

BILL ANALYSIS

Senate Research Center

S.B. 22
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State Affairs
10/18/2007
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Long-term care is one of the leading cost drivers in the Medicaid program. Medicaid pays for 67 percent of all nursing facility days in Texas, and less than five percent of Texans have private long-term care insurance. As the population in Texas ages, the fiscal impact of publicly financing long-term care may grow exponentially. This impact may lessen if more Texans are encouraged to purchase long-term care insurance. However, current law does not provide any impetus for Texans who can afford the cost to purchase that insurance due to strict asset limits for Medicaid eligibility and required estate recovery of assets.

S.B. 22 creates a long-term care partnership program in Texas. Texans who purchase long-term care policies under this program will be eligible for asset disregard up to the value of services covered by the private policy should they ever apply for Medicaid long-term care coverage.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 32.106, Human Resources Code) and to the commissioner of insurance in SECTION 3 (Section 1651.107, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. (a) Amends Section 32.061, Human Resources Code, as follows:

Sec. 32.061. COMMUNITY ATTENDANT SERVICES PROGRAM. (b)
Creates this subsection from existing text.

(b) Requires the Texas Department of Insurance (TDI) to exclude \$20 of unearned or earned income from an applicant's monthly income, in determining the applicant's eligibility for home and community-based services described by Subsection (a).

(b) Effective date, for purposes of this section only: September 1, 2007.

SECTION 2. Amends Chapter 32, Human Resources Code, by adding Subchapter C, as follows:

SUBCHAPTER C. PARTNERSHIP FOR LONG-TERM CARE PROGRAM

Sec. 32.101. DEFINITIONS. Defines "approved plan," "asset disregard," "asset protection," "dollar-for-dollar asset disregard," "executive commissioner," and "partnership for long-term care program."

Sec. 32.102. PARTNERSHIP FOR LONG-TERM CARE PROGRAM. Specifies that the partnership for long-term care program (program) is to be administered as part of the medical assistance program by the Health and Human Services Commission (HHSC) with the assistance of TDI. Requires the program to be consistent with the guidelines for the expansion of the state long-term care partnership program established by the federal Deficit Reduction Act of 2005.

Sec. 32.103. ASSET DISREGARD. (a) Requires the executive commissioner of HHSC (executive commissioner), to the extent allowed by federal law, in adopting rules and

standards governing the medical assistance program, to allow for dollar-for-dollar asset disregard in determining eligibility for medical assistance for individuals receiving long-term care services from a long-term care benefit plan (plan) that meets all state requirements and applicable minimum benefit standards set by Subchapter C (Partnership for Long-Term Care Program), Chapter 1651, Insurance Code.

(b) Prohibits HHSC from considering the resources of individuals who have used all or part of long-term care plan benefits within said plan, as those resources are the subject of a dollar-for-dollar asset disregard to determine eligibility for and amount of any medical assistance provided under the medical assistance program, and any subsequent recovery by the state from the individual's estate for such assistance provided to the individual.

(c) Prohibits HHSC from providing to an individual eligible for medical assistance under this section those medical assistance services covered under the medical assistance program that are also covered by the individual's benefits under the approved plan until the individual has fully exhausted the individual's benefits under the plan.

Sec. 32.104. **RECIPROCAL AGREEMENTS.** Authorizes HHSC to enter into reciprocal agreements with other states to extend asset protection to a Texas resident who purchased a plan in another state with a substantially similar asset disregard program.

Sec. 32.105. **TRAINING; INFORMATION AND TECHNICAL ASSISTANCE.** Requires HHSC to provide information and technical assistance to TDI regarding TDI's role in ensuring that each individual who sells a long-term benefit plan under the program receives training and demonstrates evidence of an understanding of these plans as required by Section 1651.105, Insurance Code. Requires the training to satisfy the training requirements imposed under the provisions governing the expansion of a state long-term care partnership program established under the federal Deficit Reduction Act of 2005 (Pub. L. No. 109-171).

Sec. 32.106. **RULES.** Requires the executive commissioner to adopt rules to administer the program and to implement this subchapter. Requires the executive commissioner to provide for dollar-for-dollar asset disregard and asset protection for purchasers of an approved plan and, in adopting rules, to count benefits paid through that plan toward the dollar-for-dollar asset disregard.

Sec. 32.107. **BIENNIAL REPORT.** Requires HHSC to submit a report to the legislature on the progress of the program during the proceeding biennium not later than September 30 of each even-numbered year. Requires the report to include the number of approved plans sold during each year of the preceding biennium, the average age of purchasing individuals purchasing approved plans during each year of the preceding biennium, and a recommendation on whether to continue the program. Authorizes HHSC to request information from TDI as necessary toward the preparation of this report.

SECTION 3. Amends Chapter 1651, Insurance Code, by adding Subchapter C, as follows:

SUBCHAPTER C. PARTNERSHIP FOR LONG-TERM CARE PROGRAM

Sec. 1651.101. **DEFINITIONS.** Defines "approved plan," "dollar-for-dollar asset disregard," "medical assistance program," and "partnership for long-term care program."

Sec. 1651.102. **APPLICABILITY.** Specifies that existing law regarding the general provisions and the benefit plan standards of plans apply to a plan issued in accordance with this subchapter, except to the extent of a conflict.

Sec. 1651.103. **ASSISTANCE OF DEPARTMENT.** Requires TDI to assist HHSC as necessary so that HHSC can properly administer the program.

Sec. 1651.104. LONG-TERM CARE INSURANCE POLICY FOR PARTNERSHIP FOR LONG-TERM CARE PROGRAM. Requires the commissioner of insurance (commissioner), in consultation with HHSC, to adopt minimum standards for a plan that is to be approved under the program. Requires the standards to be consistent with the guidelines for expansion of a state program established under the federal Deficit Reduction Act of 2005.

Sec. 1651.105. REQUIRED TRAINING. (a) Requires each individual who sells a long-term care benefit plan under the program to complete training and demonstrate evidence of an understanding of these plans and how the plans relate to other public and private coverage of long-term care.

(b) Requires each long-term care benefit plan issuer that offers a plan under the program to certify to the commissioner, in the form required by the commissioner, that each individual who sells the plan on behalf of the issuer complies with the requirements of this section.

Sec. 1651.106. EFFECT OF DISCONTINUATION OF PROGRAM ON POLICY. Specifies that individuals who bought plans under the program remain eligible to receive dollar-for-dollar asset disregard and asset protection under the medical assistance program should the partnership for long-term care program be discontinued.

Sec. 1651.107. RULES. Authorizes the commissioner to adopt rules as necessary to implement this subchapter.

SECTION 4. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.0841, as follows:

Sec. 531.0841. LONG-TERM CARE INSURANCE AWARENESS AND EDUCATION CAMPAIGN. (a) Requires HHSC, in consultation with the Department of Aging and Disability Services (DADS) and TDI, to develop and implement an education and awareness campaign to educate the public regarding certain long-term care issues and to encourage individuals to obtain long-term care insurance.

(b) Requires DADS and TDI to cooperate with and assist HHSC with the implementation of this campaign.

(c) Authorizes HHSC to coordinate the implementation of this campaign with any other state outreach campaign or activity relating to long-term care.

SECTION 5. Requires HHSC to amend the state's Medicaid plan as necessary to allow for dollar-for-dollar asset disregard and asset protection for individuals purchasing plans as added by this Act.

SECTION 6. Authorizes a state agency to delay implementing a provision of this Act until a requested federal waiver or authorization necessary to implement that provision is obtained.

SECTION 7. Effective date, except as otherwise provided by this Act: March 1, 2008.