

By: Naishtat, et al.

H.B. No. 2142

A BILL TO BE ENTITLED

AN ACT

relating to medical assistance in certain alternative community-based care settings.

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

SECTION 1. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.057 to read as follows:

Sec. 32.057. LIMITATION ON MEDICAL ASSISTANCE IN CERTAIN ALTERNATIVE COMMUNITY-BASED CARE SETTINGS. (a) In this section:

(1) "Institution" means a nursing facility or an ICF-MR facility.

(2) "Medical assistance waiver program" means:

(A) the community-based alternatives program;

(B) the community living assistance and support services program;

(C) the deaf-blind/multiple disabilities program;

(D) the consolidated waiver pilot program; or

(E) the medically dependent children program.

(b) Except as provided by Subsection (c) or (d), the department may not provide services under a medical assistance waiver program to a person receiving medical assistance if the cost of providing those services exceeds the individual cost limit specified in the medical assistance waiver program.

(c) The department shall continue to provide services under

1 a medical assistance waiver program to a person eligible for and
2 receiving those services on September 1, 2003, if continuation of
3 those services:

4 (1) is necessary for the person to live in the most
5 integrated setting appropriate to the needs of the person; and

6 (2) does not affect the department's compliance with
7 the federal cost-effectiveness and efficiency requirements of the
8 medical assistance waiver program under 42 U.S.C. Sections 1396n(b)
9 and 1396n(c)(2)(D), as amended.

10 (d) The department may continue to provide services under a
11 medical assistance waiver program to a person who is ineligible to
12 receive those services under Subsection (b) and to whom Subsection
13 (c) does not apply if:

14 (1) the cost of providing those services to the person
15 under the medical assistance waiver program does not exceed 133.3
16 percent of the individual cost limit specified in the medical
17 assistance waiver program; and

18 (2) continuation of those services does not affect the
19 department's compliance with the federal cost-effectiveness and
20 efficiency requirements of the medical assistance waiver program
21 under 42 U.S.C. Sections 1396n(b) and 1396n(c)(2)(D), as amended.

22 (e) The Texas Board of Human Services or the commissioner of
23 human services may exempt a person from the cost limit established
24 under Subsection (d)(1) if the board or commissioner finds an undue
25 hardship to the person in providing comparable services at the
26 appropriate institution.

27 SECTION 2. This Act takes effect September 1, 2003, and

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1 applies to a person receiving medical assistance on or after that
2 date, regardless of when eligibility for that assistance was
3 determined.