

AN ACT

relating to the establishment of a reuse program for durable medical equipment provided to recipients under the Medicaid program.

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

SECTION 1. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0843 to read as follows:

Sec. 531.0843. DURABLE MEDICAL EQUIPMENT REUSE PROGRAM.

(a) In this section:

(1) "Complex rehabilitation technology equipment" means equipment that is classified as durable medical equipment under the Medicare program on January 1, 2013, configured specifically for an individual to meet the individual's unique medical, physical, and functional needs and capabilities for basic and instrumental daily living activities, and medically necessary to prevent the individual's hospitalization or institutionalization. The term includes a complex rehabilitation power wheelchair, highly configurable manual wheelchair, adaptive seating and positioning system, standing frame, and gait trainer.

(2) "Durable medical equipment" means equipment, including repair and replacement parts for the equipment, but excluding complex rehabilitation technology equipment, that:

(A) can withstand repeated use;

(B) is primarily and customarily used to serve a

1 medical purpose;

2 (C) generally is not useful to a person in the  
3 absence of illness or injury; and

4 (D) is appropriate and safe for use in the home.

5 (b) If the commission determines that it is cost-effective,  
6 the executive commissioner by rule shall establish a program to  
7 facilitate the reuse of durable medical equipment provided to  
8 recipients under the Medicaid program.

9 (c) The program must include provisions for ensuring that:

10 (1) reused equipment meets applicable standards of  
11 functionality and sanitation; and

12 (2) a Medicaid recipient's participation in the reuse  
13 program is voluntary.

14 (d) The program does not:

15 (1) waive any immunity from liability of the  
16 commission or an employee of the commission; or

17 (2) create a cause of action against the commission or  
18 an employee of the commission arising from the provision of reused  
19 durable medical equipment under the program.

20 (e) In accordance with Chapter 551 or 2001, as applicable,  
21 the executive commissioner shall provide notice of each proposed  
22 rule, adopted rule, and hearing that relates to establishing the  
23 program under this section.

24 SECTION 2. Not later than September 1, 2014, the executive  
25 commissioner of the Health and Human Services Commission shall  
26 establish the program required by Section 531.0843, Government  
27 Code, as added by this Act, and adopt necessary rules to implement

1 the program, if the commission determines that establishing the  
2 program is cost-effective.

3       SECTION 3. If before implementing any provision of this Act  
4 a state agency determines that a waiver or authorization from a  
5 federal agency is necessary for implementation of that provision,  
6 the agency affected by the provision shall request the waiver or  
7 authorization and may delay implementing that provision until the  
8 waiver or authorization is granted.

9       SECTION 4. This Act takes effect immediately if it receives  
10 a vote of two-thirds of all the members elected to each house, as  
11 provided by Section 39, Article III, Texas Constitution. If this  
12 Act does not receive the vote necessary for immediate effect, this  
13 Act takes effect September 1, 2013.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1175 passed the Senate on April 29, 2013, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1175 passed the House on May 22, 2013, by the following vote: Yeas 148, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor