

By: Guillen

H.B. No. 1816

A BILL TO BE ENTITLED

AN ACT

relating to the reimbursement of nursing facilities under Medicaid.

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

SECTION 1. Sections 32.028(g), (i), and (m), Human Resources Code, are amended to read as follows:

(g) Subject to Subsection (i), the executive commissioner shall:

(1) set the base rate reimbursement for each nursing facility at an amount that is at least equal to the rate in effect on April 1, 2020, including any emergency temporary rate increase authorized under 1 T.A.C. Section 355.205; and

(2) ensure that the rules governing the determination of rates paid for nursing facility services improve the quality of care by:

(A) [~~(1)~~] providing a program offering incentives for increasing direct care staff and direct care wages and benefits, but only to the extent that appropriated funds are available after money is allocated to base rate reimbursements as determined by the commission's nursing facility rate setting methodologies; and

(B) [~~(2)~~] if appropriated funds are available after money is allocated for payment of incentive-based rates under Paragraph (A) [~~Subdivision (1)~~], providing incentives that incorporate the use of a quality of care index, a customer

1 satisfaction index, and a resolved complaints index developed by
2 the commission.

3 (i) The executive commissioner shall ensure that rules
4 governing the incentives program described by Subsection (g)(2)(A)
5 [~~(g)(1)~~]:

6 (1) provide that participation in the program by a
7 nursing facility is voluntary;

8 (2) do not impose on a nursing facility not
9 participating in the program a minimum spending requirement for
10 direct care staff wages and benefits;

11 (3) do not set a base rate for a nursing facility
12 participating in the program that is more than the base rate for a
13 nursing facility not participating in the program; and

14 (4) establish a funding process to provide incentives
15 for increasing direct care staff and direct care wages and benefits
16 in accordance with appropriations provided.

17 (m) The commission may not fund an incentive program under
18 Subsection (g)(2)(A) [~~(g)(1)~~] using money appropriated for base
19 rate reimbursements for nursing facilities.

20 SECTION 2. Section [533.00251\(c\)](#), Government Code, as
21 effective September 1, 2021, is amended to read as follows:

22 (c) Subject to Section [533.0025](#) and notwithstanding any
23 other law, the commission shall provide benefits under Medicaid to
24 recipients who reside in nursing facilities through the STAR + PLUS
25 Medicaid managed care program. In implementing this subsection,
26 the commission shall ensure:

27 (1) that a managed care organization providing

1 services under the managed care program sets the base rate
2 reimbursement paid to a nursing facility at an amount that is at
3 least equal to the minimum amount required by Section 32.028(g),
4 Human Resources Code;

5 (1-a) a nursing facility is paid not later than the
6 10th day after the date the facility submits a clean claim;

7 (2) the appropriate utilization of services
8 consistent with criteria established by the commission;

9 (3) a reduction in the incidence of potentially
10 preventable events and unnecessary institutionalizations;

11 (4) that a managed care organization providing
12 services under the managed care program provides discharge
13 planning, transitional care, and other education programs to
14 physicians and hospitals regarding all available long-term care
15 settings;

16 (5) that a managed care organization providing
17 services under the managed care program:

18 (A) assists in collecting applied income from
19 recipients; and

20 (B) provides payment incentives to nursing
21 facility providers that reward reductions in preventable acute care
22 costs and encourage transformative efforts in the delivery of
23 nursing facility services, including efforts to promote a
24 resident-centered care culture through facility design and
25 services provided;

26 (6) the establishment of a portal that is in
27 compliance with state and federal regulations, including standard

1 coding requirements, through which nursing facility providers
2 participating in the STAR + PLUS Medicaid managed care program may
3 submit claims to any participating managed care organization;

4 (7) that rules and procedures relating to the
5 certification and decertification of nursing facility beds under
6 Medicaid are not affected;

7 (8) that a managed care organization providing
8 services under the managed care program, to the greatest extent
9 possible, offers nursing facility providers access to:

10 (A) acute care professionals; and

11 (B) telemedicine, when feasible and in
12 accordance with state law, including rules adopted by the Texas
13 Medical Board; and

14 (9) that the commission approves the staff rate
15 enhancement methodology for the staff rate enhancement paid to a
16 nursing facility that qualifies for the enhancement under the
17 managed care program.

18 SECTION 3. (a) The Health and Human Services Commission
19 shall, in a contract between the commission and a managed care
20 organization under Chapter 533, Government Code, that is entered
21 into or renewed on or after the effective date of this Act, require
22 that the managed care organization comply with Section
23 533.00251(c), Government Code, as amended by this Act.

24 (b) The Health and Human Services Commission shall seek to
25 amend contracts entered into with managed care organizations under
26 Chapter 533, Government Code, before the effective date of this Act
27 to require those managed care organizations to comply with Section

1 533.00251(c), Government Code, as amended by this Act. To the
2 extent of a conflict between that section and a provision of a
3 contract with a managed care organization entered into before the
4 effective date of this Act, the contract provision prevails.

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

11 SECTION 5. This Act takes effect September 1, 2021.