

By: Dean

H.B. No. 1185

A BILL TO BE ENTITLED

AN ACT

relating to the creation and operation of pediatric long-term care access assurance programs in certain counties.

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

SECTION 1. Subtitle D, Title 4, Health and Safety Code, is amended by adding Chapter 300B to read as follows:

CHAPTER 300B. COUNTY PEDIATRIC LONG-TERM CARE ACCESS ASSURANCE PROGRAM IN CERTAIN COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 300B.0001. DEFINITIONS. In this chapter:

(1) "Paying facility" means a pediatric long-term care facility required to make a mandatory payment under this chapter.

(2) "Pediatric long-term care facility" means a facility licensed under Chapter 242 that maintains an average daily occupancy rate of 80 percent or more children during the 12-month period preceding the date the commissioners court of the applicable county adopts an order under Section 300B.0003.

Sec. 300B.0002. APPLICABILITY. This chapter applies only to a county that:

(1) is served by a pediatric long-term care facility;
(2) has a population of more than 36,000 and less than 41,000; and

(3) is adjacent to a county with a population of more than 200,000 and less than 233,500.

1 Sec. 300B.0003. COUNTY PEDIATRIC LONG-TERM CARE ACCESS
2 ASSURANCE PROGRAM; PARTICIPATION IN PROGRAM. (a) A county
3 pediatric long-term care access assurance program authorizes a
4 county to collect a mandatory payment from each pediatric long-term
5 care facility located in the county to be deposited in a local
6 pediatric long-term care access assurance fund established by the
7 county. Money in the fund may be used by the county to fund certain
8 intergovernmental transfers as provided by this chapter.

9 (b) The commissioners court of a county may adopt an order
10 authorizing the county to participate in a county pediatric
11 long-term care access assurance program, subject to the limitations
12 provided by this chapter.

13 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

14 Sec. 300B.0051. LIMITATION ON AUTHORITY TO REQUIRE
15 MANDATORY PAYMENT. The commissioners court of a county may require
16 a mandatory payment authorized under this chapter by a pediatric
17 long-term care facility in the county only in the manner provided by
18 this chapter.

19 Sec. 300B.0052. MAJORITY VOTE REQUIRED. The commissioners
20 court of a county may not authorize the county to collect a
21 mandatory payment authorized under this chapter without an
22 affirmative vote of a majority of the members of the commissioners
23 court.

24 Sec. 300B.0053. RULES AND PROCEDURES. After the
25 commissioners court of a county has voted to require a mandatory
26 payment authorized under this chapter, the commissioners court may
27 adopt rules relating to the administration of the mandatory

1 payment.

2 Sec. 300B.0054. PEDIATRIC LONG-TERM CARE FACILITY
3 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a
4 county that collects a mandatory payment authorized under this
5 chapter shall require each pediatric long-term care facility to
6 submit to the county information necessary for the county to ensure
7 mandatory payments are collected under this chapter in a manner
8 that is consistent with 42 U.S.C. Section 1396b(w) and 42 C.F.R.
9 Section 433.68.

10 (b) The commissioners court of a county that collects a
11 mandatory payment authorized under this chapter may inspect the
12 records of a pediatric long-term care facility to the extent
13 necessary to ensure compliance with the requirements of Subsection
14 (a).

15 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

16 Sec. 300B.0101. HEARING. (a) Each year, the commissioners
17 court of a county that collects a mandatory payment authorized
18 under this chapter shall hold a public hearing on the amounts of any
19 mandatory payments that the commissioners court intends to require
20 during the year.

21 (b) Not later than the fifth day before the date of the
22 hearing required under Subsection (a), the commissioners court of a
23 county shall publish notice of the hearing in a newspaper of general
24 circulation in the county.

25 (c) A representative of a paying facility is entitled to
26 appear at the time and place designated in the public notice and to
27 be heard regarding any matter related to the mandatory payments

1 authorized under this chapter.

2 Sec. 300B.0102. DEPOSITORY. (a) The commissioners court
3 of each county that collects a mandatory payment authorized under
4 this chapter shall designate one or more banks located in the county
5 as the depository for mandatory payments received by the county.

6 (b) All income received by a county under this chapter,
7 including the revenue from mandatory payments remaining after
8 discounts and fees for assessing and collecting the payments are
9 deducted, shall be deposited with the county depository in the
10 county's pediatric long-term care access assurance fund and may be
11 withdrawn only as provided by this chapter.

12 (c) All money received under this chapter shall be secured
13 in the manner provided by law for securing county money.

14 Sec. 300B.0103. PEDIATRIC LONG-TERM CARE ACCESS ASSURANCE
15 FUND; AUTHORIZED USES OF MONEY. (a) Each county that collects a
16 mandatory payment authorized under this chapter shall create a
17 pediatric long-term care access assurance fund.

