

By: Nelson, Williams

S.B. No. 22

A BILL TO BE ENTITLED

AN ACT

relating to long-term care insurance and a partnership for long-term care program.

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

SECTION 1. Chapter 32, Human Resources Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. PARTNERSHIP FOR LONG-TERM CARE PROGRAM

Sec. 32.101. DEFINITIONS. In this subchapter:

(1) "Approved plan" means a long-term care benefit plan that is approved by the Texas Department of Insurance under Subchapter C, Chapter 1651, Insurance Code.

(2) "Asset disregard" means the total equity value of assets and resources not exempt under rules governing the medical assistance program that are disregarded in determining eligibility for the medical assistance program and in determining estate recovery obligations.

(3) "Asset protection" means the right extended to a plan holder of an approved plan to dollar-for-dollar asset disregard under the medical assistance program.

(4) "Dollar-for-dollar asset disregard" means an asset disregard in which the amount of the disregard is equal to the sum of qualifying benefit payments made on behalf of the qualified plan holder.

(5) "Executive commissioner" means the executive

1 commissioner of the Health and Human Services Commission.

2 (6) "Partnership for long-term care program" means the
3 program established under this subchapter and Subchapter C, Chapter
4 1651, Insurance Code.

5 Sec. 32.102. PARTNERSHIP FOR LONG-TERM CARE PROGRAM. The
6 partnership for long-term care program is administered as part of
7 the medical assistance program by the department with the
8 assistance of the Texas Department of Insurance. The program must
9 be consistent with provisions governing the expansion of a state
10 long-term care partnership program established under the federal
11 Deficit Reduction Act of 2005 (Pub. L. No. 109-171).

12 Sec. 32.103. ASSET DISREGARD. (a) To the extent allowed
13 by the federal Deficit Reduction Act of 2005 (Pub. L. No. 109-171)
14 and other federal law, the executive commissioner, in adopting
15 rules and standards governing the medical assistance program, shall
16 allow for dollar-for-dollar asset disregard in determining
17 eligibility for medical assistance for an individual receiving
18 long-term care services if the individual is or was covered by a
19 long-term care benefit plan providing coverage for long-term care
20 that meets the applicable minimum benefit standards of the
21 commissioner of the Texas Department of Insurance under Subchapter
22 C, Chapter 1651, Insurance Code, and other requirements for
23 approval under the partnership for long-term care program.

24 (b) The department may not consider the resources of an
25 individual who has used all or part of the individual's benefits
26 under an approved plan to the extent those resources are the subject
27 of a dollar-for-dollar asset disregard in determining:

1 (1) eligibility for medical assistance under the
2 medical assistance program;

3 (2) the amount of medical assistance provided; or

4 (3) any subsequent recovery by this state from the
5 individual's estate for medical assistance provided to the
6 individual.

7 (c) The department may not provide to an individual eligible
8 for medical assistance under this section those medical assistance
9 services covered under the medical assistance program that are also
10 covered by the individual's benefits under the approved plan until
11 the individual has fully exhausted the individual's benefits under
12 the plan.

13 Sec. 32.104. RECIPROCAL AGREEMENTS. The department may
14 enter into reciprocal agreements with other states to extend asset
15 protection to a resident of this state who purchased a long-term
16 care benefit plan in another state that has a substantially similar
17 asset disregard program.

18 Sec. 32.105. TRAINING; INFORMATION AND TECHNICAL
19 ASSISTANCE. The Health and Human Services Commission shall provide
20 information and technical assistance to the Texas Department of
21 Insurance regarding that department's role in ensuring that each
22 individual who sells a long-term care benefit plan under the
23 partnership for long-term care program receives training and
24 demonstrates evidence of an understanding of these plans as
25 required by Section 1651.105, Insurance Code. The training must
26 satisfy the training requirements imposed under the provisions
27 governing the expansion of a state long-term care partnership

1 program established under the federal Deficit Reduction Act of 2005
2 (Pub. L. No. 109-171).

3 Sec. 32.106. RULES. (a) The executive commissioner shall
4 adopt rules as necessary to administer the partnership for
5 long-term care program and to implement this subchapter.

6 (b) In adopting rules under this section, the executive
7 commissioner shall:

8 (1) provide for dollar-for-dollar asset disregard and
9 asset protection for purchasers of an approved plan; and

10 (2) count benefits paid under the approved plan toward
11 the dollar-for-dollar asset disregard to the extent the benefits
12 are provided for covered services under the approved plan.

13 Sec. 32.107. BIENNIAL REPORT. (a) Not later than
14 September 30 of each even-numbered year, the department shall
15 submit a report to the legislature on the progress of the
16 partnership for long-term care program during the preceding
17 biennium. The report must include:

18 (1) the number of approved plans sold during each year
19 of the preceding biennium;

20 (2) the average age of individuals purchasing approved
21 plans during each year of the preceding biennium; and

22 (3) a recommendation on whether to continue the
23 program.

