

1-1 By: Zaffirini S.B. No. 1743
1-2 (In the Senate - Filed March 14, 2003; March 24, 2003, read
1-3 first time and referred to Committee on Health and Human Services;
1-4 May 2, 2003, reported favorably by the following vote: Yeas 8,
1-5 Nays 0; May 2, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to medical assistance in certain alternative
1-9 community-based care settings.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter B, Chapter 32, Human Resources Code,
1-12 is amended by adding Section 32.057 to read as follows:

1-13 Sec. 32.057. LIMITATION ON MEDICAL ASSISTANCE IN CERTAIN
1-14 ALTERNATIVE COMMUNITY-BASED CARE SETTINGS. (a) In this section:

1-15 (1) "Institution" means a nursing facility or an
1-16 ICF-MR facility.

1-17 (2) "Medical assistance waiver program" means:

1-18 (A) the community-based alternatives program;

1-19 (B) the community living assistance and support
1-20 services program;

1-21 (C) the deaf-blind/multiple disabilities
1-22 program;

1-23 (D) the consolidated waiver pilot program; or

1-24 (E) the medically dependent children program.

1-25 (b) Except as provided by Subsection (c) or (d), the
1-26 department may not provide services under a medical assistance
1-27 waiver program to a person receiving medical assistance if the cost
1-28 of providing those services exceeds the individual cost limit
1-29 specified in the medical assistance waiver program.

1-30 (c) The department shall continue to provide services under
1-31 a medical assistance waiver program to a person eligible for and
1-32 receiving those services on September 1, 2003, if continuation of
1-33 those services:

1-34 (1) is necessary for the person to live in the most
1-35 integrated setting appropriate to the needs of the person; and

1-36 (2) does not affect the department's compliance with
1-37 the federal cost-effectiveness and efficiency requirements of the
1-38 medical assistance waiver program under 42 U.S.C. Sections 1396n(b)
1-39 and (c)(2)(D), as amended.

1-40 (d) The department may continue to provide services under a
1-41 medical assistance waiver program to a person who is ineligible to
1-42 receive those services under Subsection (b) and to whom Subsection
1-43 (c) does not apply if:

1-44 (1) the cost of providing those services to the person
1-45 under the medical assistance waiver program does not exceed 133.3
1-46 percent of the individual cost limit specified in the medical
1-47 assistance waiver program; and

1-48 (2) continuation of those services does not affect the
1-49 department's compliance with the federal cost-effectiveness and
1-50 efficiency requirements of the medical assistance waiver program
1-51 under 42 U.S.C. Sections 1396n(b) and (c)(2)(D), as amended.

1-52 (e) The Texas Board of Human Services or the Commissioner of
1-53 Human Services may exempt a person from the cost limit established
1-54 under Subsection (d)(1) if the Texas Board of Human Services or
1-55 Commissioner of Human Services finds an undue hardship to the
1-56 person in providing comparable services at the appropriate
1-57 institution.

1-58 SECTION 2. This Act takes effect September 1, 2003, and
1-59 applies to a person receiving medical assistance on or after that
1-60 date, regardless of when eligibility for that assistance was
1-61 determined.

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