

By: Zaffirini

S.B. No. 41

A BILL TO BE ENTITLED

AN ACT

relating to the administration and provision of consumer-directed services under certain health and human services programs.

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

SECTION 1. The heading to Section 531.051, Government Code, is amended to read as follows:

Sec. 531.051. CONSUMER DIRECTION OF CERTAIN SERVICES FOR CERTAIN PERSONS [~~WITH DISABILITIES AND ELDERLY PERSONS~~].

SECTION 2. Section 531.051(a), Government Code, is amended by amending Subdivision (2) and adding Subdivisions (4-a) and (5-a) to read as follows:

(2) "Consumer direction" or "consumer direction model" means a service delivery model under which a consumer or the consumer's legally authorized representative exercises control over the development and implementation of the consumer's individual service plan or over the persons delivering the services directly to the consumer. The term includes the consumer-directed service option, the service responsibility option, the individualized budget option, the purchasing option, and other types of service delivery models developed by the commission under this section.

(4-a) "Individualized budget option" means a type of consumer direction model in which:

(A) a consumer-directed services agency

1 assesses the needs of a consumer and assists the consumer in
2 developing an individual budget expressed in dollars and based on
3 the anticipated cost of services and supports appropriate for the
4 consumer for the purchase of the goods and services necessary to
5 meet the consumer's needs;

6 (B) the consumer and, if appropriate, a person
7 who provides support or counseling services to the consumer develop
8 a spending plan for how and when the consumer will spend the money
9 in accordance with the consumer's individual budget;

10 (C) a consumer-directed services agency monitors
11 the consumer's individual budget;

12 (D) the consumer receives financial management
13 services through the consumer-directed services agency that
14 developed or monitors the consumer's individual budget; and

15 (E) the consumer does not directly receive cash
16 in relation to the consumer's individual budget but is instead
17 provided with a variety of tracking methods to manage and monitor
18 the consumer's individual budget.

19 (5-a) "Purchasing option" means a type of consumer
20 direction model in which a consumer is allocated money to purchase
21 goods and services that:

22 (A) are permissible under applicable federal and
23 state laws;

24 (B) address the needs identified in the
25 consumer's individual service plan;

26 (C) the consumer can afford without compromising
27 the consumer's health or safety; and

1 (D) are directly for the consumer's benefit.

2 SECTION 3. Section 531.051, Government Code, is amended by
3 amending Subsections (b) and (c) and adding Subsection (c-1) to
4 read as follows:

5 (b) The commission shall develop and oversee the
6 implementation of consumer direction models under which a person
7 with a disability or an elderly person who is receiving certain
8 state-funded or Medicaid-funded services, a person who is receiving
9 public mental health services under a program administered by the
10 Department of State Health Services, or the ~~[person's]~~ legally
11 authorized representative of one of those persons [7] exercises
12 control over the development and implementation of the person's
13 individual service plan or over the persons who directly deliver
14 the services.

15 (c) In adopting rules for the consumer direction models, the
16 executive commissioner ~~[commission]~~ shall:

17 (1) with assistance from the work group established
18 under Section 531.052 and subject to Subsection (c-1), determine
19 which services are appropriate and suitable for delivery through
20 consumer direction;

21 (2) ensure that each consumer direction model is
22 designed to comply with applicable federal and state laws;

23 (3) maintain procedures to ensure that a potential
24 consumer or the consumer's legally authorized representative has
25 adequate and appropriate information, including the
26 responsibilities of a consumer or representative under each service
27 delivery option, to make an informed choice among the types of

1 consumer direction models;

2 (4) require each consumer or the consumer's legally
3 authorized representative to sign a statement acknowledging
4 receipt of the information required by Subdivision (3);

5 (5) maintain procedures to monitor delivery of
6 services through consumer direction to ensure:

7 (A) adherence to existing applicable program
8 standards;

9 (B) appropriate use of funds; and

10 (C) consumer satisfaction with the delivery of
11 services;

12 (6) ensure that authorized program services that are
13 not being delivered to a consumer through consumer direction are
14 provided by a provider agency chosen by the consumer or the
15 consumer's legally authorized representative; and

16 (7) work in conjunction with the work group
17 established under Section 531.052 to set a timetable to complete
18 the implementation of the consumer direction models.

19 (c-1) In adopting rules regarding what services are
20 appropriate and suitable for delivery through consumer direction
21 under Subsection (c)(1), the executive commissioner shall ensure
22 that:

23 (1) included in the services eligible for
24 consumer-directed delivery are all home and community-based
25 services provided under the Medicaid state plan, including services
26 provided under the STAR + PLUS Medicaid managed care program and
27 Medicaid waiver programs, including waiver programs authorized

1 under Sections 1915 and 1115 of the federal Social Security Act (42
2 U.S.C. Sections 1396n and 1315); and

3 (2) consumers are provided case management and service
4 coordination when available.

5 SECTION 4. Not later than December 1, 2013, the executive
6 commissioner of the Health and Human Services Commission shall
7 adopt the rules necessary to develop and implement the consumer
8 direction models described in Sections 531.051(a)(4-a) and (5-a),
9 Government Code, as added by this Act, and the rules required by
10 Section 531.051(c-1), Government Code, as added by this Act.

11 SECTION 5. If before implementing any provision of this Act
12 a state agency determines that a waiver or authorization from a
13 federal agency is necessary for implementation of that provision,
14 the agency affected by the provision shall request the waiver or
15 authorization and may delay implementing that provision until the
16 waiver or authorization is granted.

17 SECTION 6. This Act takes effect September 1, 2013.