

By: Meza

H.B. No. 1430

A BILL TO BE ENTITLED

AN ACT

relating to establishing a minimum wage for certain personal attendants under Medicaid and other programs administered by the Health and Human Services Commission.

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

SECTION 1. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.00523 to read as follows:

Sec. 533.00523. COMPLIANCE WITH MINIMUM WAGE FOR CERTAIN PERSONAL ATTENDANTS. A contract between a managed care organization and the commission to provide health care services to recipients must require that the organization ensure provider compliance with the minimum wage requirement for personal attendants under Section 531.603.

SECTION 2. Chapter 531, Government Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. PERSONAL ATTENDANT SERVICES

Sec. 531.601. DEFINITIONS. In this subchapter:

(1) "Continuing care facility" means a facility regulated under Chapter 246, Health and Safety Code.

(2) "Family care program" means the program authorized under Subtitle A, Title XX of the Social Security Act (42 U.S.C. Section 1397 et seq.) to provide personal attendant services to eligible individuals.

(3) "Home and community support services agency" means

a person licensed under Chapter 142, Health and Safety Code.

(4) "Personal attendant" means an individual employed or contracted by a provider agency or by an employer or designated representative under a consumer direction model implemented under Section 531.051 to provide personal attendant services. The term does not include an individual described by Section 142.003(a)(1) or (2), Health and Safety Code.

(5) "Personal attendant services" means nonmedical services that enable an individual to engage in the activities of daily living or to perform the physical functions required for independent living, including:

(A) bathing, dressing, grooming, feeding, exercising, toileting, positioning, assisting with self-administered medications, routine hair and skin care, and transfer or ambulation; and

(B) light housekeeping, grocery shopping, meal preparation, and laundry.

(6) "Provider agency" means an agency that contracts with the commission or with a Medicaid managed care organization to provide personal attendant services to individuals receiving services under Medicaid or the family care program. The term includes a home and community support services agency and a continuing care facility.

Sec. 531.602. APPLICABILITY. This subchapter applies only to a personal attendant who provides personal attendant services to:

(1) a Medicaid recipient, including a recipient under:

(A) the Medicaid managed care program under

Chapter 533;

(B) the community attendant services program described by Section 32.061, Human Resources Code;

(C) the primary home care program; and

(D) a Section 1915(c) waiver program; or

(2) an individual who receives services under the family care program.

Sec. 531.603. MINIMUM WAGE FOR PERSONAL ATTENDANTS. (a) Notwithstanding Section 62.051 or 62.151, Labor Code, or any other law, a provider agency or employer or designated representative under a consumer direction model implemented under Section 531.051 must pay a personal attendant to whom this subchapter applies a base wage that is not less than the greater of:

(1) \$17 an hour; or

(2) the federal minimum wage under Section 6, Fair Labor Standards Act of 1938 (29 U.S.C. Section 206).

(b) This subsection applies to only the 2024 calendar year. Subsection (a) does not apply in the year to which this subsection applies. Notwithstanding Section 62.051 or 62.151, Labor Code, or any other law, a provider agency or employer or designated representative under a consumer direction model implemented under Section 531.051 must pay a personal attendant to whom this subchapter applies a base wage that is not less than the greater of:

(1) \$15 an hour; or

(2) the federal minimum wage under Section 6, Fair Labor Standards Act of 1938 (29 U.S.C. Section 206).

(c) Subsection (b) and this subsection expire January 1,

1 2025.

2           SECTION 3. Section 531.603, Government Code, as added by  
3 this Act, applies beginning with the 2024 calendar year.

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 September 1, 2023.