

By: Naishtat

H.B. No. 4562

A BILL TO BE ENTITLED

AN ACT

relating to medical assistance program reimbursement for guardianship expenses of certain recipients.

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 32.02451 to read as follows:

Sec. 32.02451. REIMBURSEMENT FOR GUARDIANSHIP EXPENSES OF CERTAIN RECIPIENTS. To the extent allowed by federal law, the department shall provide medical assistance reimbursement for compensation and costs ordered under Section 670, Texas Probate Code, in a guardianship established for a medical assistance recipient. The executive commissioner of the Health and Human Services Commission shall adopt rules providing a procedure by which a person to whom amounts are ordered paid under that section may submit a claim to and receive reimbursement from the medical assistance program.

SECTION 2. Subpart H, Part 2, Chapter XIII, Texas Probate Code, is amended by adding Section 670 to read as follows:

Sec. 670. COMPENSATION OF CERTAIN GUARDIANS; CERTAIN OTHER GUARDIANSHIP COSTS. (a) In this section:

(1) "Applied income" means the portion of the earned and unearned income of a recipient of medical assistance or, if applicable, the recipient and the recipient's spouse, that is paid under the medical assistance program to a nursing home in which the

1 recipient resides.

2 (2) "Medical assistance" has the meaning assigned by
3 Section 32.003, Human Resources Code.

4 (b) Notwithstanding any other provision of this chapter and
5 to the extent permitted by federal law, a court that appoints a
6 guardian for a recipient of medical assistance who has applied
7 income may order the following to be paid under the medical
8 assistance program:

9 (1) compensation to the guardian in an amount not to
10 exceed \$175 per month;

11 (2) costs directly related to establishing or
12 terminating the guardianship, not to exceed \$1,000 except as
13 provided by Subsection (c) of this section; and

14 (3) other administrative costs related to the
15 guardianship, not to exceed \$1,000 during any three-year period.

16 (c) Costs ordered to be paid under Subsection (b)(2) of this
17 section may include compensation and expenses for an attorney ad
18 litem or guardian ad litem and reasonable attorney's fees for an
19 attorney representing the guardian. The costs ordered to be paid
20 may exceed \$1,000 if the costs in excess of that amount are
21 supported by documentation acceptable to the court and the costs
22 are approved by the court.

23 SECTION 3. The changes in law made by this Act apply to a
24 guardianship created before, on, or after the effective date of
25 this Act.

26 SECTION 4. If before implementing any provision of this Act
27 a state agency determines that a waiver or authorization from a

1 federal agency is necessary for implementation of that provision,
2 the agency affected by the provision shall request the waiver or
3 authorization and may delay implementing that provision until the
4 waiver or authorization is granted.

5 SECTION 5. This Act takes effect September 1, 2009.