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H.B. No. 2463

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Department of Assistive and Rehabilitative Services.

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

SECTION 1. Section 117.001, Human Resources Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a), (1-b), (4-a), and (4-b) to read as follows:

(1) "Caseworker" means a department employee who manages a client's case under a direct services program and provides direct services to the client under the program.

(1-a) "Center for independent living" has the meaning assigned by Section 702 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 796a).

(1-b) "Commission" means the Health and Human Services Commission.

(4-a) "Direct services" means services provided to a client by a department employee, including counseling, facilitating the purchase of services from a source other than the department, and purchasing equipment and other items and providing other services necessary for the client to successfully complete a department program.

(4-b) "Direct services program" means a program operated by the department through which direct services are provided.

SECTION 2. (a) Section 117.003, Human Resources Code, is amended to read as follows:

Sec. 117.003. SUNSET PROVISION. The Department of Assistive and Rehabilitative Services is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2027 [2015].

(b) This section takes effect only if H.B. 2304, S.B. 200, or similar legislation of the 84th Legislature, Regular Session, 2015, providing for the transfer of the functions of the Department of Assistive and Rehabilitative Services to the Health and Human Services Commission is not enacted or does not become law. If H.B. 2304, S.B. 200, or similar legislation of the 84th Legislature, Regular Session, 2015, is enacted, becomes law, and provides for the transfer of the department's functions to the commission, this section has no effect.

SECTION 3. Subchapter D, Chapter 117, Human Resources Code, is amended by adding Sections 117.079, 117.080, 117.081, and 117.082 to read as follows:

Sec. 117.079. INTEGRATION OF INDEPENDENT LIVING SERVICES PROGRAMS. (a) Not later than September 1, 2016, the department shall integrate into a single independent living services program the following programs that the department operates under Title VII of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 796 et seq.):

(1) the Independent Living Program for individuals who are blind or have visual impairments; and

1           (2) the Independent Living Services Program for  
2 individuals with significant disabilities.

3           (b) The executive commissioner shall adopt any rules  
4 necessary to facilitate the integration of the programs identified  
5 in Subsection (a), including rules that direct the department, as  
6 the single designated state entity responsible for administering  
7 the state's independent living services program, to comply with the  
8 requirements of 29 U.S.C. Section 796c for the integrated program.

9           (c) This section expires September 1, 2017.

10          Sec. 117.080. PROVISION OF INDEPENDENT LIVING SERVICES.

11         (a) The department shall ensure that all services provided under  
12 the independent living services program that the department  
13 operates under Title VII of the federal Rehabilitation Act of 1973  
14 (29 U.S.C. Section 796 et seq.) are directly provided by centers for  
15 independent living, except as provided by Subsection (b), and are  
16 not directly provided by the department.

17         (b) If an area of the state does not have a center for  
18 independent living, or no center for independent living in that  
19 area is able to provide certain necessary services under the  
20 independent living services program, the department shall seek to  
21 identify a center for independent living that is willing and able to  
22 contract with a nonprofit organization or other person to provide  
23 the independent living services in the area under the program. If  
24 no center for independent living is willing and able to contract  
25 with another organization or other person, the department may  
26 directly contract with an organization or other person who is not a  
27 center for independent living to provide the independent living

1 services in the area under the program.

2 (c) The department shall evaluate the independent living  
3 services provided by a center for independent living and shall  
4 provide necessary training or technical assistance to help the  
5 center for independent living expand its capacity to provide a full  
6 range of independent living services.

7 (d) The department shall monitor the performance of each  
8 center for independent living in providing independent living  
9 services, including how the center for independent living monitors  
10 the performance of the organizations and other persons with whom it  
11 contracts to provide independent living services.

12 (e) The executive commissioner shall adopt rules to  
13 implement this section that include:

14 (1) an equitable and transparent methodology for  
15 allocating funds to centers for independent living under the  
16 independent living services program;

17 (2) requirements applicable to the department in  
18 contracting with centers for independent living to provide  
19 independent living services under the program;

20 (3) requirements applicable to centers for  
21 independent living in contracting with organizations and other  
22 persons to provide independent living services under the program;

23 (4) requirements applicable to the department in  
24 contracting with organizations or other persons who are not centers  
25 for independent living to provide independent living services under  
26 the program;

27 (5) a process for the department to monitor

independent living services contracts;

(6) guidelines on the department's role in providing technical assistance and training to centers for independent living as necessary; and

(7) expectations for department employees to refer persons who contact the department seeking independent living services to centers for independent living.

(f) Notwithstanding the requirements of this section, the department shall ensure that services provided under the independent living services program are provided as required by this section not later than August 31, 2016. This subsection expires September 1, 2017.

Sec. 117.081. COMPREHENSIVE REHABILITATION SERVICES PROGRAM. The department shall operate a comprehensive rehabilitation services program to provide comprehensive rehabilitation services to persons with traumatic brain or spinal cord injuries. The executive commissioner shall adopt rules for the program that include:

(1) a system of organization for the delivery of the comprehensive rehabilitation services;

(2) eligibility requirements for the comprehensive rehabilitation services;

(3) the types of services that may be provided to a client under the program; and

(4) requirements for client participation in the costs of the comprehensive rehabilitation services.

