

By: Parker

H.B. No. 2368

A BILL TO BE ENTITLED

AN ACT

relating to copayments under the medical assistance program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 32.064(a) and (b), Human Resources Code, are amended to read as follows:

(a) To the extent permitted under Title XIX, Social Security Act (42 U.S.C. Section 1396 et seq.), as amended, and any other applicable law or regulations, the executive commissioner of the Health and Human Services Commission shall adopt provisions requiring recipients of medical assistance to share the cost of medical assistance, including provisions requiring recipients to pay:

(1) an enrollment fee;

(2) a deductible; ~~[or]~~

(3) coinsurance or a portion of the plan premium, if the recipients receive medical assistance under the Medicaid managed care program under Chapter 533, Government Code, or a Medicaid managed care demonstration project under Section 32.041; or

(4) a copayment in accordance with Section 32.0642.

(b) Subject to Subsection (d) and except as provided by Section 32.0642, cost-sharing provisions adopted under this section shall ensure that families with higher levels of income are required to pay progressively higher percentages of the cost of the

1 medical assistance.

2 SECTION 2. Sections 32.0641(a) and (c), Human Resources  
3 Code, are amended to read as follows:

4 (a) If the department determines that it is feasible and  
5 cost-effective, and to the extent permitted under Title XIX, Social  
6 Security Act (42 U.S.C. Section 1396 et seq.) and any other  
7 applicable law or regulation or under a federal waiver or other  
8 authorization, the executive commissioner of the Health and Human  
9 Services Commission shall adopt cost-sharing provisions that  
10 require a recipient who chooses a high-cost medical service  
11 provided through a hospital emergency room to pay a [~~copayment~~]  
12 premium payment[~~7~~] or other cost-sharing payment other than a  
13 copayment for the high-cost medical service if:

14 (1) the hospital from which the recipient seeks  
15 service:

16 (A) performs an appropriate medical screening  
17 and determines that the recipient does not have a condition  
18 requiring emergency medical services;

19 (B) informs the recipient:

20 (i) that the recipient does not have a  
21 condition requiring emergency medical services;

22 (ii) that, if the hospital provides the  
23 nonemergency service, the hospital may require payment of a  
24 [~~copayment~~] premium payment[~~7~~] or other cost-sharing payment by  
25 the recipient in advance; and

26 (iii) of the name and address of a  
27 nonemergency Medicaid provider who can provide the appropriate

1 medical service without imposing a cost-sharing payment; and

2 (C) offers to provide the recipient with a  
3 referral to the nonemergency provider to facilitate scheduling of  
4 the service; and

5 (2) after receiving the information and assistance  
6 described by Subdivision (1) from the hospital, the recipient  
7 chooses to obtain emergency medical services despite having access  
8 to medically acceptable, lower-cost medical services.

9 (c) If the executive commissioner of the Health and Human  
10 Services Commission adopts a [~~copayment or other~~] cost-sharing  
11 payment under Subsection (a), the commission may not reduce  
12 hospital payments to reflect the potential receipt of a  
13 cost-sharing [~~copayment or other~~] payment from a recipient  
14 receiving medical services provided through a hospital emergency  
15 room.

16 SECTION 3. Subchapter B, Chapter 32, Human Resources Code,  
17 is amended by adding Section 32.0642 to read as follows:

18 Sec. 32.0642. COPAYMENTS. (a) The department shall  
19 require a recipient to pay nominal copayments as follows:

20 (1) not more than \$5 for each hospital outpatient  
21 visit at the time of the visit;

22 (2) not more than \$5 for each medical visit with a  
23 physician at the time of the visit;

24 (3) up to five percent of the first \$300 of the medical  
25 assistance reimbursement rate for an emergency room service at the  
26 time the service is provided; and

27 (4) 2.5 percent of the medical assistance

1 reimbursement rate for a prescription drug at the time of receipt,  
2 not to exceed \$7.50 per prescription drug.

3 (b) The department shall, subject to applicable federal  
4 law, require copayments for the following other services under the  
5 medical assistance program:

6 (1) hospital inpatient services;

7 (2) laboratory and x-ray services;

8 (3) transportation services;

9 (4) home health care services;

10 (5) community mental health services;

11 (6) rural health services;

12 (7) federally qualified health clinic services; and

13 (8) nurse practitioner services.

14 (c) The department may establish copayments for a medical  
15 assistance service not specified in this section only if the  
16 copayment is specifically provided for in other law.

17 (d) Notwithstanding Subsections (a) and (b) and in  
18 accordance with applicable federal law, the department may not  
19 require copayments from the following recipients:

20 (1) a child who is under 21 years of age;

21 (2) a pregnant woman if the services relate to the  
22 pregnancy or any other medical condition that may complicate the  
23 pregnancy, including postpartum services provided up to six weeks  
24 after the delivery date;

25 (3) any person who is an inpatient in a hospital,  
26 long-term care facility, or other medical institution if the person  
27 is required, as a condition of receiving services in the

1 institution, to spend all of the person's income for medical care  
2 costs, other than a minimal amount for personal needs;

3 (4) any person who requires emergency services after  
4 the sudden onset of a medical condition that, if left untreated,  
5 would place the person's health in serious jeopardy;

6 (5) any person when the services or supplies relate to  
7 family planning; and

8 (6) any person who is enrolled in a Medicaid managed  
9 care plan under Chapter 533, Government Code.

10 (e) A provider may not impose more than one copayment under  
11 this section for a single encounter with a recipient.

12 (f) The department shall develop a mechanism by which  
13 medical assistance providers are able to identify recipients under  
14 Subsection (d) from whom a copayment may not be required.

15 (g) This section does not require a medical assistance  
16 provider to bill or collect from a recipient a copayment required or  
17 authorized under this section. If the provider chooses not to bill  
18 or collect a copayment from a recipient, the department shall  
19 deduct the applicable copayment amount from the reimbursement  
20 payment made to the provider.

21 SECTION 4. If before implementing any provision of this Act  
22 a state agency determines that a waiver or authorization from a  
23 federal agency is necessary for implementation of that provision,  
24 the agency affected by the provision shall request the waiver or  
25 authorization and may delay implementing that provision until the  
26 waiver or authorization is granted.

27 SECTION 5. This Act takes effect September 1, 2011.