

By: Coleman

H.B. No. 46

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain essential health and human services programs;
3 making appropriations.

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

5 SECTION 1. PURPOSE. (a) The legislature finds that:

6 (1) budget cuts to state-supported health and human
7 services programs contained in Chapter 1330, Acts of the 78th
8 Legislature, Regular Session, 2003 (the General Appropriations
9 Act), have been devastating to the most vulnerable Texans;

10 (2) the failure to fund health care needs at the state
11 level imposes an additional burden on local health care providers
12 and local taxpayers across this state;

13 (3) cuts to state health care expenditures not only
14 result in a loss of federal matching funds but also have a negative
15 impact on the economy of this state; and

16 (4) additional funds are available for the legislature
17 to appropriate during the 4th Called Session of the 78th
18 Legislature.

19 (b) Because of the conditions described by Subsection (a) of
20 this section, it is the purpose of this Act to make appropriations
21 for certain state-supported programs and services in order to
22 restore, to the greatest extent possible, budget cuts made to
23 health and human services programs during the 78th Legislature,
24 Regular Session, 2003.

1 SECTION 2. AMENDMENT. Section 11.28, Article IX, Chapter
2 1330, Acts of the 78th Legislature, Regular Session, 2003 (the
3 General Appropriations Act), as amended by Chapters 8 and 10, Acts
4 of the 78th Legislature, 3rd Called Session, 2003, is reenacted and
5 amended to read as follows:

6 Sec. 11.28. Appropriation of State Fiscal Relief Federal
7 Funds and Reappropriation [~~for State Fiscal Relief~~] of Vetoed
8 General Revenue Appropriations. (a) Notwithstanding other
9 provisions of this Act, based upon the passage of federal
10 legislation that provides federal funds for the purpose of state
11 fiscal relief, such funds are appropriated to the agencies
12 specified by Subsection (e) of this section for the purposes and in
13 the amounts specified by Subsection (e) of this section
14 [~~Comptroller of Public Accounts~~] in the fiscal year in which the
15 funds are received, except to the extent that the funds have
16 previously been made subject to a budget execution order adopted by
17 the Governor and the Legislative Budget Board acting under Chapter
18 317, Government Code, and this section [~~for the purpose of~~
19 ~~transferring funds to state agencies for state fiscal relief, as~~
20 ~~directed by the Governor and Legislative Budget Board acting under~~
21 ~~Chapter 317, Government Code, and in accordance with this section~~].

22 [~~(b) The Legislative Budget Board and the Governor shall~~
23 ~~develop a plan that outlines the transfers of these funds, by fiscal~~
24 ~~year, agency, and strategy for the purpose of state fiscal relief.~~
25 ~~It is a priority of the Legislature that the plan of transfers will~~
26 ~~provide funding as follows:~~

27 [~~(1) One-quarter of the amounts received for state fiscal~~

1 ~~relief may be used for partial restoration of reimbursement rates~~
2 ~~assumed in Article II of this Act to fiscal year 2003 levels.~~

3 ~~[(2) Restoration of the hours assumed in Community Care~~
4 ~~Programs at the Department of Human Services to fiscal year 2003.~~

5 ~~[(3) Such funds shall also be used for the items shown below~~
6 ~~in bill pattern order:~~

7 ~~[Texas Department of Health:~~

8 ~~[A.3.1, HIV & STD Education & Services~~

9 ~~[D.2.1, Community Health Services~~

10 ~~[Health and Human Services Commission:~~

11 ~~[B.2.3, Premiums: Pregnant Women (from 158% of the Federal~~
12 ~~Poverty Level to 185% of the Federal Poverty Level)~~

13 ~~[B.2.4, Premiums: Children/Medically Needy (for Medically~~
14 ~~Needy)~~

15 ~~[B.2.7, Cost Reimbursed Services (for Graduate Medical~~
16 ~~Education)~~

17 ~~[Department of Human Services:~~

18 ~~[A.1.1, Community Care - State~~

19 ~~[Department of Mental Health and Mental Retardation~~

20 ~~[C.1.1, MR Community Services~~

21 ~~[Department of Protective and Regulatory Services:~~

22 ~~[A.1.7, At-Risk Prevention Services~~

23 ~~[(4) Texas B-On-Time Loan Program.]~~

24 (c) Notwithstanding Section 11.15(b) of this article, an
25 amount equal to the sum of the General Revenue Fund and general
26 revenue dedicated account appropriations contained in this Act that
27 are vetoed by the Governor under Section 14, Article IV, Texas

1 Constitution, is appropriated out of the General Revenue Fund or
2 appropriate general revenue dedicated account to the agencies
3 specified by Subsection (e) of this section for the purposes and in
4 the amounts specified by Subsection (e) of this section
5 ~~[Comptroller of Public Accounts]~~ for the state fiscal biennium
6 beginning September 1, 2003, except to the extent that the funds
7 have previously been made subject to a budget execution order
8 adopted by the Governor and the Legislative Budget Board acting
9 under Chapter 317, Government Code, and this section ~~[for the~~
10 ~~purpose of transferring funds to state agencies for state fiscal~~
11 ~~relief, as directed by the Governor and Legislative Budget Board~~
12 ~~acting under Chapter 317, Government Code, and in accordance with~~
13 ~~subsection (b) of this section].~~

