

By: West

S.B. No. 230

A BILL TO BE ENTITLED

AN ACT

relating to regional funding of indigent health care services.

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

SECTION 1. Section 61.002(4), Health and Safety Code, is amended to read as follows:

(4) "Emergency services" has the meaning assigned to "emergency medical services" by Chapter 773.

SECTION 2. Section 61.004(b), Health and Safety Code, is amended to read as follows:

(b) If a matter is submitted to the department under Subsection (a), the ~~[The]~~ provider of assistance and the governmental entity or hospital district shall submit promptly to the department all relevant information regarding the person's residence and eligibility for assistance, and services rendered by the provider ~~[to the department]~~ in accordance with the application, documentation, and verification procedures established by the department under Section 61.006.

SECTION 3. Sections 61.006(b) and (c), Health and Safety Code, are amended to read as follows:

(b) The minimum eligibility standards must incorporate a net income eligibility level equal to 200 ~~[21]~~ percent of the federal poverty level based on the federal Office of Management and Budget poverty index.

(c) The department shall also define the services and

1 establish the payment standards for the categories of services  
2 listed in Sections 61.028(a) and 61.0285 in accordance with  
3 applicable [~~Texas Department of Human Services~~] rules relating to  
4 the Temporary Assistance for Needy Families-Medicaid program. The  
5 payment standards must be based on reasonable and customary charges  
6 for the services.

7 SECTION 4. Section 61.022(b), Health and Safety Code, is  
8 amended to read as follows:

9 (b) The county is the payor of last resort and shall provide  
10 assistance only if other adequate public or private sources of  
11 payment do not reimburse a provider for services rendered [~~are not~~  
12 ~~available~~].

13 SECTION 5. Subchapter B, Chapter 61, Health and Safety  
14 Code, is amended by adding Section 61.0222 to read as follows:

15 Sec. 61.0222. MANDATORY MINIMUM BUDGET. (a) Each county  
16 that provides health care assistance under this subchapter shall  
17 set aside annually an amount equal to not less than eight percent of  
18 its general revenue levy to pay for health care assistance under  
19 this subchapter. The county annually shall report to the  
20 department the amount set aside under this section.

21 (b) At the end of each fiscal year the county shall remit to  
22 the comptroller any unused portion of the amount set aside under  
23 this section for deposit in the tertiary care account under Section  
24 46.003.

25 SECTION 6. Sections 61.023(a), (b), and (d), Health and  
26 Safety Code, are amended to read as follows:

27 (a) A person is eligible for assistance under this

1 subchapter if:

2 (1) the person does not reside in the service area of a  
3 public hospital or hospital district;

4 (2) the person meets the basic income and resources  
5 requirements established by the department under Sections 61.006  
6 and 61.008 and in effect when the assistance is requested; and

7 (3) no other adequate source of payment exists to  
8 reimburse a provider for services rendered.

9 (b) A county may use a less restrictive standard of  
10 eligibility for residents than prescribed by Subsection (a). [~~A~~  
11 ~~county may credit toward eligibility for state assistance under~~  
12 ~~this subchapter the services provided to each person who is an~~  
13 ~~eligible resident under a standard that incorporates a net income~~  
14 ~~eligibility level that is less than 50 percent of the federal~~  
15 ~~poverty level based on the federal Office of Management and Budget~~  
16 ~~poverty index.~~]

17 (d) Not later than the beginning of a state fiscal year, the  
18 county shall adopt the eligibility standards it will use during  
19 that fiscal year and shall make a reasonable effort to notify the  
20 public of the standards. The county may change the eligibility  
21 standards [~~to make them more or less restrictive than the preceding~~  
22 ~~standards~~], but the standards may not be more restrictive than the  
23 standards under Subsection (a) [~~established by the department under~~  
24 ~~Section 61.006~~].

25 SECTION 7. Section 61.027, Health and Safety Code, is  
26 amended by amending Subsection (b) and adding Subsection (c) to  
27 read as follows:

1 (b) If an eligible resident fails to report a change in  
2 income or resources as prescribed by this section and the change has  
3 made the resident ineligible for assistance under the standards  
4 adopted by the county, the resident is liable for any benefits  
5 received while ineligible.

6 (c) This section does not affect:

7 (1) a person's criminal liability under any relevant  
8 statute; or

9 (2) the liability of a county under Section 61.033.

10 SECTION 8. Section 61.028(a), Health and Safety Code, is  
11 amended to read as follows:

12 (a) A county shall, in accordance with department rules  
13 adopted under Section 61.006, provide the following basic health  
14 care services:

15 (1) primary and preventative services designed to meet  
16 the needs of the community, including:

17 (A) immunizations;

18 (B) medical screening services; and

19 (C) annual physical examinations;

20 (2) inpatient and outpatient hospital services;

21 (3) rural health clinics;

22 (4) laboratory and X-ray services;

23 (5) family planning services;

24 (6) physician services;

25 (7) payment for not more than three prescription drugs  
26 a month; ~~and~~

27 (8) skilled nursing facility services, regardless of

1 the patient's age;

2 (9) emergency services; and

3 (10) tertiary medical services, as defined by Section  
4 46.001.

