

AN ACT

relating to health and human services.

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

SECTION 1. (a) Subsection (a), Section 252.202, Health and Safety Code, is amended to read as follows:

(a) A quality assurance fee is imposed on each facility for which a license fee must be paid under Section 252.034, ~~and~~ on each facility owned by a community mental health and mental retardation center, as described by Subchapter A, Chapter 534, and on each facility owned by the Texas Department of Mental Health and Mental Retardation. The fee:

(1) is an amount established under Subsection (b) multiplied by the number of patient days as determined in accordance with Section 252.203;

(2) is payable monthly; and

(3) is in addition to other fees imposed under this chapter.

(b) Not later than August 31, 2003, the Texas Department of Mental Health and Mental Retardation shall pay for each facility owned by the department the quality assurance fee imposed by Section 252.202, Health and Safety Code, as amended by this section, for patient days occurring between September 1, 2002, and July 31, 2003. However, the department is not required to pay that quality assurance fee as provided by this subsection if this

1 section does not take effect before September 1, 2003, and, in that
2 event, any appropriation made to the department for that purpose
3 may not be made available to the department for that purpose.

4 SECTION 2. Section 252.203, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 252.203. PATIENT DAYS. For each calendar day, a
7 facility shall determine the number of patient days by adding the
8 following:

9 (1) the number of patients occupying a facility bed
10 immediately before midnight of that day; and

11 ~~(2) [the number of beds that are on hold on that day~~
12 ~~and that have been placed on hold for a period not to exceed three~~
13 ~~consecutive calendar days during which a patient is in a hospital,~~
14 ~~and~~

15 ~~[(3)]~~ (3) the number of beds that are on hold on that day
16 and that have been placed on hold for a period not to exceed three
17 consecutive calendar days during which a patient is on therapeutic
18 ~~[home]~~ leave.

19 SECTION 3. Subsection (b), Section 252.204, Health and
20 Safety Code, is amended to read as follows:

21 (b) Each facility shall:

22 (1) not later than the 20th ~~[10th]~~ day after the last
23 day of a month file a report with the Health and Human Services
24 Commission or the department, as appropriate, stating the total
25 patient days for the month; and

26 (2) not later than the 30th day after the last day of
27 the month pay the quality assurance fee.

1 SECTION 4. (a) Subsections (a) and (c), Section 252.207,
2 Health and Safety Code, are amended to read as follows:

3 (a) Subject to legislative appropriation and state and
4 federal law, the [The] Health and Human Services Commission may
5 ~~[shall]~~ use money in the quality assurance fund, together with any
6 federal money available to match that money~~[, to]~~:

7 (1) to offset ~~[allowable]~~ expenses incurred to
8 administer the quality assurance fee under this chapter ~~[under the~~
9 ~~Medicaid program]~~; ~~[or]~~

10 (2) to increase reimbursement rates paid under the
11 Medicaid program to facilities or waiver programs for persons with
12 mental retardation operated in accordance with 42 U.S.C. Section
13 1396n(c) and its subsequent amendments; or

14 (3) for any other health and human services purpose
15 approved by the governor and Legislative Budget Board~~[, subject to~~
16 ~~Section 252.206(d)]~~.

17 (c) If money in the quality assurance fund is used to
18 increase a reimbursement rate in the Medicaid program, the [The]
19 Health and Human Services Commission shall ensure that the
20 reimbursement methodology used to set that rate ~~[formula devised~~
21 ~~under Subsection (b)]~~ provides incentives to increase direct care
22 staffing and direct care wages and benefits.

23 (b) Subsection (b), Section 252.207, Health and Safety
24 Code, is repealed.

25 SECTION 5. (a) Subsection (d), Section 31.032, Human
26 Resources Code, is amended to read as follows:

27 (d) In determining whether an applicant is eligible for

1 assistance, the department shall exclude from the applicant's
2 available resources:

3 (1) \$1,000 [~~\$2,000~~] for the applicant's household,
4 including a household in which there is [~~or \$3,000 if there is~~] a
5 person with a disability or a person who is at least 60 years of age
6 [~~in the applicant's household~~]; and

7 (2) the fair market value of the applicant's ownership
8 interest in a motor vehicle, but not more than the amount determined
9 according to the following schedule:

10 (A) \$4,550 on or after September 1, 1995, but
11 before October 1, 1995;

12 (B) \$4,600 on or after October 1, 1995, but
13 before October 1, 1996;

14 (C) \$5,000 on or after October 1, 1996, but
15 before October 1, 1997; and

16 (D) \$5,000 plus or minus an amount to be
17 determined annually beginning on October 1, 1997, to reflect
18 changes in the new car component of the Consumer Price Index for All
19 Urban Consumers published by the Bureau of Labor Statistics.

20 (b) Subsection (d), Section 31.032, Human Resources Code,
21 as amended by this section, applies to a person receiving financial
22 assistance on or after the effective date of the Act, regardless of
23 the date on which eligibility for financial assistance was
24 determined.

25 SECTION 6. Subsection (i), Section 32.024, Human Resources
26 Code, is amended to read as follows:

27 (i) Subject to appropriated state funds, the [~~The~~]

1 department in its adoption of rules shall establish a medically
2 needy program that serves pregnant women, children, and caretakers
3 who have high medical expenses.

