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**EFFORTS BY THE TEXAS LEGISLATURE  
TO FIX THE ELIGIBILITY SYSTEM FOR PUBLIC BENEFITS**

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**Overview**

When the Texas Legislature convened for its 80<sup>th</sup> session in January 2007, it was abundantly clear to most legislators that Texas' eligibility system and its new contractor, Accenture, were in big trouble.<sup>1</sup> The children's health insurance rolls had dropped significantly, and delays in application processing due to the loss of state staff were occurring all over the state. Food Stamp error rates had skyrocketed, exposing the state to potential financial penalties by the federal government. Media coverage of the failed contract highlighted the human toll that privatization had taken, and several major newspapers wrote op-eds calling on the state to terminate the contract. On March 13, 2007, just two years after launching the privatized eligibility system, the Texas Health and Human Services Commission (HHSC) terminated its contract with Accenture.

Lawmakers responded by establishing legislative oversight of the system and increasing funding for staff at HHSC. This policy brief provides an overview of the 80<sup>th</sup> Legislature's actions to address the problems plaguing Texas' eligibility system.

**HB 3575 – Improving Oversight of the Eligibility System**

Representative Patrick Rose, chair of the House Human Services Committee, appointed a Subcommittee on Integrated Eligibility and TIERS Implementation to investigate the termination of the Accenture contract and the problems crippling the eligibility system. On April 19, 2007, after eight weeks of investigation, the subcommittee presented its unanimous recommendations for an "enhanced eligibility system."<sup>2</sup> The Legislature ultimately passed HB 3575, which incorporates many of the subcommittee's recommendations. The law requires HHSC to develop a transition plan, establishes goals for the integrated eligibility system, creates an independent review team, and establishes a legislative oversight committee. It also includes a provision, authored by Senator Eliot

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<sup>1</sup> For background, see *Updating and Outsourcing Enrollment in Public Benefits: The Texas Experience* (CPPP Nov. 2006) at [http://www.cPPP.org/files/3/CPPP\\_PrivReport\\_\(FS\).pdf](http://www.cPPP.org/files/3/CPPP_PrivReport_(FS).pdf).

<sup>2</sup> The full subcommittee recommendations are available on CPPP's web site at <http://www.cPPP.org/research.php?aid=660>.

Shapleigh, that establishes performance standards for contracts that provide services to person with Limited English proficiency.

### **Goals for Enhanced Eligibility System**

The bill establishes the following goals for the “enhanced eligibility system:”

- Increase quality of and client’s access to services,
- Implement efficient processes that will reduce processing times for applications and reduce staff workloads,
- Implement simplified applications and enrollment processes,
- Enhance the integrity of programs, and
- Ensure compliance with applicable federal law.

### **Transition Plan**

HB 3575 requires HHSC to develop a transition plan by January 1, 2008. The transition plan will be made available for the public to comment no later than October 15, 2007. HHSC is required to address the following issues in the transition plan:

- HHSC’s responsibilities and role in making the transition,
- The responsibilities and role of existing and new contractors in making the transition to the enhanced eligibility system, and
- The steps that HHSC will take to achieve the goals established for the enhanced eligibility system.

### **Independent Validation and Verification Program**

HB 3575 requires the State Auditor’s Office, in consultation with the Department of Information Resources (DIR) and HHSC’s Office of inspector general (OIG), to establish an independent validation and verification program (IV&V) to review the eligibility system during the transition period. The IV&V will:

- Assess whether HHSC is meeting the goals set forth in the transition plan in accordance with the established timetable,
- Monitor the eligibility system’s progress toward becoming “fully functional” in providing services to clients,
- Determine whether the eligibility system is making progress towards meeting the goals of the enhanced eligibility system, and
- Identify any actions necessary for the system to achieve “full functionally” and achieve the goals set forth in the transition plan.

The bill requires the state auditor’s office to present the proposed IV&V program to the oversight committee and to incorporate any recommendations for modifications to the program as necessary. The state auditor’s office is authorized enter into a contract to implement the IV&V program.

