

1-1 By: Nelson S.B. No. 797
1-2 (In the Senate - Filed February 18, 2011; March 1, 2011,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; April 4, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 April 4, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 797 By: Nelson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to objective assessment processes for and appropriate
1-11 provision of acute nursing services and certain other services
1-12 provided under the Medicaid program.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter B, Chapter 531, Government Code, is
1-15 amended by adding Sections 531.02417, 531.024171, and 531.024172 to
1-16 read as follows:

1-17 Sec. 531.02417. MEDICAID NURSING SERVICES ASSESSMENTS.

1-18 (a) In this section, "acute nursing services" means home health
1-19 skilled nursing services, home health aide services, and private
1-20 duty nursing services.

1-21 (b) The commission shall develop an objective assessment
1-22 process for use in assessing the needs of a Medicaid recipient for
1-23 acute nursing services. The commission shall require that:

1-24 (1) the assessment be conducted:

1-25 (A) by a state employee or contractor who is not
1-26 the person who will deliver any necessary services to the recipient
1-27 and is not affiliated with the person who will deliver those
1-28 services; and

1-29 (B) in a timely manner so as to protect the health
1-30 and safety of the recipient by avoiding unnecessary delays in
1-31 service delivery; and

1-32 (2) the process include:

1-33 (A) an assessment of specified criteria and
1-34 documentation of the assessment results on a standard form;

1-35 (B) an assessment of whether the recipient should
1-36 be referred for additional assessments regarding the recipient's
1-37 needs for therapy services, as defined by Section 531.024171,
1-38 attendant care services, and durable medical equipment; and

1-39 (C) completion by the person conducting the
1-40 assessment of any documents related to obtaining prior
1-41 authorization for necessary nursing services.

1-42 (c) The commission shall:

1-43 (1) implement the objective assessment process
1-44 developed under Subsection (b) within the Medicaid fee-for-service
1-45 model and the primary care case management Medicaid managed care
1-46 model; and

1-47 (2) take necessary actions, including modifying
1-48 contracts with managed care organizations under Chapter 533 to the
1-49 extent allowed by law, to implement the process within the STAR and
1-50 STAR+PLUS Medicaid managed care programs.

1-51 (d) The executive commissioner shall adopt rules providing
1-52 for a process by which a provider of acute nursing services who
1-53 disagrees with the results of the assessment conducted as provided
1-54 by Subsection (b) may request and obtain a review of those results.

1-55 Sec. 531.024171. THERAPY SERVICES ASSESSMENTS. (a) In
1-56 this section, "therapy services" includes occupational, physical,
1-57 and speech therapy services.

1-58 (b) After implementing the objective assessment process for
1-59 acute nursing services as required by Section 531.02417, the
1-60 commission shall consider whether implementing an objective
1-61 assessment process for assessing the needs of a Medicaid recipient
1-62 for therapy services that is comparable to the process required
1-63 under Section 531.02417 for acute nursing services would be

2-1 feasible and beneficial.

2-2 (c) If the commission determines that implementing a
2-3 comparable process with respect to one or more types of therapy
2-4 services is feasible and would be beneficial, the commission may
2-5 implement the process within:

2-6 (1) the Medicaid fee-for-service model;

2-7 (2) the primary care case management Medicaid managed
2-8 care model; and

2-9 (3) the STAR and STAR+PLUS Medicaid managed care
2-10 programs.

2-11 (d) An objective assessment process implemented under this
2-12 section must include a process that allows a provider of therapy
2-13 services to request and obtain a review of the results of an
2-14 assessment conducted as provided by this section that is comparable
2-15 to the process implemented under rules adopted under Section
2-16 531.02417(d).

2-17 Sec. 531.024172. ELECTRONIC VISIT VERIFICATION SYSTEM.

2-18 (a) In this section, "acute nursing services" has the meaning
2-19 assigned by Section 531.02417.

2-20 (b) If it is cost-effective and feasible, the commission
2-21 shall implement an Electronic Visit Verification system to
2-22 electronically verify and document through a telephone or
2-23 computer-based system basic information relating to the delivery of
2-24 Medicaid acute nursing services, including:

2-25 (1) the provider's name;

2-26 (2) the recipient's name; and

2-27 (3) the date and time the provider begins and ends each
2-28 service delivery visit.

2-29 SECTION 2. Not later than September 1, 2012, the Health and
2-30 Human Services Commission shall implement the Electronic Visit
2-31 Verification system required by Section 531.024172, Government
2-32 Code, as added by this Act, if the commission determines that
2-33 implementation of that system is cost-effective and feasible.

2-34 SECTION 3. If before implementing any provision of this Act
2-35 a state agency determines that a waiver or authorization from a
2-36 federal agency is necessary for implementation of that provision,
2-37 the agency affected by the provision shall request the waiver or
2-38 authorization and may delay implementing that provision until the
2-39 waiver or authorization is granted.

2-40 SECTION 4. This Act takes effect September 1, 2011.

2-41

* * * * *