5 SECTION 9. Section 61.0285(a), Health and Safety Code, is  
6 amended to read as follows:

7 (a) In addition to basic health care services provided under  
8 Section 61.028, a county may, in accordance with department rules  
9 adopted under Section 61.006, provide other medically necessary  
10 services or supplies that the county determines to be  
11 cost-effective, including:

12 (1) ambulatory surgical center services;

13 (2) diabetic and colostomy medical supplies and  
14 equipment;

15 (3) durable medical equipment;

16 (4) home and community health care services;

17 (5) social work services;

18 (6) psychological counseling services;

19 (7) services provided by physician assistants, nurse  
20 practitioners, certified nurse midwives, clinical nurse  
21 specialists, and certified registered nurse anesthetists;

22 (8) dental care;

23 (9) vision care, including eyeglasses;

24 (10) services provided by federally qualified health  
25 centers, as defined by 42 U.S.C. Section 1396d(1)(2)(B); and

26 (11) [~~emergency medical services; and~~

27 [~~12~~] any other appropriate health care service

1 identified by board rule that may be determined to be  
2 cost-effective.

3 SECTION 10. Sections 61.031(a), (b), (d), and (e), Health  
4 and Safety Code, are amended to read as follows:

5 (a) A county may require any provider, including a mandated  
6 provider, to obtain approval from the county before providing  
7 nonemergency health care services to an eligible county resident.  
8 A county that requires a provider to obtain approval under this  
9 subsection may not deny a claim by a provider for failure to obtain  
10 approval unless the county can demonstrate that the provider  
11 received actual notice of the requirement.

12 (b) If the county does not require prior approval and a  
13 provider delivers or will deliver nonemergency health care services  
14 to a patient who the provider suspects may be eligible for  
15 assistance under this subchapter, the provider shall notify the  
16 patient's county of residence that health care services have been  
17 or will be provided to the patient. The notice shall be made[+

18 [~~1~~] ~~by telephone not later than the 72nd hour after~~  
19 ~~the provider determines the patient's county of residence, and~~

20 [~~2~~] by mail postmarked not later than the 30th  
21 [~~fifth working~~] day after the date on which the provider determines  
22 the patient's county of residence. If a provider sends timely  
23 notice under this subsection to any county that the provider  
24 reasonably believes to be the patient's county of residence, that  
25 notice is effective to toll the deadline for giving notice under  
26 this subsection if another county is later determined to be the  
27 patient's county of residence.

1 (d) Not later than the 14th day after the date on which the  
 2 patient's county of residence receives notification from a provider  
 3 under Subsection (b) [~~sufficient information to determine~~  
 4 ~~eligibility~~], the county shall determine if the patient is eligible  
 5 for assistance from that county. If the county does not determine  
 6 the patient's eligibility within that period or does not request  
 7 supplemental information from the provider within that period, the  
 8 patient is deemed [~~considered~~] to be eligible. The county shall  
 9 notify the provider of its decision.

10 (e) Subject to Subsection (a), if [~~If~~] a provider delivers  
 11 nonemergency health care services to a patient who is eligible for  
 12 assistance under this subchapter and fails to comply with this  
 13 section, the provider is not eligible for payment for the services  
 14 from the patient's county of residence.

15 SECTION 11. Section 61.032, Health and Safety Code, is  
 16 amended by amending Subsections (a), (d), and (e) and adding  
 17 Subsections (e-1) and (e-2) to read as follows:

18 (a) If a nonmandated provider delivers emergency services  
 19 to a patient who the provider suspects might be eligible for  
 20 assistance under this subchapter, the provider shall notify the  
 21 patient's county of residence that emergency services have been or  
 22 will be provided to the patient. The notice shall be made[+]

23 [~~(1) by telephone not later than the 72nd hour after~~  
 24 ~~the provider determines the patient's county of residence, and~~

25 [~~(2)~~] by mail postmarked not later than the 30th  
 26 [~~fifth working~~] day after the date on which the provider determines  
 27 the patient's county of residence. If a provider sends timely

1 notice under this subsection to any county that the provider  
2 reasonably believes to be the patient's county of residence, that  
3 notice is effective to toll the deadline for giving notice under  
4 this subsection if another county is later determined to be the  
5 patient's county of residence.

6 (d) Not later than the 14th day after the date on which the  
7 patient's county of residence receives notification from a provider  
8 under Subsection (a) [and sufficient information to determine  
9 eligibility], the county shall determine if the patient is eligible  
10 for assistance from that county. If the county does not determine  
11 the patient's eligibility within that period or does not request  
12 supplemental information from the provider within that period, the  
13 patient is deemed [~~considered~~] to be eligible. The county shall  
14 notify the provider of its decision.

15 (e) If the county and the provider disagree on the patient's  
16 residence or eligibility:

17 (1) [~~7~~] the county or the provider may submit the  
18 matter to the department as provided by Section 61.004; or

19 (2) the provider may bring an action against one or  
20 more counties to determine the patient's residence or eligibility  
21 for assistance and to determine the liability of a county to pay for  
22 services under Section 61.033.

23 (e-1) A provider who obtains a determination that a county  
24 is liable to pay for services under Subsection (e)(2) may also  
25 recover from the county court costs and reasonable attorney's fees.

26 (e-2) Notwithstanding Section 15.015, Civil Practice and  
27 Remedies Code, an action under Subsection (e)(2) may be brought in a



1 county or district court in the provider's county of residence. A  
2 county's sovereign immunity to suit is waived and abolished to the  
3 extent of the liability created by Subsection (e)(2).

4         SECTION 12. The change in law made by this Act to Chapter  
5 61, Health and Safety Code, applies only to assistance for health  
6 care services rendered on or after the effective date of this Act.  
7 Assistance for health care services rendered before the effective  
8 date of this Act are governed by the law in effect on the date the  
9 services were rendered, and the former law is continued in effect  
10 for that purpose.

11         SECTION 13. This Act takes effect September 1, 2005.