## Legislative Oversight Committee

The bill establishes a legislative oversight committee with seven members: the presiding officers of the Senate and House Health Human Services Committees; two members of the Senate, appointed by the Lieutenant Governor; two members of the House of Representatives, appointed by the speaker of the House of Representatives; and one additional member, appointed by the governor. The executive commissioner serves as an ex officio member of the committee. The speaker of the House of Representatives and the lieutenant governor will each designate another committee member to services as a joint presiding officer. The committee must be appointed by September 1, 2007. The committee is charged as follows:

- Conduct a public hearing at least once every 4 months;
- Review the transition plan and progress made toward implementing the plan;
- Review and provide feedback on recommendations made by HHSC, the state auditor's office, and the quality assurance team regarding any actions necessary to improve the functionality of the eligibility system;
- Make recommendations to the legislature by December 1, 2008 regarding any legislative action necessary to support the implementation of the system; and
- Monitor and regularly report to the legislature on the effectiveness and efficiency of the system after implementation.

## Persons with Limited English Proficiency

This provision requires any contract with HHSC that involves call center services to include performance measures that address the effectiveness, promptness, and accuracy of the contractor's communications with persons with limited English proficiency (LEP). Contractors bidding to provide call center services must submit a "language access plan" that describes how they will identify and provide assistance to LEP persons, ensure meaningful access to language services, and monitor compliance with the plan. HHSC will use the language access plan in determining whether a proposal provides adequate services to LEP clients. HHSC is prohibited from selecting contractors that they believe will not adequately provide information to LEP persons in other languages in a timely manner.

## **HB 75 – Giving families the right to appeal denials of Food Stamps or Medicaid to state court**

HB 75 provides for an administrative appeal to state court for persons denied food stamps or Medicaid by HHSC. Previously, applicants could not appeal decisions beyond HHSC's fair hearing and administrative review process. Texas was the only state in the nation to deny applicants the right to judicial review.

HB 75 allows for judicial review of an applicant's complete files after he/she has exhausted all other internal appeal processes at HHSC. Once the case is in state court, it is considered an appeal, requiring no discovery or trial. The court will use the applicant's records, created through the administrative process at HHSC, to determine whether the agency rendered a fair decision.

Given the problems and disruptions in the eligibility system in the past year, coupled with increasing automation of the application process, providing applicants with judicial review of their file provides an additional measure of accountability.

### **Relevant Budget Provisions**

- Expands HHSC's existing reporting requirements to include monthly reports that provide actual enrollment for all programs as well as enrollment targets. HHSC must electronically notify members of the legislature when reports are available on their website and provide copies if requested. (Article II, Rider 31)
- Allows HHSC to carry over unexpended balances from eligibility system appropriations in FY2008 to FY2009. (Article II, Rider 38)
- Permits HHSC to exceed the agency's staffing cap as well as its capital authority if necessary to take over functions that are now contracted. HHSC must notify the Legislative Budget Board and the Governor at least 10 days prior to increasing staffing levels or acquiring capital equipment. HHSC must report on a quarterly basis to the LBB and Governor the number of eligibility and support staff and costs related to the eligibility system. (Article II, Rider 54)
- Authorizes the hiring of additional staff, up to 10% over the agency's staffing cap for the 2008-09 biennium, if necessary to meet federal standards (such as processing applications within the federally mandated timeframes). HHSC is authorized to transfer appropriations for these purposes, provided that the Governor, LBB, and Comptroller are notified 10 days in advance. (Article II, Rider 68)
- These two provisions seek to diminish gaps in coverage for children who are eligible for Medicaid or CHIP by requiring that children be screened simultaneously for both programs using a consolidated application. Once eligibility procedures are complete, children identified as eligible for Medicaid or CHIP must be automatically enrolled in the appropriate program without further qualification. If a child is determined to be ineligible for Medicaid or the state child health plan program, HHSC must determine whether the child is eligible for the other program (Medicaid or CHIP) and automatically enroll them without any further qualification. (Art. IX, Secs. 19.66/67)

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The Center for Public Policy Priorities (CPPP) is a nonpartisan, nonprofit 501(c)(3) research organization committed to improving public policies to better the economic and social conditions of low- and moderate-income Texans.

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