

By: Klick

H.B. No. 2954

A BILL TO BE ENTITLED

AN ACT

relating to an electronic financial record matching program to verify the assets of certain applicants and recipients under the medical assistance program.

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 32.02612 to read as follows:

Sec. 32.02612. ASSET VERIFICATION PROGRAM: ELECTRONIC FINANCIAL RECORD MATCHING PROGRAM. (a) In this section:

(1) "Electronic financial record matching program" means the electronic financial record matching program established under this section.

(2) "Financial institution" means:

(A) a depository institution, as defined by Section 3(c), Federal Deposit Insurance Act (12 U.S.C. Section 1813(c));

(B) an institution-affiliated party, as defined by Section 3(u), Federal Deposit Insurance Act (12 U.S.C. Section 1813(u));

(C) a federal credit union or a state credit union, as defined by Section 101, Federal Credit Union Act (12 U.S.C. Section 1752), including an institution-affiliated party of a credit union, as defined by Section 206(r), Federal Credit Union Act (12 U.S.C. Section 1786(r)); or

1 (D) any benefit association, insurance company,
2 safe deposit company, money-market mutual fund, or similar entity
3 authorized to do business in the state.

4 (3) "Other individual" means an individual whose
5 resources are required by law to be disclosed to determine the
6 eligibility of an applicant for or recipient of medical assistance
7 benefits.

8 (b) In accordance with 42 U.S.C. Section 1396w and subject
9 to the requirements of this section, the department, or an agent of
10 the department, shall develop and operate an electronic financial
11 record matching program for the purpose of verifying assets to
12 determine or redetermine the eligibility of an applicant for or
13 recipient of medical assistance benefits provided on the basis of
14 the applicant or recipient, as applicable, being aged or blind or
15 having a disability.

16 (c) A financial institution doing business in this state
17 shall comply with any request for a financial record from the
18 department under the electronic financial record matching program.

19 (d) In developing an electronic financial record matching
20 program, the department shall enter into an agreement with
21 appropriate financial institutions doing business in the state
22 under which:

23 (1) the parties agree to use electronic data
24 exchanges;

25 (2) the financial institutions, in a mutually agreed
26 on process, are required to provide on at least a quarterly basis
27 financial records necessary to verify the assets of an applicant

1 for or recipient of medical assistance benefits, or other
2 individual, including records that specify:

3 (A) the name or assumed names on file with
4 respect to the applicant, recipient, or other individual;

5 (B) any address on file with respect to the
6 applicant, recipient, or other individual;

7 (C) the social security number or other tax
8 identification number on file for the applicant, recipient, or
9 other individual; and

10 (D) any other identifying information requested
11 by the department; and

12 (3) the financial institutions are required to respond
13 to records requests not later than:

14 (A) 48 hours after a request for current
15 financial information is received by the institutions; and

16 (B) 30 days after the date a request for
17 historical financial information is received by the institutions.

18 (e) The department may receive historical financial
19 information under the electronic financial record matching program
20 for the 60-month period preceding the date of the authorization
21 provided in accordance with Subsection (f).

22 (f) Notwithstanding any other law, an applicant for or
23 recipient of medical assistance benefits or other individual shall,
24 at the time of the initial application for medical assistance
25 benefits or at the time of any redetermination for the continuation
26 of medical assistance benefits, provide, directly or through a
27 person acting on behalf of the applicant or recipient,

1 authorization for the disclosure of financial records to the
2 department by financial institutions under the electronic
3 financial record matching program. The authorization must remain in
4 effect as long as the recipient or, in the case of an other
5 individual, the recipient on whose behalf the authorization is
6 required by law to be provided, receives benefits under the medical
7 assistance program.

8 (g) An authorization obtained by the department:

9 (1) in accordance with 42 U.S.C. Section 1396w(d)(1):

10 (A) is considered to meet the requirements of
11 Section 1103(a), the Right to Financial Privacy Act of 1978 (12
12 U.S.C. Section 3403(a)); and

13 (B) does not need not be provided to the
14 financial institution; and

15 (2) in accordance with 42 U.S.C. Section 1396w(c),
16 remains effective until the earlier of the date of:

17 (A) the rendering of a final adverse decision on
18 an applicant's eligibility decision;

19 (B) the termination of a recipient's eligibility
20 for medical assistance benefits; or

21 (C) an express written revocation by the
22 applicant, recipient, or other individual of the authorization
23 provided to the department.

24 (h) If an applicant for or recipient of medical assistance
25 benefits or other individual refuses to provide or revokes an
26 authorization made by that person under the electronic financial
27 record matching program, the department may, on that basis,

1 determine that the applicant or recipient, as applicable, is
2 ineligible for benefits under the medical assistance program.

3 (i) The department may use information provided by a
4 financial institution under the electronic financial record
5 matching program only for verifying assets for the purpose of
6 determining eligibility or redetermining eligibility for medical
7 assistance. The department may not use or disclose information
8 received from a financial institution concerning account holders
9 who are not applicants for or recipients of medical assistance
10 benefits or other individuals.

11 (j) A financial institution, including the institution's
12 agent, may not use or disclose information provided to the
13 institution under the electronic financial record matching program
14 except to the extent the use or disclosure is necessary to conduct
15 data matches. A financial institution, including the institution's
16 agent, shall return, erase, or destroy all information provided to
17 the institution under the electronic financial record matching
18 program after the institution conducts data matches required under
19 the program.

20 (k) A financial institution is not liable to any person for:

21 (1) the disclosure of information to the department
22 under this section; or

23 (2) any other action taken in good faith to comply with
24 the requirements of this section.

25 SECTION 2. The Health and Human Services Commission shall
26 establish the electronic financial record matching program in
27 accordance with Section 32.02612, Human Resources Code, as added by

1 this Act, not later than January 1, 2016.

2 SECTION 3. Section 32.02612, Human Resources Code, as added
3 by this Act, applies to an initial determination or redetermination
4 of eligibility of a person for medical assistance under Chapter 32,
5 Human Resources Code, that is made on or after January 1, 2016.

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

12 SECTION 5. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2015.