

House committees weigh options

## Streamlining Access to Medicaid Coverage

A completed application can be as long as 25 pages. Instructions appear in fine print and are hard to read. Several forms can require signatures from employers or neighbors. Every applicant must make at least one trip to a state government office for an hour-long interview, even if it means taking time off work. Families not only must demonstrate that their income falls below certain levels, but they also must document their cash assets and car values.

These are some of the hurdles that critics say applicants must overcome to gain access to Medicaid coverage. The original purposes of these features were to narrow program eligibility or make eligibility conform to the former cash-assistance program, Aid to Families with Dependent Children (AFDC) and to prevent fraud. However, many legislators and health-care advocates now claim that the application process prevents too many *eligible* people from receiving coverage. About 1.4 million uninsured children live in Texas, and according to the state Health and Human Services Commission (HHSC), almost 600,000 children are eligible for Medicaid but not enrolled in the program.

Medicaid is a health-benefit program for the poor and uninsured

for which Texas currently pays 38.6 cents and the federal government pays 61.4 cents of every dollar spent on services. Many health-care and consumer advocates have accused the state of keeping eligible people off the Medicaid rolls to minimize state expenditures. These advocates historically have found fault not only with the application process but also with the lack of state “outreach” — efforts to inform potentially eligible individuals of their access to Medicaid. Advocates for consumers and health-care providers say that policies that hinder access to Medicaid coverage, whether intentionally or not, end up increasing costs to hospitals and local taxpayers in providing health care for indigent people.

### Application problems

Legislators and health-care advocates have begun focusing on the Medicaid application process now that state outreach has improved dramatically with the implementation of the Children’s Health Insurance

Program (CHIP), for which active outreach is a condition to receive federal funding. CHIP outreach efforts target uninsured low-income and working families in the same communities in which Medicaid-eligible families reside. Under federal law, CHIP cannot provide benefits for a Medicaid-eligible individual, so families responding to the CHIP outreach efforts must be screened for Medicaid eligibility as well.

The CHIP program provides comprehensive health-benefit coverage to children in families who earn up to 200 percent of the federal poverty level, or about \$2,842 per month for a family of four. The state pays 25 percent of the costs and the federal government pays 75 percent.

Consumers and health-care providers say that streamlining the Medicaid application process would help the state achieve its stated goal of reducing the number of uninsured children. They say the Medicaid application process should parallel the CHIP process to ensure that families who respond to the outreach efforts get the health coverage to which they are entitled. Medicaid is an entitlement program; that is, federal law requires states to provide medically necessary care to all eligible people who seek services, and states may not cap enrollment.

House panel eyes  
proposals for  
reducing lobby  
influence

6

During April 2000, the House Human Services Committee met jointly with the House Public Health Committee's Workgroup on Medicaid Eligibility to investigate problems with the Medicaid application process and to review related cost estimates provided by the Legislative Budget Board (LBB). Major proposals brought before the legislators included:

- making the application more user-friendly;
- authorizing continuous eligibility (a 12-month instead of six-month eligibility period);
- eliminating the "assets test," in which applicants must demonstrate that they have a limited amount of assets; and
- eliminating the face-to-face interview.

**Improve application forms.** To receive CHIP benefits, a family need only complete a two-page application form and affirm that the information is accurate. However, if the family is suspected of being Medicaid-eligible, it must go through another screening process that can require many forms, signatures from neighbors, landlords, and employers, and a face-to-face interview, and can take weeks to complete. To complicate matters, because Medicaid eligibility primarily depends on age, income, and assets, many families may have one or more children eligible for CHIP and other children eligible for Medicaid. (See box on page 5.) This situation not only requires families to go through two application processes, it also splits children within the same family among different physicians and other health-care providers.

Advocates of streamlining the application process say the only federally required Medicaid documentation is a Social Security number and a declaration of immigration status or citizenship. They say Medicaid documentation and verification should be similar to CHIP provisions. Alternatively, the process and forms could be improved by using other information for verification or by eliminating documentation of income and assets altogether. According to the Center for Public Policy Priorities (CPPP), a nonprofit advocacy group for low- and moderate-income Texans, seven states do not require income documentation for a child's eligibility for Medicaid.

