

By: Shapleigh

S.B. No. 302

A BILL TO BE ENTITLED

AN ACT

relating to the implementation of an in-home caregiver demonstration project under the Medicaid 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 32.074 to read as follows:

Sec. 32.074. IN-HOME CAREGIVER DEMONSTRATION PROJECT. (a)  
In this section:

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

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

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

(b) The department, through rules adopted by the executive commissioner, shall develop and implement a medical assistance in-home caregiver demonstration project authorized under Section 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.

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

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

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

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

S.B. No. 302

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.