14 ~~[(d) This section does not prohibit the Governor and the~~
15 ~~Legislative Budget Board, acting under Chapter 317, Government~~
16 ~~Code, from making an emergency transfer of money appropriated by~~
17 ~~this section, based on need, to an agency or for a purpose that is~~
18 ~~not described by subsection (b) of this section.~~

19 ~~[(c) In addition to the priorities established by~~
20 ~~Subsection (b) of this section, such funds shall also be used for~~
21 ~~the state child health plan, Goal C of the appropriations to the~~
22 ~~Health and Human Services Commission (insure children), to provide~~
23 ~~necessary and appropriate short-term evaluative or crisis~~
24 ~~intervention mental health services and services for the treatment~~
25 ~~of serious mental illness.]~~

26 (d) It is the intent of the legislature that the agencies
27 implementing the state Medicaid program allow ~~[In addition to the~~

1 ~~priorities otherwise established by this section, it is also a~~
2 ~~priority of the Legislature that the plan provide funding to~~
3 ~~permit] a Medicaid recipient, including an adult recipient, to~~
4 select a licensed psychologist, a licensed marriage and family
5 therapist, as defined by Section 502.002, Occupations Code, a
6 licensed professional counselor, as defined by Section 503.002,
7 Occupations Code, or a licensed master social worker, as defined by
8 Section 505.002, Occupations Code, to perform professional
9 counseling services or other health care services or procedures
10 covered under the Medicaid program if the selected person is
11 authorized by law to perform the counseling or other services or
12 procedures. Money appropriated by this General Appropriations Act
13 for the state Medicaid program may be spent for these purposes.

14 (e) The amounts described by Subsections (a) and (c) of this
15 section are appropriated for the periods prescribed by Subsections
16 (a) and (c) of this section as follows:

17 (1) \$116 million to the Texas Department of Human
18 Services for the purpose of restoring the number of hours and
19 clients assumed in the community care programs to fiscal year 2003
20 levels;

21 (2) \$8.1 million to the Texas Department of Human
22 Services for the purpose of restoring the personal needs allowance
23 to not less than \$60 a month for a resident of a convalescent or
24 nursing home, personal care facility, ICF-MR facility, or other
25 similar long-term care facility who receives such an allowance
26 under the state Medicaid program;

27 (3) \$27.5 million to the Health and Human Services

1 Commission for the purpose of restoring Medicaid coverage for
2 approximately 8,300 pregnant women on an average monthly basis;

3 (4) \$129 million to the Health and Human Services
4 Commission for the purpose of restoring eligibility criteria, to
5 the extent possible under law, and restoring benefits for the state
6 child health plan (CHIP) to fiscal year 2003 levels;

7 (5) \$26.9 million to the Health and Human Services
8 Commission for the purpose of restoring optional benefits for adult
9 Medicaid recipients to fiscal year 2003 levels, including mental
10 health benefits and benefits for eyeglasses, hearing aids,
11 podiatric care, and other services;

12 (6) \$6.6 million to the Texas Department of Health for
13 the purpose of providing services to an additional approximately
14 1,500 chronically ill and disabled children on the waiting list for
15 the Children with Special Health Care Needs program;

16 (7) \$3.2 million to the Department of Family and
17 Protective Services for the purpose of restoring, to the greatest
18 extent possible, reductions in adoption services and client
19 services for families involved in active child abuse cases;

20 (8) \$17.4 million to the Department of Family and
21 Protective Services for At-Risk Prevention Services, which provide
22 support to community-based prevention programs that alleviate the
23 conditions that lead to child abuse, child neglect, and juvenile
24 crime, in addition to any other amounts appropriated to the
25 department for all or part of the state fiscal biennium beginning
26 September 1, 2003, that may be used for these programs;

27 (9) \$16.6 million to the Texas Department of Mental

1 Health and Mental Retardation to restore In-Home and Family Support
2 Program services to assist more than 2,946 Texans in living
3 independently;

4 (10) \$36.6 million to the Texas Department of Mental
5 Health and Mental Retardation for community mental health services,
6 in addition to any other amounts appropriated to the department for
7 all or part of the state fiscal biennium beginning September 1,
8 2003, that may be used for community mental health services;

9 (11) \$14.9 million to the Texas Department of Health
10 for HIV & STD Education and Services to restore levels of services
11 to fiscal year 2003 levels;

12 (12) \$28.6 million to the Health and Human Services
13 Commission to restore the Medically Needy Program to assist
14 approximately 10,000 Texans each month in paying health care
15 expenses; and

16 (13) \$17.5 million to the Health and Human Services
17 Commission for providing Medicaid benefits to adult recipients of
18 Temporary Assistance for Needy Families.