Critics have called the Medicaid application forms intimidating, confusing, and demeaning. The first two pages, which everyone must complete, are printed densely in small type and ask questions concerning the applicant's financial and living arrangements, the financial status of anyone living with the applicant, and whether anyone in the household has been convicted of or adjudicated for certain crimes or is in violation of parole or probation. The applicant often must attach additional forms that require neighbors or other persons to verify the number and employment of people residing at the applicant's address, employers to verify the applicant's employment history and income, and information about an absent parent, health insurance, and child care. Representatives of the Texas Association of Community Health Centers told the House committees that Medicaid applicants may have to complete up to 19 forms along with 25 additional attachments.

Officials of the Texas Department of Human Services (DHS) say the forms were designed to evaluate an applicant's eligibility for three public programs: Medicaid, Temporary Assistance to Needy Families (TANF, the current cash-assistance program), and food stamps. The additional forms are meant to help applicants supply the information needed to verify income and other family circumstances. DHS has created a task force that will look at revising the Medicaid application form and study how workers in DHS field offices use the form and attachments.

**Continuous eligibility.** Medicaid recipients now must certify their eligibility for the program every six months. This was a requirement of AFDC, to which Medicaid eligibility was linked closely before federal changes to Medicaid in 1985 and welfare-reform measures in the 1990s. One benefit of a six-month recertification requirement is that the state can monitor closely the income and assets of Medicaid recipients and eliminate from the program those families who have gained earning power or other resources. Federal Medicaid requirements now demand a recertification at least every 12 months.

Advocates for consumers and health-care providers say 12-month "continuous" eligibility for Medicaid is important to reduce the application hassles encountered

by working families and to give patients a “medical home” for preventive care, which is touted as the one of the main benefits of the Medicaid managed-care system that the state has struggled to implement over the past few years. According to CPPP, 16 states have made children eligible for Medicaid on a 12-month basis.

Six-month recertification requires families repeatedly to complete the two-page application form and other attachments and to visit a DHS office for an interview. As a result, families often let coverage lapse until a child gets sick again, or they reenroll as necessary but end up in another plan with a different provider. Such situations, advocates say, hinder physicians from practicing good primary and preventive care, which usually requires a longer-term physician-patient relationship.

Eligible children are enrolled in CHIP for one year, regardless of a family’s change in income. Working families whose income may fluctuate slightly above or below the income standards may bounce between CHIP and Medicaid. Texas’ Medicaid program requires families to report changes in income within 10 days, and a family’s coverage is cut off the next month even if a parent earns one dollar more than the income limit. The family then could apply for CHIP coverage for a year, but if its income fell again, the child would have to be reenrolled in Medicaid. Advocates say 12-month eligibility would help provide continuous coverage for a child through one health-care provider, despite the modestly fluctuating income levels of the child’s family.

Finally, advocates of streamlined enrollment say that families with children in both CHIP and Medicaid now must contend with two or more enrollment schedules and processes. Every six months they must recertify their children’s eligibility for Medicaid or enroll children who have “aged out” of the Medicaid program into CHIP, and once a year they must reenroll children already in CHIP.

Opponents of 12-month continuous eligibility say it would increase state Medicaid costs by keeping children on the Medicaid rolls longer, even if they did not need or seek medical care, because managed-care organizations receive a set monthly amount per enrollee regardless of care provided. They also note that because the federal government pays 75 percent of CHIP costs, it is more

cost-effective for the state to enroll additional children in CHIP than in Medicaid whenever possible.

**Assets test.** Medicaid applicants must provide documentation showing that they do not have financial resources beyond certain limits (see page 5). The assets test is not required by federal law but, like the six-month recertification requirement, is a state holdover from earlier Medicaid and AFDC requirements. One benefit of requiring an assets test is to limit program eligibility to people who have no cash or tangible resources, in addition to having a low income.

According to advocates for consumers and health-care providers, Texas is one of only 10 states that still use such a test. Most states have dropped the test because the effort to verify assets is costly and rarely uncovers families who hold sizeable assets but are masquerading as impoverished. At most, advocates say, working families may be saving to buy a house and may have several hundred dollars over the \$2,000 limit. Or the family may own two cars so that the parent and teenager can get to work and to school separately, and the second car may be worth more than the limit of \$4,650.