4 SECTION 7. Subsection (e), Section 32.025, Human Resources
5 Code, is amended to read as follows:

6 (e) The department shall permit an application requesting
7 medical assistance for a child under 19 years of age to be conducted
8 by mail instead of through a personal appearance at a department
9 office, unless the department determines that the information
10 needed to verify eligibility cannot be obtained in that manner. The
11 department by rule may develop procedures requiring an application
12 for a child described by this subsection to be conducted through a
13 personal interview with a department representative only if the
14 department determines that information needed to verify
15 eligibility cannot be obtained in any other manner.

16 SECTION 8. Section 32.026, Human Resources Code, is amended
17 by amending Subsection (e) and adding Subsection (g) to read as
18 follows:

19 (e) The department shall permit a recertification review of
20 the eligibility and need for medical assistance of a child under 19
21 years of age to be conducted by telephone or mail instead of through
22 a personal appearance at a department office, unless the department
23 determines that the information needed to verify eligibility cannot
24 be obtained in that manner. The department by rule may develop
25 procedures to determine whether there is a need for a
26 recertification review of a child described by this subsection to
27 be conducted through a personal interview with a department

1 representative. Procedures developed under this subsection shall
2 be based on objective, risk-based factors and conditions and shall
3 focus on a targeted group of recertification reviews for which
4 there is a high probability that eligibility will not be
5 recertified.

6 (g) Notwithstanding any other provision of this code, the
7 department may use information obtained from a third party to
8 verify the assets and resources of a person for purposes of
9 determining the person's eligibility and need for medical
10 assistance. Third-party information includes information obtained
11 from:

12 (1) a consumer reporting agency, as defined by Section
13 20.01, Business & Commerce Code;

14 (2) an appraisal district; or

15 (3) the Texas Department of Transportation's vehicle
16 registration record database.

17 SECTION 9. Subsections (b) and (e), Section 32.027, Human
18 Resources Code, are amended to read as follows:

19 (b) Subject to appropriated state funds, the [~~The~~]
20 department shall assure that a recipient of medical assistance
21 under this chapter may select a licensed podiatrist to perform any
22 foot health care service or procedure covered under the medical
23 assistance program if the podiatrist is authorized by law to
24 perform the service or procedure. This subsection shall be
25 liberally construed.

26 (e) Subject to appropriated state funds, the [~~The~~]
27 department shall assure that a recipient of medical assistance

1 under this chapter may select a licensed psychologist or a licensed
2 marriage and family therapist, as defined by Section 502.002,
3 Occupations Code, to perform any health care service or procedure
4 covered under the medical assistance program if the selected
5 psychologist or marriage and family therapist is authorized by law
6 to perform the service or procedure. This subsection shall be
7 liberally construed.

8 SECTION 10. Subchapter B, Chapter 32, Human Resources Code,
9 is amended by adding Section 32.0462 to read as follows:

10 Sec. 32.0462. VENDOR DRUG PROGRAM; PRICING STANDARD.

11 (a) Notwithstanding any other provision of state law, the
12 department shall:

13 (1) consider a nationally recognized, unbiased
14 pricing standard for prescription drugs in determining
15 reimbursement amounts under the vendor drug program; and

16 (2) update reimbursement amounts under the vendor drug
17 program at least weekly.

18 (b) The commissioner shall adopt rules implementing this
19 section. In adopting rules, the commissioner shall ensure that
20 implementation of this section does not adversely affect the amount
21 of federal funds available to the state for providing benefits
22 under the vendor drug program.

23 SECTION 11. Subsection (c), Section 10, Chapter 584, Acts
24 of the 77th Legislature, Regular Session, 2001, is amended to read
25 as follows:

26 (c) The Health and Human Services Commission or the
27 appropriate state agency operating part of the medical assistance

1 program under Chapter 32, Human Resources Code, shall adopt rules
2 required by Section 32.0261, Human Resources Code, as added by this
3 Act, so that the rules take effect in accordance with that section
4 not earlier than September 1, 2005 [~~2002, or later than June 1,~~
5 ~~2003~~]. The rules must provide for a 12-month period of continuous
6 eligibility in accordance with that section for a child whose
7 initial or continued eligibility is determined on or after the
8 effective date of the rules.

9 SECTION 12. In the event of a conflict between a provision
10 of this Act and another Act passed by the 78th Legislature, Regular
11 Session, 2003, that becomes law, this Act prevails and controls
12 regardless of the relative dates of enactment.

13 SECTION 13. Notwithstanding any other statute of this
14 state, each health and human services agency, as defined by Section
15 531.001, Government Code, is authorized to reduce expenditures by:

16 (1) consolidating any reports or publications the
17 agency is required to make and filing or delivering any of those
18 reports or publications exclusively by electronic means;

19 (2) extending the effective period of any license,
20 permit, or registration the agency grants or administers;

21 (3) providing that any communication between the
22 agency and another person and any document required to be delivered
23 to or by the agency, including any application, notice, billing
24 statement, receipt, or certificate, may be made or delivered by
25 electronic mail or through the Internet; and

26 (4) adopting and collecting fees or charges to cover
27 any costs the agency incurs in performing its lawful functions.

1 SECTION 14. If before implementing any provision of this
2 Act a state agency determines that a waiver or authorization from a
3 federal agency is necessary for implementation of that provision,
4 the agency affected by the provision shall request the waiver or
5 authorization and may delay implementing that provision until the
6 waiver or authorization is granted.

7 SECTION 15. This Act takes effect immediately if it
8 receives a vote of two-thirds of all the members elected to each
9 house, as provided by Section 39, Article III, Texas Constitution.
10 If this Act does not receive the vote necessary for immediate
11 effect, this Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1862 passed the Senate on May 20, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on June 1, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1862 passed the House, with amendments, on May 28, 2003, by the following vote: Yeas 137, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor