

By: Williams

S.B. No. 738

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 to provide medical
17 assistance to an individual receiving long-term care services if
18 the individual is or was covered by a long-term care benefit plan
19 providing coverage for long-term care that meets the applicable
20 minimum benefit standards of the commissioner of the Texas
21 Department of Insurance under Subchapter C, Chapter 1651, Insurance
22 Code, and other requirements for approval under the partnership for
23 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. TECHNICAL ASSISTANCE AND INFORMATION. The
19 Health and Human Services Commission shall provide information and
20 technical assistance to the Texas Department of Insurance regarding
21 that department's role in ensuring that each individual who sells a
22 long-term care benefit plan under the partnership for long-term
23 care program receives training and demonstrates evidence of an
24 understanding of these plans and how the plans relate to other
25 public and private coverage of long-term care.

26 Sec. 32.106. RULES. (a) The executive commissioner shall
27 adopt rules as necessary to administer the partnership for

1 long-term care program and to implement this subchapter.

2 (b) In adopting rules under this section, the executive
3 commissioner shall:

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

6 (2) count benefits paid under the approved plan toward
7 the dollar-for-dollar asset disregard to the extent the benefits
8 are provided for covered services under the approved plan.

9 Sec. 32.107. BIENNIAL REPORT. (a) Not later than January
10 1 of each odd-numbered year, the department shall submit a report to
11 the legislature on the progress of the partnership for long-term
12 care program during the preceding biennium. The report must
13 include:

14 (1) the number of approved plans sold during each year
15 of the preceding biennium;

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

18 (3) a recommendation on whether to continue the
19 program.

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

23 SECTION 2. Chapter 1651, Insurance Code, is amended by
24 adding Subchapter C to read as follows:

25 SUBCHAPTER C. PARTNERSHIP FOR LONG-TERM CARE PROGRAM

26 Sec. 1651.101. DEFINITIONS. In this subchapter:

27 (1) "Approved plan" means a long-term care benefit

1 plan that is approved by the department under this subchapter.

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

5 (3) "Medical assistance program" means the medical
6 assistance program established under Chapter 32, Human Resources
7 Code.

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

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

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

19 Sec. 1651.104. LONG-TERM CARE INSURANCE POLICY FOR
20 PARTNERSHIP FOR LONG-TERM CARE PROGRAM. The commissioner, in
21 consultation with the Health and Human Services Commission, shall
22 adopt minimum standards for a long-term care benefit plan that may
23 qualify as an approved plan under the partnership for long-term
24 care program. The standards must be consistent with provisions
25 governing the expansion of a state long-term care partnership
26 program established under the federal Deficit Reduction Act of 2005
27 (Pub. L. No. 109-171).

1 Sec. 1651.105. EFFECT OF DISCONTINUATION OF PROGRAM ON
2 POLICY. If the partnership for long-term care program is
3 discontinued, an individual who purchased an approved plan before
4 the date the program is discontinued remains eligible to receive
5 dollar-for-dollar asset disregard and asset protection under the
6 medical assistance program.

7 Sec. 1651.106. RULES. The commissioner may adopt rules as
8 necessary to implement this subchapter.

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

11 Sec. 531.0841. LONG-TERM CARE INSURANCE AWARENESS AND
12 EDUCATION CAMPAIGN. (a) The commission, in consultation with the
13 Department of Aging and Disability Services and the Texas
14 Department of Insurance, shall develop and implement a public
15 awareness and education campaign designed to:

16 (1) educate the public on the cost of long-term care,
17 including the limits of Medicaid eligibility and the limits of
18 Medicare benefits;

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

21 (3) encourage individuals to obtain long-term care
22 insurance.

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

26 (c) The commission may coordinate the implementation of the
27 campaign under this section with any other state outreach campaign

1 or activity relating to long-term care issues.

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

8 SECTION 5. If before implementing any provision of this Act
9 a state agency determines that a waiver or authorization from a
10 federal agency is necessary for implementation of that provision,
11 the agency affected by the provision shall request the waiver or
12 authorization and may delay implementing that provision until the
13 waiver or authorization is granted.

14 SECTION 6. This Act takes effect September 1, 2007.