Sec. 117.082. CHILDREN'S AUTISM PROGRAM. The department

1 shall operate a children's autism program to provide services to  
2 children with autism spectrum disorders. The executive  
3 commissioner shall adopt rules for the program that include:

4 (1) a system of organization for the delivery of the  
5 autism services;

6 (2) eligibility requirements for the autism services;

7 (3) the types of services that may be provided to a  
8 client under the program; and

9 (4) requirements for participation by the client's  
10 family in the costs of the autism services.

11 SECTION 4. Chapter 117, Human Resources Code, is amended by  
12 adding Subchapter D-1 to read as follows:

13 SUBCHAPTER D-1. ADMINISTRATION OF DIRECT SERVICES PROGRAMS IN

14 GENERAL

15 Sec. 117.091. DIRECT SERVICES PROGRAM CASEWORKER  
16 GUIDELINES. (a) The department shall use program data and best  
17 practices to establish and maintain guidelines that provide  
18 direction for caseworkers' decisions in all of the department's  
19 direct services programs. The guidelines:

20 (1) must categorize direct services program cases  
21 based on the types of services provided and, for each category,  
22 include provisions addressing:

23 (A) the recommended length of time a case in that  
24 category should last; and

25 (B) the recommended total expenditures for a case  
26 in that category;

27 (2) must include provisions for creating intermediate

goals for a client receiving services through a direct services program that will allow:

(A) the caseworker to monitor the client's progress; and

(B) the caseworker's supervisor to evaluate how the client's case is advancing;

(3) must include criteria for caseworkers to use in evaluating progress on the intermediate goals described in Subdivision (2); and

(4) may include other provisions designed to assist caseworkers and their supervisors to achieve successful outcomes for clients.

(b) A caseworker may exceed the recommended guidelines described in Subsection (a)(1) in a direct services program case but must obtain the approval of the caseworker's supervisor after documenting the need to exceed the guidelines.

(c) The guidelines established under this section are not intended to limit the provision of appropriate or necessary services to a client.

(d) The department shall provide the guidelines established under this section to caseworkers in a format that allows caseworkers to easily access the information.

Sec. 117.092. DIRECT SERVICES PROGRAM CASE REVIEW SYSTEM.

(a) The department shall establish and maintain a single, uniform case review system for all direct services programs.

(b) The case review system must:

(1) include risk assessment tools that account for the

1 different risks involved in each direct services program;

2 (2) require that case reviews:

3 (A) be used to consistently evaluate each direct  
4 services program across all regions, with the goal of evaluating at  
5 least 10 percent of all cases in each program and region annually;

6 (B) focus on areas of highest risk and prioritize  
7 the review of the following cases:

8 (i) except as provided by Subparagraph  
9 (ii), cases in which direct services have been provided for more  
10 than two years;

11 (ii) cases in the Blind Children's  
12 Vocational Discovery and Development Program in which direct  
13 services have been provided for more than five years; and

14 (iii) cases that are significantly outside  
15 the expenditure guidelines for that type of case;

16 (C) be used to evaluate a caseworker's  
17 eligibility determinations and decisions to close a case before a  
18 service plan is developed or without the client reaching the  
19 client's goal; and

20 (D) focus on the quality of a caseworker's  
21 decision-making and compliance with program requirements; and

22 (3) require a caseworker's supervisor to use the  
23 reviews of a caseworker's cases in conducting the caseworker's  
24 performance evaluation and in providing informal guidance to the  
25 caseworker to improve the caseworker's performance.

26 Sec. 117.093. DIRECT SERVICES PROGRAM MONITORING. (a)  
27 Department personnel not employed to perform functions directly



1 under a direct services program must be designated to monitor those  
2 programs from a statewide perspective. The designated personnel  
3 shall collect, monitor, and analyze data relating to direct  
4 services programs and report outcomes and trends to program  
5 managers and, as necessary, the commissioner or other appropriate  
6 executive management.

7 (b) The monitoring function under Subsection (a) must  
8 include monitoring of:

9 (1) performance data from all regions and all direct  
10 services programs to identify trends; and

11 (2) case review data to ensure compliance with the  
12 case review system under Section 117.092.

13 (c) Personnel designated to perform the monitoring function  
14 required by this section shall work with direct services program  
15 staff to develop objective and detailed outcome measures for the  
16 programs.

17 (d) The department may conduct internal peer reviews of the  
18 department's field offices at regular intervals to assess the field  
19 offices' compliance with federal regulations and department  
20 policies and to compare each field office's compliance with the  
21 compliance of the other field offices. The department may use  
22 personnel designated to perform the monitoring function required by  
23 this section to facilitate the internal peer reviews.

24 SECTION 5. The following provisions of the Human Resources  
25 Code are repealed:

26 (1) Section 91.022, as amended by S.B. No. 219, Acts  
27 of the 84th Legislature, Regular Session, 2015; and

1           (2) Section 117.153, as redesignated and amended by  
2 S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015.

3           SECTION 6. The executive commissioner of the Health and  
4 Human Services Commission shall adopt the rules required by Section  
5 117.080(e), Human Resources Code, as added by this Act, as soon as  
6 practicable after the effective date of this Act.

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

13          SECTION 8. Except as otherwise provided by this Act, this  
14 Act takes effect September 1, 2015.