18 (b) The pediatric long-term care access assurance fund of a
19 county consists of:

20 (1) all revenue received by the county attributable to
21 mandatory payments authorized under this chapter, including any
22 penalties and interest attributable to delinquent payments;

23 (2) money received from the Health and Human Services
24 Commission as a refund of an intergovernmental transfer from the
25 county to the state for the purpose of providing the nonfederal
26 share of Medicaid payment programs, provided that the
27 intergovernmental transfer does not receive a federal matching

1 payment; and

2 (3) the earnings of the fund.

3 (c) Money deposited to the pediatric long-term care access
4 assurance fund of a county may be used only to:

5 (1) fund intergovernmental transfers from the county
6 to the state to provide the nonfederal share of a Medicaid payment
7 program authorized under the state Medicaid plan, the Texas
8 Healthcare Transformation and Quality Improvement Program waiver
9 issued under Section 1115 of the federal Social Security Act (42
10 U.S.C. Section 1315), or a successor waiver program authorizing
11 similar Medicaid payment programs;

12 (2) pay the administrative expenses of the county
13 solely for activities under this chapter;

14 (3) refund a portion of a mandatory payment collected
15 in error from a paying facility; and

16 (4) refund to paying facilities the proportionate
17 share of money received by the county that is not used to fund the
18 nonfederal share of a Medicaid payment program.

19 (d) Money in the pediatric long-term care access assurance
20 fund of a county may not be commingled with other county money.

21 (e) An intergovernmental transfer of money described by
22 Subsection (c)(1) and any money received by a county as a result of
23 an intergovernmental transfer described by that subdivision may not
24 be used by the county or any other entity to expand Medicaid
25 eligibility under the Patient Protection and Affordable Care Act
26 (Pub. L. No. 111-148) as amended by the Health Care and Education
27 Reconciliation Act of 2010 (Pub. L. No. 111-152).

1 SUBCHAPTER D. MANDATORY PAYMENTS

2 Sec. 300B.0151. MANDATORY PAYMENTS BASED ON PAYING FACILITY
3 NET PATIENT REVENUE. (a) Subject to Subsection (e), the
4 commissioners court of a county that collects a mandatory payment
5 authorized under this chapter may require an annual mandatory
6 payment to be assessed on the net patient revenue of each pediatric
7 long-term care facility located in the county. The commissioners
8 court may provide for the mandatory payment to be assessed
9 quarterly. The county shall update the amount of the mandatory
10 payment on an annual basis.

11 (b) The amount of a mandatory payment authorized under this
12 chapter must be uniformly proportionate with the amount of net
13 patient revenue generated by each paying facility in a county. A
14 mandatory payment authorized under this chapter may not hold
15 harmless any pediatric long-term care facility, as required under
16 42 U.S.C. Section 1396b(w).

17 (c) The commissioners court of a county that collects a
18 mandatory payment authorized under this chapter shall set the
19 amount of the mandatory payment. The amount of the mandatory
20 payment required of each paying facility may not exceed six percent
21 of the paying facility's net patient revenue.

22 (d) Subject to the maximum amount prescribed by Subsection
23 (c), the commissioners court of a county that collects a mandatory
24 payment authorized under this chapter shall set the mandatory
25 payments in amounts that in the aggregate will generate sufficient
26 revenue to cover the administrative expenses of the county for
27 activities under this chapter and to fund an intergovernmental

1 transfer described by Section 300B.0103(c)(1), except that the
2 amount of revenue from mandatory payments used for administrative
3 expenses of the county for activities under this chapter in a year
4 may not exceed the lesser of four percent of the total revenue
5 generated from the mandatory payment or \$20,000.

6 (e) A paying facility may not add a mandatory payment
7 authorized under this section as a surcharge to a patient.

8 Sec. 300B.0152. ASSESSMENT AND COLLECTION OF MANDATORY
9 PAYMENTS. The county may collect or contract for the assessment and
10 collection of mandatory payments authorized under this chapter.

11 Sec. 300B.0153. INTEREST, PENALTIES, AND DISCOUNTS.
12 Interest, penalties, and discounts on mandatory payments
13 authorized under this chapter are governed by the law applicable to
14 county ad valorem taxes.

15 Sec. 300B.0154. PURPOSE; CORRECTION OF INVALID PROVISION OR
16 PROCEDURE. (a) The purpose of this chapter is to generate revenue
17 by collecting from pediatric long-term care facilities a mandatory
18 payment to be used to provide the nonfederal share of a Medicaid
19 payment program.

20 (b) To the extent any provision or procedure under this
21 chapter causes a mandatory payment authorized under this chapter to
22 be ineligible for federal matching funds, a county may provide by
23 rule for an alternative provision or procedure that conforms to the
24 requirements of the federal Centers for Medicare and Medicaid
25 Services.

26 SECTION 2. If before implementing any provision of this Act
27 a state agency determines that a waiver or authorization from a

1 federal agency is necessary for implementation of that provision,
2 the agency affected by the provision shall request the waiver or
3 authorization and may delay implementing that provision until the
4 waiver or authorization is granted.

5 SECTION 3. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2023.