

**Testimony: House Committee on Public Health
HB 3634 by Representative Greg Bonnen**

The Center for Public Policy Priorities appreciates the opportunity to testify in opposition to HB 3634 by Representative Greg Bonnen, relating to the Texas Medicaid 1115 Transformation and Quality Improvement Program Waiver.

The Benedictine Sisters of Boerne, Texas, founded CPPP in 1985 to advance public policy solutions for expanding access to health care. We became an independent, tax-exempt organization in 1999, and over time our focus has expanded to include economic opportunity and fiscal policy. We are based in Austin, Texas, and work statewide. At CPPP, we believe in a Texas that offers everyone the chance to compete and succeed in life. Legislative advocacy is one important way we use data and analysis to enable Texans of all backgrounds to reach their full potential.

HB 3634 as filed and the CSHB 3634 both call in Section 2, for repeal of existing Texas laws that establish parameters for Texas' Medicaid 1115 waiver (Chapter 537, Government Code), as established by SB 7 in the 2011 session, and amended by S.B. 219 in 2015. Section 1 of the bill would replace the repealed language with a directive for HHSC to request an amendment to the current waiver that follows a list of 12 requirements, some similar to the repealed language, and others new.

Provided below is a review of the 12 provisions in the bill, and selected reasons for CPPP's opposition.

(1) **The bill calls for reversal of the changes to Medicaid eligibility criteria and eligibility systems that all 50 states made under the Affordable Care Act (ACA), and which took effect 1/1/2014** (i.e., at the same time that new private coverage options and subsidies were launched for higher-income Americans). These would include:

- **Re-imposing asset/resource limits** for over 3 million children and the small number of parents covered by Texas Medicaid. Verifying assets (as opposed to income) is far more complex and time-consuming for the family, and much more costly for the state.
- **Re-imposing "stair-step" income limits for children** that left many Texas families with some children in Medicaid, and others in CHIP.
- **Eliminating the single standardized income disregard** now used nationwide (equal to 5 percentage points of the federal poverty income) for children, pregnant women, and parents, and replacing it with Texas' antiquated set of income disregard policies, many of which pre-date 1996 welfare reform, and would make Texas rules inconsistent with the rest of the U.S.

- **Dismantling the current Texas Medicaid-CHIP income eligibility methodology** based on IRS code now used in all 50 states, often referred to as “modified adjusted gross income” or MAGI eligibility standards. Texas has invested thousands of hours of work in the conversion, which was 90% federally funded and thus allowed Texas to dramatically increase the federal match for the final stages of our TIERS eligibility system modernization.

More concerns: The MAGI system was designed to ensure that income-counting systems for Medicaid, CHIP, and the Marketplace would be consistent and free from gaps as Americans moved up the income scale, or that might leave people bouncing back and forth between programs. If Texas Medicaid and CHIP eliminate MAGI, eligibility and enrollment transitions between those programs and private insurance will not be coordinated.

(2) HB 3634 would require that eligibility certification periods for Medicaid be six months.

Under current federal law, states are not required to provide continuous (uninterrupted) eligibility in Medicaid, but they also may not require a full active renewal process (“recertification” in Medicaid-speak) more often than once every 12 months. It appears that the intent in HB 3634 is to over-ride this ACA requirement. **Here’s our current Texas policy:**

- Newborns are guaranteed a full year of coverage, and
- Pregnant women are certified until 2 months after the birth of their infant.
- Children have 12-month certification periods, but are subject to a total of five (5) annual income checks (including the initial check), so loss of coverage in the second 6 months of the year has become more common.
- The small number of parents in Medicaid currently have 12-month certification, but they can lose coverage in any month of the year if their income increases.
- Seniors and Texans with disabilities are subject to different Medicaid recertification periods, partly determined by their eligibility for federal Supplemental Security Income (SSI) benefits. They were not subject to the ACA’s 12-month recertification standard, and it’s not clear if the bill’s author intended to include them.

Mandating a six-month certification period would clearly be harmful for pregnant women and newborns.

For other children, the effect will be to drive down enrollment, including by eligible children. A predictable percentage of parents will miss the deadline whenever there is a re-certification, and when a system goes from once-a-year renewal to twice, that same percentage of families will typically miss the deadline and children will be disenrolled.

In 2003, the Legislature shifted CHIP from 12- to 6-month recertification resulted in a 40% drop in children covered, a decline of over 200,000 Texas children. Texas parents, and seniors and

people with disabilities, would likely experience similar disruptions in coverage if frequency of renewals is increased.