Advocates say that denying Medicaid coverage on the basis of nominal assets requires charity hospitals and communities supporting public hospitals to carry the full burden of uncompensated health care, without the federal match that Medicaid provides. Ellen Cosart, representing Children’s Medical Center in Dallas and the Children’s Hospital Association, told the House committees of cases in which a hospital absorbed huge charges because a patient’s family assets were barely over the Medicaid limit. For example, one family had a \$40,000 medical bill, but because their 1995 Ford Escort was worth more than the asset limit, the family did not qualify for Medicaid coverage and the hospital received no compensation for the services. Another child with a hospital bill exceeding \$380,000 was denied Medicaid coverage because the family had \$2,782 in the bank.

Those who advocate dropping the assets test also decry the use of the fair-market value for a family’s car instead of the family’s equity in the car when determining assets. They also note that the cash-resource limit has not been raised since 1996.

Opponents of dropping the assets test respond that eliminating the test would expand Medicaid eligibility and Medicaid costs and would create in Texans a sense of dependency on the state. They note that families who are ineligible for Medicaid because of their assets most likely would be eligible for health benefits under CHIP.

**Face-to-face interview.** DHS originally implemented this interview to help speed the processing and verification of the Medicaid/TANF/food stamp application, but federal law does not require the interview for Medicaid. According to CPPP, 38 states and the District of Columbia accept mail-in Medicaid applications for children. Advocates say that any follow-up verification can be performed over the telephone or through third-party information systems. Cosart told the House committees that eliminating the interview could be the single most important improvement in ensuring Medicaid coverage for eligible individuals.

Critics note that because of DHS staffing shortages, the intended one-hour interview now takes up to two hours. They say that parents working at low wages have more difficulty getting off work to spend time at a DHS office and often lose pay for that time off. They also say that some parents feel that having to go to a “welfare office” robs them of the dignity they earned by working and forgoing cash assistance. HHSC surveys in preparation for CHIP implementation also found that Medicaid carried the stigma of a “welfare program” and accordingly was viewed as undesirable by some low-income working adults who wanted health coverage for their children.

Opponents of eliminating the face-to-face interview say that fraud likely would increase because DHS would find it more difficult to verify applicants’ identities and their stated income, family situation, and assets.

### **Cost considerations**

LBB’s estimate of the cost of implementing continuous eligibility and eliminating the face-to-face interview and the assets test totals \$217.5 million in general revenue in

fiscal 2001 and \$596.2 million in fiscal 2002-03. The estimate reflects slight savings in administrative expenses but large increases in enrollment and corresponding medical costs. LBB based its calculations on historical Texas Medicaid enrollment, average Medicaid costs for fiscal 2000-01, and DHS data relating to cases denied for assets, missed appointments, and failure to provide information.

At the House committee hearings, some legislators and advocates of application streamlining challenged the cost projections as too high. They said each change was estimated separately, and projected enrollment increases and medical costs were added together rather than taking into account the combined effect of all three changes. The projection of 531,000 individuals who would enroll in Medicaid for the first time double-counts children who would enroll newly because of either of the changes, according to the critics.

While the projections anticipate enrollment of 88 percent of Texas’ eligible but not enrolled children, critics said no state has experienced anything near that enrollment rate. Critics also said the projections did not include new Medicaid enrollments that already are in the approved budget for fiscal 2000-01 because of CHIP outreach efforts, nor were the projected cost and enrollment increases compared with those experienced by other states that have made similar changes. Also, they said, the projections did not take into account savings to local governments and hospitals that provide indigent and charity care to eligible patients who do not enroll in Medicaid.

The Texas Association of Community Health Centers has hired Steve Scarborough, a former DHS official, to assist them with a national grant-funded project to pilot-test Medicaid application revisions in four Texas counties. Scarborough told the House committees that he would help develop revised cost estimates for changes to the Medicaid application process.

— by *Kristie Zamrazil*

## Comparing Children's Eligibility for Medicaid and CHIP

The Medicaid program uses several criteria for determining eligibility, based on an individual's income, family size, age, marital status, disability status, pregnancy status, financial assets, and sometimes the amount of medical bills a family already has paid. Eligibility for the Children's Health Insurance Program (CHIP) is based on income and family size alone.

