org/Files/transitional_youth.pdf)), as does the Center for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services (DHHS). HB 1630 proposes to make this change in Texas.

The DHHS letters cited below are included in the document linked above as appendixes.

### Texas' Interpretation and Practice

There is a common misconception in the states that because "inmates of a public institution" are barred from receiving Medicaid reimbursement for services, they are ineligible for Medicaid and should therefore have their Medicaid terminated when incarcerated. This misunderstanding has been addressed by DHHS since at least 1997. A September 1999 letter

from DHHS states that “there are no federal requirements which preclude an inmate of a public institution from retaining Medicaid eligibility status.”

The misinterpretation above has affected practice in Texas, which has been to terminate Medicaid eligibility when HHSC receives information that a youth is incarcerated and in an ineligible setting. In Texas and other states that have interpreted federal Medicaid rules similarly, youth who had insurance when they became incarcerated are taken off the rolls then required to reapply for Medicaid when released, including a wait for eligibility determination, before access to services is renewed. Given the troubles in the Medicaid/CHIP eligibility system in Texas and the fact that this state does not meet federal timeliness standards for Medicaid/CHIP enrollment processing, the burden of reapplication is particularly onerous.

However, the DHHS guidance is clear that prisoners, including juveniles, can be kept on the Medicaid rolls while incarcerated as long as federal Medicaid funds are not used to pay for their care. In a May 2004 letter to all state Medicaid directors, CMS went even further and encouraged the State Medicaid Directors to “suspend but not terminate Medicaid benefits while a person is in a public institution.” That same letter goes on to instruct states:

Once discharge from the facility is anticipated, the state should take whatever steps are necessary to ensure that an eligible individual is placed in payment status so that he or she can begin receiving Medicaid-covered services immediately upon leaving the facility. If an individual is not already eligible for Medicaid prior to discharge from the facility, but has filed an application for Medicaid, the state should take whatever steps are necessary to ensure that the application is processed in a timely manner so that the individual can receive Medicaid-covered services upon discharge from the facility.

Youth in the juvenile justice system whose Medicaid has been suspended rather than terminated may be more likely to stay enrolled and connect with needed services and benefits after release.

### Implementation Issues

There are two implementation issues that the agencies will face concerning HB 1630. First, in order to suspend Medicaid status, HHSC will need to make an appropriate change in its computerized eligibility processing system and deem individuals “eligible” or “not eligible.”

Second, there is an administrative change that should be made within county probation facilities and in TYC facilities to complement Medicaid suspension: screening youth for Medicaid eligibility at intake: Part of the reform at TYC is in the re-entry arena. The agency’s new approach to re-entry is that re-entry begins at intake. TYC should include Medicaid/CHIP screening in its new re-entry plans beginning to be implemented across the facilities, and it should be standard practice in juvenile probation departments.

Thank you again for your time and commitment and for favorable passage of HB 1630 from this committee to the full Senate. If you have any questions, please feel free to contact me or the staff of Texans Care For Children at 512.473.2274.