24 (b) The department may request information from the Texas
25 Department of Insurance as necessary to prepare the report required
26 by this section.

27 SECTION 2. Chapter 1651, Insurance Code, is amended by

1 adding Subchapter C to read as follows:

2 SUBCHAPTER C. PARTNERSHIP FOR LONG-TERM CARE PROGRAM

3 Sec. 1651.101. DEFINITIONS. In this subchapter:

4 (1) "Approved plan" means a long-term care benefit
5 plan that is approved by the department under this subchapter.

6 (2) "Dollar-for-dollar asset disregard" and "asset
7 protection" have the meanings assigned by Section 32.101, Human
8 Resources Code.

9 (3) "Medical assistance program" means the medical
10 assistance program established under Chapter 32, Human Resources
11 Code.

12 (4) "Partnership for long-term care program" means the
13 program established under Subchapter C, Chapter 32, Human Resources
14 Code, and this subchapter.

15 Sec. 1651.102. APPLICABILITY. Except to the extent of a
16 conflict, Subchapters A and B apply to a plan issued in accordance
17 with this subchapter.

18 Sec. 1651.103. ASSISTANCE OF DEPARTMENT. The department
19 shall assist the Health and Human Services Commission as necessary
20 for the commission to perform its duties and functions with respect
21 to the administration of the partnership for long-term care
22 program.

23 Sec. 1651.104. LONG-TERM CARE INSURANCE POLICY FOR
24 PARTNERSHIP FOR LONG-TERM CARE PROGRAM. The commissioner, in
25 consultation with the Health and Human Services Commission, shall
26 adopt minimum standards for a long-term care benefit plan that may
27 qualify as an approved plan under the partnership for long-term

1 care program. The standards must be consistent with provisions
2 governing the expansion of a state long-term care partnership
3 program established under the federal Deficit Reduction Act of 2005
4 (Pub. L. No. 109-171).

5 Sec. 1651.105. REQUIRED TRAINING. (a) Each individual who
6 sells a long-term care benefit plan under the partnership for
7 long-term care program must complete training and demonstrate
8 evidence of an understanding of these plans and how the plans relate
9 to other public and private coverage of long-term care.

10 (b) Each long-term care benefit plan issuer that offers a
11 plan under the partnership for long-term care program shall certify
12 to the commissioner, in the form required by the commissioner, that
13 each individual who sells the plan on behalf of the issuer complies
14 with the requirements of this section.

15 Sec. 1651.106. EFFECT OF DISCONTINUATION OF PROGRAM ON
16 POLICY. If the partnership for long-term care program is
17 discontinued, an individual who purchased an approved plan before
18 the date the program is discontinued remains eligible to receive
19 dollar-for-dollar asset disregard and asset protection under the
20 medical assistance program.

21 Sec. 1651.107. RULES. The commissioner may adopt rules as
22 necessary to implement this subchapter.

23 SECTION 3. Subchapter B, Chapter 531, Government Code, is
24 amended by adding Section 531.0841 to read as follows:

25 Sec. 531.0841. LONG-TERM CARE INSURANCE AWARENESS AND
26 EDUCATION CAMPAIGN. (a) The commission, in consultation with the
27 Department of Aging and Disability Services and the Texas

1 Department of Insurance, shall develop and implement a public
2 awareness and education campaign designed to:

3 (1) educate the public on the cost of long-term care,
4 including the limits of Medicaid eligibility and the limits of
5 Medicare benefits;

6 (2) educate the public on the value and availability
7 of long-term care insurance; and

8 (3) encourage individuals to obtain long-term care
9 insurance.

10 (b) The Department of Aging and Disability Services and the
11 Texas Department of Insurance shall cooperate with and assist the
12 commission in implementing the campaign under this section.

13 (c) The commission may coordinate the implementation of the
14 campaign under this section with any other state outreach campaign
15 or activity relating to long-term care issues.

16 SECTION 4. The Health and Human Services Commission shall
17 amend this state's Medicaid plan as necessary to allow for
18 dollar-for-dollar asset disregard and asset protection for
19 purchasers of an approved policy under the partnership for
20 long-term care program established under Subchapter C, Chapter 32,
21 Human Resources Code, as added by this Act.

22 SECTION 5. If before implementing any provision of this Act
23 a state agency determines that a waiver or authorization from a
24 federal agency is necessary for implementation of that provision,
25 the agency affected by the provision shall request the waiver or
26 authorization and may delay implementing that provision until the
27 waiver or authorization is granted.

1 SECTION 6. This Act takes effect March 1, 2008.