Monthly income	2 family members	3 family members	4 family members	Children's eligibility
\$0 - 925	Medicaid	Medicaid	Medicaid	All children are Medicaid-eligible
\$926 - 1,179	Medicaid/CHIP	Medicaid	Medicaid	
\$1,180 - 1,247	Medicaid/CHIP	Medicaid/CHIP	Medicaid	
\$1,248 - 1,421	Medicaid/CHIP	Medicaid/CHIP	Medicaid	
\$1,422 - 1,568	Medicaid/CHIP	Medicaid/CHIP	Medicaid/CHIP	Children under 6 years are Medicaid-eligible; children 6 years and older are CHIP-eligible
\$1,569 - 1,734	Medicaid/CHIP	Medicaid/CHIP	Medicaid/CHIP	
\$1,735 - 1,875	CHIP	Medicaid/CHIP	Medicaid/CHIP	
\$1,876 - 1,890	CHIP	Medicaid/CHIP	Medicaid/CHIP	Infants less than 1 year are Medicaid-eligible; all others are CHIP-eligible
\$1,891 - 2,181	CHIP	Medicaid/CHIP	Medicaid/CHIP	
\$2,182 - 2,358	CHIP	CHIP	Medicaid/CHIP	All children CHIP-eligible
\$2,359 - 2,629	CHIP	CHIP	Medicaid/CHIP	
\$2,630 - 2,842	CHIP	CHIP	CHIP	

Source: Center for Public Policy Priorities.

### Asset Limits for Medicaid Eligibility

Medicaid program component	Limit on family's cash assets	Treatment of fair-market value of family's car
Pregnant women	No limit	No limit
Infants born to Medicaid-eligible mothers	No limit	No limit
Children aged 0 to 18	\$2,000	First vehicle is not counted, but value of the second vehicle over \$4,650 is applied against the family's cash-asset limit
Children ineligible for cash assistance because of stepparent's or grandparent's financial contribution but who otherwise meet Medicaid income standards	\$2,000, or \$3,000 if a family member is elderly or disabled	Value over \$4,650 is applied against the family's cash-asset limit
Medically needy program (for families with income or assets above Medicaid limits who become eligible for Medicaid because of excessive medical bills)	\$2,000, or \$3,000 if a family member is elderly or disabled	Value over \$4,650 is applied against the family's cash-asset limit

Source: Texas Department of Human Services. Table shows only Medicaid program components relevant to children's acute care health-benefit coverage.

## House Panel Scrutinizes Influence of Lobbying Groups

Members of the House State Affairs Committee heard a variety of suggestions last month on how best to deal with the impact of lobbying organizations, including proposals for making it more difficult for legislators and regulatory-agency staff and officials to enter the “revolving door” by becoming lobbyists after they leave office.

At an April 27 hearing of the Subcommittee on Lobby Influence, witness opinions ran the gamut, from a lobbyist who advised lawmakers to maintain the status quo to representatives of public-interest groups who renewed their calls for campaign contribution limits and a full-time salaried legislature. House Speaker Pete Laney has charged the committee to study the nature and extent of lobby influence on the legislative process.

During a discussion of the effectiveness of existing revolving-door laws, which restrict former state regulatory-agency officials and employees from lobbying their former agencies, Rep. John Longoria asked whether such measures should apply to the Legislature as well. Rep. Longoria said he’s bothered by a system that allows colleagues who once were his allies in legislative battles to leave office and go to work for those they fought against.

“I know we can have a tremendous amount more influence ... than an administrator, even at the highest levels,” Longoria observed. He questioned whether public scrutiny of legislators’ actions alone provides enough protection against conflicts of interest.

In its 1999 report, [“Texas Revolvers: Public Officials Recast as Hired Guns,”](#) the advocacy group Texans for Public Justice stated that 7 percent of the 1,662 lobbyists registered for the 1997 legislative session had served previously in the state government: 91 had been legislators, including three former House speakers and three legislators who also had served as state agency heads; 13 had run agencies but had not served in the Legislature; and six had been legislative officers. These lobbyists reported 1,159 contracts worth up to \$44 million in 1997, giving them 17 percent of the more than 6,800 lobby contracts and 21 percent of all lobby income, which totaled \$210 million.

After declining in 1995 and 1997, the number of lobbyists remained virtually stable in 1999, according to the Texas Ethics Commission (TEC). However, lobby spending nearly tripled, from \$4.9 million in 1997 to \$13.9 million in 1999. That rise came mostly from a 250 percent increase in mass-media spending, which excludes political campaign advertising.

