

By: Naishtat

H.B. No. 1866

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 32.058 to read as follows:

Sec. 32.058. 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 waiver services on September 1, 2005, if continuation of  
3 the waiver 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 becomes  
12 ineligible to receive waiver services under Subsection (b) and to  
13 whom Subsection (c) does not apply if:

14 (1) the cost of providing services to the person under  
15 the medical assistance waiver program does not exceed 133.3 percent  
16 of the amount that would have been paid for that person to receive  
17 comparable services in an institution over a 12-month period; and

18 (2) continuation of the waiver services does not  
19 affect the department's compliance with the federal  
20 cost-effectiveness and efficiency requirements of the medical  
21 assistance waiver program under 42 U.S.C. Sections 1396n(b) and  
22 1396n(c)(2)(D), as amended.

23 (e) The executive commissioner of the Health and Human  
24 Services Commission may adopt rules under which the department may  
25 exempt a person from the cost limit established under Subsection  
26 (d)(1) if the department finds that providing comparable services  
27 at the appropriate institution would impose an undue hardship on

1 the person.

2           SECTION 2. This Act applies to a person receiving medical  
3 assistance on or after the effective date of this Act, regardless of  
4 when eligibility for that assistance was determined.

5           SECTION 3. This Act takes effect September 1, 2005.