

By: Naishtat

H.B. No. 4552

Substitute the following for H.B. No. 4552:

By: Rose

C.S.H.B. No. 4552

A BILL TO BE ENTITLED

AN ACT

relating to certain Medicaid waiver programs.

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 32.0521 to read as follows:

Sec. 32.0521. HOSPITAL LEVEL OF CARE WAIVER PROGRAM FOR MEDICALLY FRAGILE INDIVIDUALS. (a) The department shall apply for a waiver under Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c)) to provide the state with the flexibility to provide medical assistance services outside the scope, amount, or duration of nonwaiver services available to medically fragile individuals who are at least 21 years of age and who require a hospital level of care under the medical assistance program.

(b) The waiver program under this section may include coverage for case management services, adaptive aids and medical supplies, nursing services, attendant services, in-home support services, specialized therapies, respite services, adult foster care, companion care, and consumer-directed service options.

(c) A medically fragile individual is eligible for the waiver program under this section only if:

(1) the individual meets the medical and functional criteria specified in the waiver;

(2) the projected cost of providing services to the

1 individual over a 12-month period exceeds the individual cost limit
2 specified in another medical assistance waiver program; and

3 (3) the individual would otherwise be eligible for
4 services funded by general revenue under Section 32.058(c) or
5 (c-1).

6 SECTION 2. The heading to Section 32.058, Human Resources
7 Code, is amended to read as follows:

8 Sec. 32.058. LIMITATION ON CERTAIN MEDICAL ASSISTANCE
9 WAIVER PROGRAMS [~~IN CERTAIN ALTERNATIVE COMMUNITY-BASED CARE~~
10 ~~SETTINGS~~].

11 SECTION 3. Section 32.058, Human Resources Code, is amended
12 by amending Subsections (a), (b), (c), and (g) and adding
13 Subsections (c-1), (c-2), (c-3), and (c-4) to read as follows:

14 (a) In this section, "medical assistance waiver program"
15 means a program [~~administered by the Department of Aging and~~
16 ~~Disability Services~~], other than the Texas home living program,
17 that provides services under a waiver granted in accordance with
18 U.S.C. Section 1396n(c).

19 (b) Except as provided by Subsection (c) or (c-1), [~~(d)~~,
20 ~~(e)~~, ~~or (f)~~], the department may not provide services under a
21 medical assistance waiver program to a person if the projected cost
22 of providing those services over a 12-month period exceeds the
23 individual cost limit specified in the medical assistance waiver
24 program.

25 (c) Regardless of whether federal matching funds are
26 available for the medical assistance waiver program and
27 notwithstanding Section 32.024(e), the [~~The~~] department shall use

1 general revenue funds appropriated to the department to continue to
2 provide services [~~under a medical assistance waiver program~~] to a
3 person who was receiving medical assistance waiver program [~~those~~]
4 services on September 1, 2005, at a cost that exceeded the
5 individual cost limit specified in the medical assistance waiver
6 program [~~, 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 average per capita expenditure requirement of the~~
11 ~~medical assistance waiver program under 42 U.S.C. Section~~
12 ~~1396n(c)(2)(D)].~~

13 (c-1) Regardless of whether federal matching funds are
14 available for the medical assistance waiver program and
15 notwithstanding Section 32.024(e), the department, in addition to
16 services provided under Subsection (c), may use general revenue
17 funds appropriated to the department to provide services under a
18 medical assistance waiver program to a person if:

19 (1) the projected cost of providing services to the
20 person over a 12-month period exceeds the individual cost limit
21 specified in the medical assistance waiver program;

22 (2) federal matching funds are not available to pay
23 for the services; and

24 (3) the department determines that:

25 (A) the person's health and safety cannot be
26 protected by the services provided within the cost limit
27 established for the program;

1 (B) there is no other available medical
2 assistance waiver program that can protect the person's health and
3 safety within the cost limit of that program; and

4 (C) there is no available living arrangement in
5 which the person's health and safety can be protected, as evidenced
6 by:

7 (i) an assessment conducted by clinical
8 staff of the Health and Human Services Commission or the Department
9 of Aging and Disability Services; and

10 (ii) supporting documentation, including
11 the person's medical and service records.

12 (c-2) The department may not expend any funds under
13 Subsection (c) or (c-1) if the expenditure would affect the
14 department's compliance with federal cost-effectiveness
15 requirements applicable to medical assistance waiver programs,
16 including 42 U.S.C. Section 1396n(c)(2)(D).

17 (c-3) The department shall employ utilization management
18 and utilization review practices as necessary to ensure that the
19 appropriate scope and level of services are provided to individuals
20 receiving medical assistance waiver program services and to ensure
21 compliance with federal cost-effectiveness requirements.

22 (c-4) This section does not establish an entitlement to
23 services or to funding for services from general revenue funds.

24 (g) The executive commissioner of the Health and Human
25 Services Commission may adopt rules to implement this section
26 [~~Subsections (d), (e), and (f)~~].

27 SECTION 4. Sections 32.058(d), (e), and (f), Human

1 Resources Code, are repealed.

2 SECTION 5. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2009.