### Debate over influence

Craig McDonald, director of Texans for Public Justice, argued that the lobby derives most of its clout not from persuasion but from campaign fund-raising, which allows it to help set the legislative agenda. He called for a lifetime ban on lobbying by former legislators, full-time salaried status for lawmakers, and aggregate limits on campaign contributions.

Tom “Smitty” Smith, director of the advocacy group Public Citizen, favored a two-year lobbying prohibition for legislators and their staff and for all regulatory staff, regardless of what they worked on. Smith identified travel and business dealings as prime sources of influence. He called for more restrictions on paid legislative junkets; disclosure of payments to legislators’ businesses by entities with matters before the Legislature; waiting periods for industry professionals before they could head state agencies regulating those industries; shorter time frames for contributing to political campaigns; limits on outgoing legislators’ giving money from their accounts to active members they plan to lobby; fuller disclosure of lobby contributions and clients, donor occupations, and addresses; and raising legislative pay to a living wage.

Robert Floyd, president of the Texas Society of Association Executives, urged no further restrictions on lobbying, arguing that the Texas lobby is not a monolithic clique working in concert. In Floyd’s view, absent the use of public funds, lobby spending is a matter between the lobbyists and their clients. Floyd did endorse the disclosure of clients and of lobbyists’ potential conflicts of interest as would have been required under HB 845 by

Wilson, introduced during the 1999 session. Among other provisions, that bill would have required lobbyists to report which bills they are hired to work on. HB 845 passed the House but died in the Senate.

At least 17 states restrict lobbying by former legislators, according to a 1998 survey by the National Conference of State Legislatures. Most of these states ban the practice for one year or the next legislative session after leaving office, and only two states include legislative staff in the ban. Members of Congress also have a one-year ban on post-service lobbying. Senior staff may not lobby the U.S. House at all for a year after leaving it, and no former U.S. Senate staff may lobby their former employers or committees for at least a year.

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## Restrictions in current law

The Texas Government Code, sec. 572.054 forbids former board members, executive directors, and other employees of regulatory agencies who earned at least the amount prescribed for Group 17, Step 1 of the state classification salary schedule — now about \$33,000 — from appearing before or contacting officials of those agencies with intent to influence, or on behalf of third parties, for two years after leaving state government. With regard to any “particular matter” with which those officials or employees were personally involved or for which they had official responsibility, the ban is for life. Also, the General Appropriations Act, Art. 9, sec. 9-6.27 prohibits state agencies from spending state funds on contracts with former employees for consulting or professional services for 12 months after they leave the agency.

Two agencies have specific restrictions that take precedence over the general statute. Under Water Code, sec. 26.0283, and Health and Safety Code, secs. 361.0885 and 382.0591, the Texas Natural Resource Conservation Commission (TNRCC) must deny permit applications sought by entities that have hired former commission staff who worked on those applications while at TNRCC. No sanction applies to the former employee. The Public

Utility Regulatory Act (PURA), in Utilities Code, sec. 12.155, prohibits former members of the Public Utility Commission (PUC) from working for regulated utilities for two years after leaving the agency; staff face a one-year ban.

Jim Phillips, deputy director of TNRCC’s legal services, told the subcommittee that TEC has construed TNRCC’s conflict-of-interest provisions narrowly so as not to prohibit professionals at TNRCC from earning a living after they leave the agency. Case law has tended to follow suit, he said, noting that the general prohibitions in the Government Code tend to be more stringent than the provisions of the Water and Health and Safety codes, which apply only to permit applicants.

Ron Hinkle, PUC legislative liaison, characterized the combined effect of the PURA and Government Code as an unnecessary “double negative.” Hinkle said he believes the Government Code provides sufficient protection from conflicts of interest, especially in light of the restructuring of the electric utility industry that will phase out most current regulatory activity. Even after that process begins, Hinkle said, if electric companies still meet the legal definition of “regulated” under PURA, the post-employment waiting period mandated by PURA could discourage some prospective PUC employees who might want to move into the utility industry later.

Since the hearing, the TEC has begun formulating recommendations for consideration by the 77th Legislature. General Counsel Karen Lundquist told the subcommittee that measures targeted at specific conflicts of interest may be more effective than ones written more broadly. Acknowledging that the TEC had become less proactive on policy matters and more technical in its approach, she said later that TEC staff are researching what types of ethical problems have received press coverage recently. She said they are looking for specific instances of possible conflicts but are not targeting individual agencies.

— by **Patrick K. Graves**

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