(3) **Requires Medicaid Managed Care clients (most of Texas Medicaid enrollees) to stay in the same health plan for a minimum of six (6) months** unless they have “cause” to change.

This is not necessarily a problem for beneficiaries, but the grounds for “cause” are spelled out in federal regulations that are under review, not law, and are subject to change.

(4) **Like #1, but for CHIP: calls for reversal of the improvements to eligibility criteria and eligibility systems that all 50 states made under the Affordable Care Act (ACA), and which took effect 1/1/2014, 2007, including:**

- Reinstating asset test,
- Eliminate ACA income disregard and return to pre-ACA rules; Returning
- Discontinuing MAGI income eligibility rules and systems.

The impact: essentially the same as for #1 above.

(5) **Like #2, but for CHIP: calls for cutting the CHIP eligibility certification period to six (6) months.**

In 2003, the Legislature shifted CHIP from 12- to 6-month recertification resulted in a 40% drop in children covered, a decline of over 200,000 Texas children. Texas parents, and seniors and people with disabilities, would likely experience similar disruptions in coverage if frequency of renewals is increased.

(6) **Would require all Medicaid and CHIP enrollees with access to unaffordable employer-sponsored insurance (ESI) to participate in a “health insurance premium payment” (HIPP) program** if that employer plan meets (unspecified) standards set by HHSC.

Use of this long-standing Texas program has been extremely limited, because employer plans generally:

- cost more than Medicaid and thus are not cost-effective for either the state or federal government,
- do not provide comprehensive coverage of childhood preventive care; and
- have much higher out-of-pocket costs than Medicaid children and other recipients can afford.

(7) **HHSC would allow employers to contribute toward the HIPP premium;**

(8) **HHSC would require Medicaid recipients to pay copayments based on those used in CHIP.**

It is not clear what this means; it would be a serious error to impose the same co-payments on recipients at 185% of poverty to Texans with incomes below the poverty line.

(9) **HHSC could launch missed health care appointment fees for Medicaid and CHIP recipients,** “similar to the fees imposed in the private market;”

Under current federal law, Medicaid enrollees below poverty cannot be denied care for non-payment because, of course, they may simply be unable to pay. Other reasons:

- shortcomings of Medicaid transportation,
- lack of transportation and child care for other children in the family,
- likelihood that low-wage workers cannot get off work for appointments without losing income, or even risking job loss.

A better approach would be to empower Medicaid Managed Care plans to research their service areas and populations to test practical solutions that directly address the factors listed above.

(10) **Require adult Medicaid recipients to sign a personal responsibility agreement** (see Section 31.0031, Texas Human Resources Code; [here](#) is a form used).

This requirement seems to suggest that parents, pregnant women, seniors, and adults with disabilities are at fault for lacking access to affordable insurance, and in need of character corrections. CPPP believes this approach to health care is fundamentally disrespectful and ignores the reality that millions of working Texans lack access to affordable, decent coverage.

(11) **Give HHSC broad authority to evaluate new and innovative payment and service delivery models** by testing models including “the direct primary care payment model, bundled payment models, and the delivery of services through accountable care organizations, without the need to seek additional waivers or authorizations for implementation of those pilot programs.”

We strongly support the testing of innovative delivery models. Our current 1115 waiver supports over one thousand such projects. It will always be critical to ensure that there is oversight and evaluation of these pilots.

(12) **Operate Medicaid under a block grant funding system based on population and cost growth trends.**

Read [here](#) about why we oppose block granting or otherwise capping federal funding of Texas Medicaid. **Here are some of the key points:**

- **All recent U.S. Congress block grant and per capita cap proposals have included large federal Medicaid funding cuts.** This message is very important, because many Texas leaders who do not routinely work on Medicaid mistakenly believe that a Medicaid block grant or per capita cap would increase Texas’ federal Medicaid dollars. It would not.

- **Congress' track record of funding block grants has allowed most to fall further and further behind population and inflation growth.**
- **The AHCA repeal bill that stalled in the U.S House recently would have cut Medicaid funding to states by \$880 Billion over 10 years, per the Congressional Budget Office.**
- With shrinking federal support, states will be forced to cut benefits, eligibility, or provider payments.
- All recent block grant proposals also would lock Texas into spending levels in a year in the past, freezing in place rate cuts and numerous poor policy decisions that do not support primary and preventive care access and are not cost-effective.

Thank you for the opportunity to testify. Any questions may be directed to Anne Dunkelberg, Associate Director, CPPP; dunkelberg@cphp.org.