

By: Zaffirini

S.B. No. 626

A BILL TO BE ENTITLED

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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;

(E) the medically dependent children program;

(F) the home and community-based waiver services  
program; or

(G) the Texas home living waiver 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

1 of providing those services exceeds the individual cost limit  
2 specified in the medical assistance waiver program.

3 (c) The department shall continue to provide services under  
4 a medical assistance waiver program to a person who exceeds the  
5 individual cost limit in Subsection (b) and who is receiving those  
6 services on September 1, 2005, if continuation of those services:

7 (1) is necessary for the person to live in the most  
8 integrated setting appropriate to the needs of the person; and

9 (2) does not affect the department's compliance with  
10 the federal cost-effectiveness and efficiency requirements of the  
11 medical assistance waiver program under 42 U.S.C. Sections 1396n(b)  
12 and 1396n(c)(2)(D).

13 (d) The department may continue to provide services under a  
14 medical assistance waiver program to a person who is ineligible to  
15 receive those services under Subsection (b) and to whom Subsection  
16 (c) does not apply if:

17 (1) the cost of providing those services to the person  
18 under the medical assistance waiver program does not exceed 133.3  
19 percent of the individual cost limit specified in the medical  
20 assistance waiver program; and

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

25 (e) The executive commissioner of the Health and Human  
26 Services Commission may adopt rules under which the department may  
27 exempt a person from the cost limit established under Subsection

1 (d)(1) if the department finds that providing comparable services  
2 at the appropriate institution would impose an undue hardship on  
3 the person.

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

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