

1-1 By: Uresti S.B. No. 2435
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 23, 2009, reported favorably by the following vote: Yeas 4,
1-5 Nays 0; April 23, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to medical assistance program reimbursement for
1-9 guardianship expenses of certain recipients.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter B, Chapter 32, Human Resources Code,
1-12 is amended by adding Section 32.02451 to read as follows:

1-13 Sec. 32.02451. REIMBURSEMENT FOR GUARDIANSHIP EXPENSES OF
1-14 CERTAIN RECIPIENTS. To the extent allowed by federal law, the
1-15 department shall provide medical assistance reimbursement for
1-16 compensation and costs ordered under Section 670, Texas Probate
1-17 Code, in a guardianship established for a medical assistance
1-18 recipient. The executive commissioner of the Health and Human
1-19 Services Commission shall adopt rules providing a procedure by
1-20 which a person to whom amounts are ordered paid under that section
1-21 may submit a claim to and receive reimbursement from the medical
1-22 assistance program.

1-23 SECTION 2. Subpart H, Part 2, Chapter XIII, Texas Probate
1-24 Code, is amended by adding Section 670 to read as follows:

1-25 Sec. 670. COMPENSATION OF CERTAIN GUARDIANS; CERTAIN OTHER
1-26 GUARDIANSHIP COSTS. (a) In this section:

1-27 (1) "Applied income" means the portion of the earned
1-28 and unearned income of a recipient of medical assistance or, if
1-29 applicable, the recipient and the recipient's spouse, that is paid
1-30 under the medical assistance program to a nursing home in which the
1-31 recipient resides.

1-32 (2) "Medical assistance" has the meaning assigned by
1-33 Section 32.003, Human Resources Code.

1-34 (b) Notwithstanding any other provision of this chapter and
1-35 to the extent permitted by federal law, a court that appoints a
1-36 guardian for a recipient of medical assistance who has applied
1-37 income may order the following to be paid under the medical
1-38 assistance program:

1-39 (1) compensation to the guardian in an amount not to
1-40 exceed \$175 per month;

1-41 (2) costs directly related to establishing or
1-42 terminating the guardianship, not to exceed \$1,000 except as
1-43 provided by Subsection (c) of this section; and

1-44 (3) other administrative costs related to the
1-45 guardianship, not to exceed \$1,000 during any three-year period.

1-46 (c) Costs ordered to be paid under Subsection (b)(2) of this
1-47 section may include compensation and expenses for an attorney ad
1-48 litem or guardian ad litem and reasonable attorney's fees for an
1-49 attorney representing the guardian. The costs ordered to be paid
1-50 may exceed \$1,000 if the costs in excess of that amount are
1-51 supported by documentation acceptable to the court and the costs
1-52 are approved by the court.

1-53 SECTION 3. The changes in law made by this Act apply to a
1-54 guardianship created before, on, or after the effective date of
1-55 this Act.

1-56 SECTION 4. If before implementing any provision of this Act
1-57 a state agency determines that a waiver or authorization from a
1-58 federal agency is necessary for implementation of that provision,
1-59 the agency affected by the provision shall request the waiver or
1-60 authorization and may delay implementing that provision until the
1-61 waiver or authorization is granted.

1-62 SECTION 5. This Act takes effect September 1, 2009.

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