

By: Johnson

S.B. No. 322

A BILL TO BE ENTITLED

AN ACT

relating to presumptive eligibility of certain elderly individuals for home and community-based services under Medicaid.

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 32.02605 to read as follows:

Sec. 32.02605. PRESUMPTIVE ELIGIBILITY OF CERTAIN ELDERLY INDIVIDUALS FOR HOME AND COMMUNITY-BASED SERVICES. (a) In this section, "elderly" means an individual who is at least 65 years of age.

(b) The executive commissioner shall by rule adopt a program providing for:

(1) the determination and certification of presumptive eligibility for medical assistance of an elderly individual who requires a skilled level of nursing care; and

(2) the provision through the medical assistance program to the individual of that care in a home or community-based setting instead of in an institutional setting, provided the individual applies for and meets the basic eligibility requirements for medical assistance.

(c) The program established under this section must:

(1) provide medical assistance benefits under a presumptive eligibility determination for a period of not more than 90 days;

1 (2) establish eligibility criteria and a process for
2 determining the entities authorized to make determinations of
3 presumptive eligibility under the program;

4 (3) provide a preliminary screening tool to entities
5 described by Subdivision (2) that will allow representatives of
6 those entities to:

7 (A) make a determination as to whether an
8 applicant is:

9 (i) functionally able to live at home or in
10 a community setting; and

11 (ii) likely to be financially eligible for
12 medical assistance;

13 (B) make the determination under Paragraph
14 (A)(ii) not later than the fourth day after the date a determination
15 is made under Paragraph (A)(i); and

16 (C) initiate the provision of medical assistance
17 benefits not later than the fifth day after the date an applicant is
18 determined eligible under Paragraph (A)(i); and

19 (4) require an applicant to sign a written agreement:

20 (A) attesting to the accuracy of financial and
21 other information the applicant provides and on which presumptive
22 eligibility is based; and

23 (B) acknowledging that:

24 (i) state-funded services are subject to
25 the period prescribed by Subdivision (1); and

26 (ii) the applicant is required to comply
27 with Subsection (d).

1 (d) An applicant who is determined presumptively eligible
2 for medical assistance under the program established by this
3 section must complete an application for medical assistance not
4 later than the 10th day after the date the applicant is screened for
5 functional eligibility under Subsection (c)(3)(A)(i).

6 (e) Not later than the 45th day after the date the
7 commission receives an application under Subsection (d), the
8 commission shall make a final determination of eligibility for
9 medical assistance.

10 (f) To the extent permitted by federal law, the commission
11 shall retroactively apply a final determination of eligibility for
12 medical assistance under Subsection (e) for a period that does not
13 precede the 90th day before the date the application was filed under
14 Subsection (d).

15 (g) The commission shall submit an annual report to the
16 standing committees of the senate and house of representatives
17 having jurisdiction over the medical assistance program that
18 details:

19 (1) the number of individuals determined
20 presumptively eligible for medical assistance under the program
21 established under this section;

22 (2) the savings to the state based on how much
23 institutional care would have cost for individuals determined
24 presumptively eligible for medical assistance under the program
25 established under this section who were later determined eligible
26 for medical assistance; and

27 (3) the number of individuals determined

1 presumptively eligible for medical assistance under the program
2 established under this section who were later determined not
3 eligible for medical assistance and the cost to the state to provide
4 those individuals with home or community-based services before the
5 final determination of eligibility for medical assistance.

6 (h) The report required under Subsection (g) may be combined
7 with any other report required by this chapter or other law.

8 SECTION 2. If before implementing any provision of this Act
9 a state agency determines that a waiver or authorization from a
10 federal agency is necessary for implementation of that provision,
11 the agency affected by the provision shall request the waiver or
12 authorization and may delay implementing that provision until the
13 waiver or authorization is granted.

14 SECTION 3. This Act takes effect September 1, 2021.