

By: Nelson

S.B. No. 222

A BILL TO BE ENTITLED

AN ACT

relating to access to certain long-term care services and supports under the medical assistance program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02181 to read as follows:

Sec. 531.02181. PROVISION AND COORDINATION OF ATTENDANT CARE SERVICES. (a) The commission shall ensure that recipients who are eligible to receive attendant care services under a Section 1915(c) waiver program are first provided those services, if available, under a Medicaid state plan program, including the primary home care, community attendant services, and personal care services programs. The commission may allow a recipient to receive attendant care services under a waiver program only if:

(1) the recipient requires services beyond those that are available under a Medicaid state plan program; or

(2) the services are not otherwise provided under a Medicaid state plan program.

(b) The executive commissioner shall adopt rules and procedures necessary to implement this section, including rules and procedures for:

(1) the coordination of services between Medicaid state plan programs and Section 1915(c) waiver programs to ensure that recipients' needs are being met and to prevent duplication of

1 services;

2 (2) an automated authorization system through which
3 case managers authorize the provision of attendant care services
4 through the appropriate Medicaid state plan program or Section
5 1915(c) waiver program and register the number of hours authorized
6 through each program;

7 (3) billing procedures for attendant care services
8 provided through each Medicaid state plan program or Section
9 1915(c) waiver program; and

10 (4) determinations by case managers and service
11 providers regarding whether provided services are personal care
12 services or habilitation/supported home living services, if that
13 determination is necessary.

14 SECTION 2. Subchapter B, Chapter 531, Government Code, is
15 amended by adding Section 531.0515 to read as follows:

16 Sec. 531.0515. RISK MANAGEMENT CRITERIA FOR CERTAIN WAIVER
17 PROGRAMS. (a) In this section, "legally authorized representative"
18 has the meaning assigned by Section 531.051.

19 (b) The commission shall consider developing risk
20 management criteria under home and community-based services waiver
21 programs designed to allow individuals eligible to receive services
22 under the programs to assume greater choice and responsibility over
23 the services and supports the individuals receive.

24 (c) The commission shall ensure that any risk management
25 criteria developed under this section include:

26 (1) a requirement that if an individual to whom
27 services and supports are to be provided has a legally authorized

1 representative, the representative be involved in determining
2 which services and supports the individual will receive; and

3 (2) a requirement that if services or supports are
4 declined, the decision to decline is clearly documented.

5 SECTION 3. Section 533.0355, Health and Safety Code, is
6 amended by adding Subsection (h) to read as follows:

7 (h) The Department of Aging and Disability Services shall
8 ensure that local mental retardation authorities are informing and
9 counseling individuals and their legally authorized
10 representatives, if applicable, about all program and service
11 options for which the individuals are eligible in accordance with
12 Section 533.038(d), including options such as the availability and
13 types of temporary ICF-MR placements for which an individual may be
14 eligible while the individual is on a department interest list or
15 other waiting list for other services.

16 SECTION 4. Subchapter D, Chapter 161, Human Resources Code,
17 is amended by adding Sections 161.084 and 161.085 to read as
18 follows:

19 Sec. 161.084. ALTERNATIVE OPTIONS IN MEDICAID PUBLIC
20 AWARENESS AND EDUCATION CAMPAIGN. (a) In this section, "Section
21 1915(c) waiver program" has the meaning assigned by Section
22 531.001, Government Code.

23 (b) The department in cooperation with the commission shall
24 develop and implement a public awareness and education campaign
25 designed to educate the public on the availability of:

26 (1) home and community-based services under Section
27 1915(c) waiver programs; and

1 (2) the various service delivery options available
2 under the Medicaid program, including the consumer direction models
3 available to recipients under Section 531.051, Government Code.

4 (c) The department may coordinate the implementation of the
5 campaign under this section with any other related campaign or
6 activity.

7 Sec. 161.085. INTEREST LIST REPORTING. The department
8 shall post on the department's Internet website historical data,
9 categorized by state fiscal year, on the percentages of individuals
10 who elect to receive services under a program for which the
11 department maintains an interest list once their names reach the
12 top of the list.

13 SECTION 5. (a) In this section:

14 (1) "Long-term care services" has the meaning assigned
15 by Section 22.0011, Human Resources Code.

16 (2) "Medical assistance program" means the medical
17 assistance program administered under Chapter 32, Human Resources
18 Code.

19 (3) "Nursing facility" means a convalescent or nursing
20 home or related institution licensed under Chapter 242, Health and
21 Safety Code.

22 (b) The Health and Human Services Commission in cooperation
23 with the Department of Aging and Disability Services shall conduct
24 a study of individuals who receive long-term care services in
25 nursing facilities under the medical assistance program. The
26 study must identify:

27 (1) the reasons medical assistance recipients of

1 long-term care services are placed in nursing facilities as opposed
2 to being provided long-term care services in home or
3 community-based settings;

4 (2) the types of medical assistance services
5 recipients residing in nursing facilities typically receive and
6 where and from whom those services are typically provided;

7 (3) community-based services and supports available
8 under a medical assistance waiver granted in accordance with
9 Section 1915(c) of the federal Social Security Act (42 U.S.C.
10 Section 1396n(c)), for which recipients residing in nursing
11 facilities would be eligible; and

12 (4) ways to expedite recipients' access to
13 community-based services and supports identified under Subdivision
14 (3) of this subsection for which interest lists or other waiting
15 lists exist.

16 (c) Not later than September 1, 2012, the Health and Human
17 Services Commission shall submit a written report containing the
18 findings of the study conducted under Subsection (b) of this
19 section together with the commission's recommendations to the
20 governor, the Legislative Budget Board, the Senate Finance
21 Committee, the Senate Health and Human Services Committee, the
22 House Appropriations Committee, and the House Human Services
23 Committee.

24 SECTION 6. The Health and Human Services Commission shall
25 seek an amendment to the home and community-based services program
26 waiver obtained in accordance with Section 1915(c) of the federal
27 Social Security Act (42 U.S.C. Section 1396n(c)) to allow for the

1 provision of residential care and services under the waiver program
2 by six-bed group home providers. The amendment sought under this
3 section must allow for the conversion of three-bed and four-bed
4 group home providers under the waiver program to six-bed group home
5 providers.

6 SECTION 7. If before implementing any provision of this Act
7 a state agency determines that a waiver or authorization from a
8 federal agency is necessary for implementation of that provision,
9 the agency affected by the provision shall request the waiver or
10 authorization and may delay implementing that provision until the
11 waiver or authorization is granted.

12 SECTION 8. This Act takes effect September 1, 2011.