

By: Duncan

S.B. No. 1321

A BILL TO BE ENTITLED

AN ACT

relating to the consideration of a life insurance policy in determining eligibility for medical assistance.

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

SECTION 1. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.02613 to read as follows:

Sec. 32.02613. EXCLUSION OF LIFE INSURANCE POLICIES UNDER CERTAIN CIRCUMSTANCES. (a) In determining eligibility and need of a person for medical assistance, the department shall treat a life insurance policy owned by the person in the manner provided by this section.

(b) The department may not consider as assets or resources of a person who meets the state's nursing home level of care the value of a life insurance policy that is in force and owned by the person if the person enters into a life settlement contract in accordance with this section. In this subsection, "value" means the total amount of guaranteed periodic payments a person is entitled to receive under Subsection (c).

(c) The owner of a life insurance policy with a face amount of more than \$10,000 may enter into a life settlement contract under Chapter 1111A, Insurance Code, in exchange for guaranteed periodic payments to the state to be used only for the provision of Medicaid long-term care services to the owner of the policy.

(d) In addition to the requirements under Chapter 1111A,

1 Insurance Code, a life settlement contract entered into as provided
2 by Subsection (b) must:

3 (1) provide that the lesser of five percent of the face
4 amount of the life insurance policy or \$5,000 is reserved as a death
5 benefit payable to the owner's estate or a named beneficiary;

6 (2) provide that the balance of payments required
7 under the contract that are unpaid on the death of the owner must be
8 paid to the owner's estate or a named beneficiary;

9 (3) include a schedule evidencing the total amount
10 payable, the number of payments, and the amount of each payment
11 required to be paid under the life settlement contract; and

12 (4) require that all proceeds of the life settlement
13 contract be held in an irrevocable state or federally insured
14 account.

15 (e) The department must provide as part of the application
16 for medical assistance written notice of the option to enter into a
17 life settlement contract as provided in this section.

18 (f) The executive commissioner of the Health and Human
19 Services Commission in consultation with the commissioner of
20 insurance shall adopt rules necessary to implement this section.

21 SECTION 2. Not later than January 1, 2014, the executive
22 commissioner of the Health and Human Services Commission shall
23 adopt rules necessary to implement Section 32.02613, Human
24 Resources Code, as added by this Act.

25 SECTION 3. The change in law made by this Act applies only
26 to a determination of eligibility of a person for medical
27 assistance benefits made on or after January 1, 2014. A

1 determination of eligibility made before January 1, 2014, is
2 governed by the law in effect on the date the determination was
3 made, and the former law is continued in effect for that purpose.

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

10 SECTION 5. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2013.