

By: Guillen

H.B. No. 1267

Substitute the following for H.B. No. 1267:

By: Raymond

C.S.H.B. No. 1267

A BILL TO BE ENTITLED

1 AN ACT
2 relating to certain Medicaid home and community-based services
3 waiver programs.

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

5 SECTION 1. This Act shall be known as Daniel's Law.

6 SECTION 2. Subchapter B, Chapter 32, Human Resources Code,
7 is amended by adding Sections 32.0521 and 32.0522 to read as
8 follows:

9 Sec. 32.0521. HOSPITAL LEVEL OF CARE WAIVER PROGRAM FOR
10 MEDICALLY FRAGILE INDIVIDUALS. (a) The department shall develop
11 and apply for a waiver under Section 1915(c), Social Security Act
12 (42 U.S.C. Section 1396n(c)), to provide the state with the
13 flexibility to provide medical assistance services outside the
14 scope, amount, or duration of nonwaiver services available to
15 medically fragile individuals who are at least 21 years of age and
16 who require a hospital level of care under the medical assistance
17 program, if the department determines that implementation of a
18 hospital level of care waiver program is cost-effective and
19 efficient.

20 (b) The hospital level of care waiver program under this
21 section must include coverage for:

22 (1) advanced supportive and restorative services;

23 (2) case management services;

24 (3) environmental modifications;

- 1 (4) home-delivered meals;
- 2 (5) hospice care;
- 3 (6) occupational therapy;
- 4 (7) personal care;
- 5 (8) prescribed drugs;
- 6 (9) personal emergency response systems;
- 7 (10) physical therapy;
- 8 (11) private duty nursing;
- 9 (12) respiratory therapy;
- 10 (13) respite care;
- 11 (14) skilled nursing;
- 12 (15) specialized medical equipment and supplies; and
- 13 (16) speech therapy.

14 (c) The department may not require that a medically fragile
15 or technology-dependent individual who meets the eligibility
16 criteria for the hospital level of care waiver program be placed in
17 an alternative institutional living arrangement as a condition for
18 receiving services under the program.

19 (d) To ensure that services subject to this section are cost
20 neutral and not duplicative of other services provided under the
21 medical assistance program, the department shall coordinate the
22 provision of services subject to this section with services
23 provided under other federal waiver programs.

24 Sec. 32.0522. LEVELS OF NEED IN HOME AND COMMUNITY-BASED
25 SERVICES WAIVER PROGRAM. (a) The department shall develop and
26 apply for a waiver under Section 1915(c), Social Security Act (42
27 U.S.C. Section 1396n(c)), to establish a level of need for use in

1 the Home and Community-based Services waiver program to assess
2 individuals who are at least 21 years of age and may require
3 continuous, intensive, and specialized medical support to ensure
4 that those individuals may receive that support, if the department
5 determines that implementation of that level of need is
6 cost-effective and efficient.

7 **(b)** The individual cost limit for an individual assigned the
8 level of need established under this section must be equal to or
9 greater than the individual cost limit for an individual assigned a
10 level of need that includes the receipt of the most intensive
11 behavioral health support under the Home and Community-based
12 Services waiver program.

13 SECTION 3. If before implementing any provision of this Act
14 a state agency determines that a waiver, an amendment to an existing
15 waiver, or another authorization from a federal agency is necessary
16 for implementation of that provision, the agency affected by the
17 provision shall request the waiver, amendment to the existing
18 waiver, or other authorization and may delay implementing that
19 provision until the waiver, amendment, or authorization is granted.

20 SECTION 4. This Act takes effect September 1, 2013.