

## **BILL ANALYSIS**

H.B. 1867  
By: Naishtat  
Human Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Prior to the 77th legislative session, if an individual was being served in a nursing facility and desired to live in the community but required the assistance of community-based services to live in the community, there was no mechanism for the funding to follow the client to provide for the individual to receive services in a community setting.

To address this problem, the 77th Legislature directed the Texas Department of Human Services, through an appropriations rider, to transfer funds to community-based programs when an individual leaves a nursing facility to live in the community with the assistance of community-based services.

Recognizing the benefit of authorizing the transfer of funds for individuals moving from a nursing facility to community-based programs, the 78th Legislature directed the Texas Department of Human Services (relevant functions now performed by the Texas Department of Aging and Disability Services), through an appropriations rider, to transfer funds when a client relocates from a nursing facility to community care services.

Rather than continuing to authorize such transfers of funds through appropriations riders, House Bill 1867 would codify the transfer provisions in the Government Code. This would ensure that funding would follow an individual by requiring the transfer of funds as needed to provide community-based services for an individual who leaves a nursing facility to live in the community and receives community-based services.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

The bill requires the Health and Human Services Commission (HHSC) to quantify the amount of appropriated funds that would have been spent during the remainder of a state fiscal biennium to care for a person who lives in a nursing facility but who is leaving the facility before the end of the biennium to live in the community with the assistance of community-based services.

The bill provides that, notwithstanding any other state law and to the maximum extent allowed by federal law, the HHSC Executive Commissioner shall direct, as appropriate:

- the comptroller, at the time the person leaves the nursing facility, to transfer the amount quantified as described above among the health and human services agencies and HHSC as necessary to comply with pertinent provisions of the Act; or
- HHSC or a health and human services agency, at the time the person leaves the nursing facility, to transfer the amount quantified as described above within the agency's budget as necessary to comply with pertinent provisions of the Act.

The bill requires HHSC to ensure that the amount transferred is redirected by HHSC or health and human services agency, as applicable, to one or more community-based programs to provide community-based services to the person after the person leaves the nursing facility.

The bill provides that if, before implementing any provision of the Act, a state agency determines that a waiver or authorization from a federal agency is necessary, then implementation of the provision may be delayed until the waiver or authorization is granted.

**EFFECTIVE DATE**

September 1, 2005