

By: Thierry

H.B. No. 3551

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to presumptive eligibility of certain elderly individuals  
3 for home and community-based services under Medicaid.

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

5 SECTION 1. Subchapter B, Chapter 32, Human Resources Code,  
6 is amended by adding Section 32.02605 to read as follows:

7 Sec. 32.02605. PRESUMPTIVE ELIGIBILITY OF CERTAIN ELDERLY  
8 INDIVIDUALS FOR HOME AND COMMUNITY-BASED SERVICES. (a) In this  
9 section, "elderly individual" means an individual who is 65 years  
10 of age or older.

11 (b) The executive commissioner by rule shall adopt a program  
12 providing for:

13 (1) the determination and certification of  
14 presumptive eligibility for medical assistance of an elderly  
15 individual who requires a skilled level of nursing care; and

16 (2) the provision through the medical assistance  
17 program to the individual of that care in a home or community-based  
18 setting instead of in an institutional setting, provided the  
19 individual applies for and meets the basic eligibility requirements  
20 for medical assistance.

21 (c) The program established under this section must:

22 (1) provide medical assistance benefits under a  
23 presumptive eligibility determination for a period of not more than  
24 90 days;

1           (2) establish eligibility criteria and a process for  
2 determining the entities authorized to make determinations of  
3 presumptive eligibility under the program;

4           (3) provide a preliminary screening tool to entities  
5 described by Subdivision (2) that will allow representatives of  
6 those entities to:

7                   (A) make a determination as to whether an  
8 applicant is:

9                           (i) functionally able to live at home or in  
10 a community setting; and

11                           (ii) likely to be financially eligible for  
12 medical assistance;

13                   (B) make the determination under Paragraph  
14 (A)(ii) not later than the fourth day after the date a determination  
15 is made under Paragraph (A)(i); and

16                   (C) initiate the provision of medical assistance  
17 benefits not later than the fifth day after the date an applicant is  
18 determined eligible under Paragraph (A)(i); and

19           (4) require an applicant to sign a written agreement:

20                   (A) attesting to the accuracy of financial and  
21 other information the applicant provides and on which presumptive  
22 eligibility is based; and

23                   (B) acknowledging that:

24                           (i) state-funded services are subject to  
25 the period prescribed by Subdivision (1); and

26                           (ii) the applicant is required to comply  
27 with Subsection (d).

1       (d) An applicant who is determined presumptively eligible  
2 for medical assistance under the program established by this  
3 section must complete an application for medical assistance not  
4 later than the 10th day after the date the applicant is screened for  
5 functional eligibility under Subsection (c)(3)(A)(i).

6       (e) Not later than the 45th day after the date the  
7 commission receives an application under Subsection (d), the  
8 commission shall make a final determination of eligibility for  
9 medical assistance.

10       (f) To the extent permitted by federal law, the commission  
11 shall retroactively apply a final determination of eligibility for  
12 medical assistance under Subsection (e) for a period that does not  
13 precede the 90th day before the date the application was filed under  
14 Subsection (d).

15       (g) The commission shall submit to the standing committees  
16 of the senate and house of representatives having jurisdiction over  
17 the medical assistance program an annual report that details:

18               (1) the number of individuals determined  
19 presumptively eligible for medical assistance under the program  
20 established under this section;

21               (2) the savings to the state based on how much  
22 institutional care would have cost for individuals determined  
23 presumptively eligible for medical assistance under the program  
24 established under this section who were later determined eligible  
25 for medical assistance; and

26               (3) the number of individuals determined  
27 presumptively eligible for medical assistance under the program

1 established under this section who were later determined not  
2 eligible for medical assistance and the cost to the state to provide  
3 those individuals with home or community-based services before the  
4 final determination of eligibility for medical assistance.

5 (h) The report required under Subsection (g) may be combined  
6 with any other report required by this chapter or other law.

7 SECTION 2. If before implementing any provision of this Act  
8 a state agency determines that a waiver or authorization from a  
9 federal agency is necessary for implementation of that provision,  
10 the agency affected by the provision shall request the waiver or  
11 authorization and may delay implementing that provision until the  
12 waiver or authorization is granted.

13 SECTION 3. This Act takes effect September 1, 2023.