

By: Shapleigh

S.B. No. 302

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the implementation of an in-home caregiver
3 demonstration project under the Medicaid program.

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

5 SECTION 1. Subchapter B, Chapter 32, Human Resources Code,
6 is amended by adding Section 32.074 to read as follows:

7 Sec. 32.074. IN-HOME CAREGIVER DEMONSTRATION PROJECT. (a)

8 In this section:

9 (1) "Activity of daily living" means an activity in
10 which a person engages to care for the person's physical health or
11 manage the person's financial affairs. The term includes bathing,
12 and other activities necessary to maintain personal hygiene,
13 dressing, preparing meals, eating, using a telephone, managing
14 money or medication, and obtaining or accessing transportation.

15 (2) "Executive commissioner" means the executive
16 commissioner of the Health and Human Services Commission.

17 (3) "Homemaker service" means a home-based service
18 that assists in maintaining a person's home as a safe and healthy
19 environment. The term includes cleaning, laundry services, and
20 other household maintenance services.

21 (b) The department, through rules adopted by the executive
22 commissioner, shall develop and implement a medical assistance
23 in-home caregiver demonstration project authorized under Section
24 1115 of the federal Social Security Act (42 U.S.C. Section 1315).

1 The project must be designed to allow a medical assistance
2 recipient who would otherwise receive medical assistance through a
3 nursing facility to receive homemaker services and assistance with
4 activities of daily living that:

5 (1) are provided by an in-home caregiver who is
6 selected by the recipient and paid an hourly wage through the
7 medical assistance program; and

8 (2) enable the recipient to live in the recipient's
9 home in the community instead of living in the nursing facility.

10 (c) The rules adopted under this section for the in-home
11 caregiver demonstration project must:

12 (1) establish eligibility criteria and an application
13 process for participation in the project;

14 (2) prescribe the hourly wage to be paid to an in-home
15 caregiver and the maximum number of hours per day for which the
16 caregiver may receive that payment;

17 (3) prescribe any training or other requirements for a
18 person who wishes to act as an in-home caregiver; and

19 (4) specify the process by which an in-home caregiver
20 may establish the number of hours of services and assistance
21 provided to a medical assistance recipient and receive payment for
22 those hours.

23 (d) Subject to Subsection (c)(3), the rules adopted under
24 Subsection (c) must permit a medical assistance recipient
25 participating in the in-home caregiver demonstration project to
26 select any person, including a family or household member or a
27 neighbor, as the recipient's in-home caregiver.

1 (e) In adopting rules under Subsection (c)(2), the
2 executive commissioner shall ensure that the maximum daily amount
3 that may be paid to an in-home caregiver providing services and
4 assistance to a medical assistance recipient does not exceed the
5 maximum daily reimbursement rate that would be paid to a nursing
6 facility if the recipient received medical assistance in that
7 facility.

8 (f) The department shall inform an applicant for or
9 recipient of medical assistance provided by a nursing facility of
10 the availability of services and assistance through the in-home
11 caregiver demonstration project. The department shall provide the
12 information before the person is admitted to a nursing facility or
13 as soon as possible after admission.

14 SECTION 2. As soon as practicable after the effective date
15 of this Act, the executive commissioner of the Health and Human
16 Services Commission shall apply for and actively pursue a waiver
17 under Section 1115 of the federal Social Security Act (42 U.S.C.
18 Section 1315) to the state Medicaid plan from the federal Centers
19 for Medicare and Medicaid Services or any other federal agency to
20 implement Section 32.074, Human Resources Code, as added by this
21 Act. The commission and any health and human services agency, as
22 defined by Section 531.001, Government Code, operating part of the
23 Medicaid program may delay implementing Section 32.074, Human
24 Resources Code, as added by this Act, until the waiver applied for
25 under this section is granted.

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2009.