19 (f) Method of financing: Money appropriated under
20 Subsections (c) and (e) of this section shall be made available to
21 the agencies and for the purposes listed under Subsection (e) of
22 this section based on the proportion that each amount appropriated
23 under Subsection (e) of this section bears to the amount available
24 under Subsection (c) of this section. Money appropriated under
25 Subsections (a) and (e) of this section shall be made available to
26 the agencies and for the purposes listed under Subsection (e) of
27 this section based on the proportion that each amount appropriated

1 under Subsection (e) of this section bears to the amount available
2 under Subsection (a) of this section.

3 SECTION 3. AMENDMENT. Section 3.02, Chapter 8, Acts of the
4 78th Legislature, 3rd Called Session, 2003, is amended to read as
5 follows:

6 Sec. 3.02. An amount of funds estimated to be \$231,700,000
7 deposited to the credit of the general revenue fund in state fiscal
8 year 2005 under Section 20.02(c), House Bill No. 3588, Acts of the
9 78th Legislature, Regular Session, 2003, as amended by this Act, is
10 appropriated out of the general revenue fund for the state fiscal
11 biennium beginning September 1, 2003, to replace an equal amount of
12 federal fiscal relief funds utilized to certify general revenue
13 appropriations made by House Bill No. 1, Acts of the 78th
14 Legislature, Regular Session, 2003 (the General Appropriations
15 Act). The federal fiscal relief funds so replaced are appropriated
16 [~~to the comptroller of public accounts~~] for the state fiscal
17 biennium beginning September 1, 2003, to the agencies and for the
18 purposes described by Section 11.28, Article IX, House Bill No. 1,
19 Acts of the 78th Legislature, Regular Session, 2003 (the General
20 Appropriations Act).

21 SECTION 4. AMENDMENT. Section 32.024(i), Human Resources
22 Code, as amended by Chapters 198 and 1251, Acts of the 78th
23 Legislature, Regular Session, 2003, is reenacted to read as
24 follows:

25 (i) The department in its adoption of rules shall establish
26 a medically needy program that serves pregnant women, children, and
27 caretakers who have high medical expenses, subject to availability

1 of appropriated funds.

2 SECTION 5. AMENDMENT. Section 32.024(w), Human Resources
3 Code, is amended to read as follows:

4 (w) The department shall set a personal needs allowance of
5 not less than \$60 [~~\$45~~] a month for a resident of a convalescent or
6 nursing home or related institution licensed under Chapter 242,
7 Health and Safety Code, personal care facility, ICF-MR facility, or
8 other similar long-term care facility who receives medical
9 assistance. The department may send the personal needs allowance
10 directly to a resident who receives Supplemental Security Income
11 (SSI) (42 U.S.C. Section 1381 et seq.). This subsection does not
12 apply to a resident who is participating in a medical assistance
13 waiver program administered by the department.

14 SECTION 6. AMENDMENT. Section 32.027, Human Resources
15 Code, is amended by adding Subsections (l) and (m) to read as
16 follows:

17 (l) The department shall assure that a recipient of medical
18 assistance under this chapter may select a licensed psychologist, a
19 licensed marriage and family therapist, as defined by Section
20 502.002, Occupations Code, a licensed professional counselor, as
21 defined by Section 503.002, Occupations Code, or a licensed master
22 social worker, as defined by Section 505.002, Occupations Code, to
23 perform professional counseling services covered under the medical
24 assistance program or any other health care service or procedure
25 covered under the medical assistance program if the selected person
26 is authorized by law to perform the service or procedure. This
27 subsection shall be liberally construed.

1 (m) The department shall assure that a recipient of medical
2 assistance under this chapter may select a licensed podiatrist to
3 perform any foot health care service or procedure covered under the
4 medical assistance program if the podiatrist is authorized by law
5 to perform the service or procedure. This subsection shall be
6 liberally construed.

7 SECTION 7. PREVIOUS BUDGET EXECUTION ORDERS NOT AFFECTED.
8 The changes in law made by this Act to Section 11.28, Article IX,
9 Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003
10 (the General Appropriations Act), as amended by Chapters 8 and 10,
11 Acts of the 78th Legislature, 3rd Called Session, 2003, do not
12 affect the validity of a budget execution order adopted by the
13 governor and the Legislative Budget Board acting under the
14 authority of Section 11.28 and Chapter 317, Government Code, before
15 Section 11.28 was amended by this Act.

16 SECTION 8. REPEALER. Sections 32.027(b) and (e), Human
17 Resources Code, are repealed.

18 SECTION 9. EFFECTIVE DATE. This Act takes effect
19 immediately if it receives a vote of two-thirds of all the members
20 elected to each house, as provided by Section 39, Article III, Texas
21 Constitution. If this Act does not receive the vote necessary for
22 immediate effect, this Act takes effect on the 91st day after the
23 last day of the legislative session.