BILL ANALYSIS

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under federal law, the Medicaid program is intended to be the payor of last resort. This means that all available third party resources must meet their legal obligation to pay claims before the Medicaid program pays for the care of an eligible individual. Some nursing homes are prorating all non-Medicaid sources, so that Medicaid is paying a portion of the patient's care from day one. If the patient leaves the nursing home before the end of the month and without exhausting other pay sources, Medicaid has funded a disproportionate part of the care.

H.B. 2722 seeks to reinforce federal law through Health and Human Services Commission rules to ensure that the Medicaid program is the payor of last resort.

H.B. 2722 amends current law relating to the state Medicaid program as the payor of last resort.

RULEMAKING AUTHORITY

Rulemaking authority expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 32.04242, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.04242, as follows:

> Sec. 32.04242. PAYOR OF LAST RESORT. Requires the executive commissioner of the Health and Human Services Commission to adopt rules to ensure, to the extent allowed by federal law, that the Medicaid program is the payor of last resort, and provides reimbursement for services, including long-term care services, only if, and to the extent, other adequate public or private sources of payment are not available.

SECTION 2. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes delay of implementation until such a waiver or authorization is granted.

SECTION 3. Effective date: upon passage or September 1, 2011.