

1 section.

2 (3) "Consumer-directed service option" means a type of
3 consumer direction model in which:

4 (A) a consumer or the consumer's legally
5 authorized representative, as the employer, exercises control
6 over:

7 (i) the recruitment, hiring, management, or
8 dismissal of persons providing services directly to the consumer;
9 or

10 (ii) the retention of contractors or
11 vendors for other authorized program services; and

12 (B) the consumer-directed services agency serves
13 as fiscal agent and performs employer-related administrative
14 functions for the consumer or the consumer's legally authorized
15 representative, including payroll and the filing of tax and related
16 reports.

17 (4) "Designated representative" means an adult
18 volunteer appointed by a consumer or the consumer's legally
19 authorized representative, as an employer, to perform all or part
20 of the consumer's or the representative's duties as employer as
21 approved by the consumer or the representative.

22 (5) "Legally authorized representative":

23 (A) means:

24 (i) a parent or legal guardian if the person
25 is a minor;

26 (ii) a legal guardian if the person has been
27 adjudicated as incapacitated to manage the person's personal

1 affairs; or

2 (iii) any other person authorized or
3 required by law to act on behalf of the person with regard to the
4 person's care; and

5 (B) does not include a designated
6 representative.

7 (6) "Service responsibility option" means a type of
8 consumer direction model in which:

9 (A) a consumer or the consumer's legally
10 authorized representative participates in the selection of,
11 trains, and manages persons providing services directly to the
12 consumer; and

13 (B) the provider agency, as the employer,
14 performs employer-related administrative functions for the
15 consumer or the consumer's legally authorized representative,
16 including the hiring and dismissal of persons providing services
17 directly to the consumer [~~"Personal assistance services" and~~
18 ~~"respite services" have the meanings assigned by Section 142.001,~~
19 ~~Health and Safety Code~~].

20 (b) The commission shall develop and oversee the
21 implementation of consumer direction models under which a person
22 with a disability or an elderly person who is receiving certain
23 state-funded or Medicaid-funded services, or the person's legally
24 authorized representative, exercises control over the development
25 and implementation of the person's individual service plan or over
26 the persons who directly deliver the services [~~a program in which~~
27 ~~the use of vouchers is established as a payment option for the~~

1 ~~delivery of certain state-funded and Medicaid-funded services to~~
2 ~~persons with disabilities].~~

3 (c) In adopting rules for the consumer direction models
4 ~~[voucher payment program]~~, the commission shall:

5 (1) with assistance from the work group established
6 under Section 531.052, determine which services are appropriate and
7 suitable for delivery through consumer direction ~~[ensure that the~~
8 ~~program includes the:~~

9 [~~(A) delivery to persons with disabilities of~~
10 ~~personal assistance services, respite services, supported~~
11 ~~employment services, and other services that the commission with~~
12 ~~assistance from the work group established under Section 531.052,~~
13 ~~determines are appropriate and applicable and may be provided with~~
14 ~~available funding, and~~

15 [~~(B) provision of durable medical equipment and~~
16 ~~assistive technology to persons with disabilities to the extent~~
17 ~~funds are available for that purpose];~~

18 (2) ~~[work in conjunction with the comptroller and~~
19 ~~appropriate health and human services agencies to develop the~~
20 ~~program,~~

21 [~~(3) design the program in a manner in which, for~~
22 ~~certain programs considered appropriate by the commission, with~~
23 ~~assistance from the work group established under Section 531.052, a~~
24 ~~private entity or local governmental entity applies with and is~~
25 ~~approved by the Internal Revenue Service to act as the agent for a~~
26 ~~consumer for the limited purpose of:~~

27 [~~(A) computing federal and state employment~~

1 ~~taxes,~~

2 [~~(B)~~ ~~preparing and filing income tax forms and~~
3 ~~reports, and~~

4 [~~(C)~~ ~~distributing money to a service provider~~
5 ~~after a deduction for employment taxes,~~

6 [~~(4)~~] ensure that each consumer direction model [~~the~~
7 ~~program~~] is designed to comply with applicable federal and state
8 [~~tax~~] laws;

9 (3) maintain procedures [~~(5)~~ ~~ensure that a consumer~~
10 ~~is the employer of and retains control over the selection,~~
11 ~~management, and dismissal of an individual providing health care~~
12 ~~services covered by the program,~~

13 [~~(6)~~ ~~establish a system~~] to ensure that a potential
14 consumer or the consumer's legally authorized representative has
15 adequate and appropriate information, including the
16 responsibilities of a consumer or representative under each service
17 delivery [~~payment~~] option, to make an informed choice among the
18 types of consumer direction models [~~payment options~~];

19 (4) [~~(7)~~] require each consumer or the consumer's
20 legally authorized representative to sign a statement
21 acknowledging receipt of the information required by Subdivision
22 (3) [~~(6)~~];

23 (5) maintain procedures [~~(8)~~ ~~develop a system~~] to
24 monitor delivery of services through consumer direction [~~the~~
25 ~~program~~] to ensure:

26 (A) adherence to existing applicable program
27 standards;

1 (B) appropriate use of funds; and
2 (C) consumer satisfaction with the delivery of
3 services;

4 (6) [~~9~~] ensure that authorized program services
5 that are not being delivered to a consumer through consumer
6 direction are provided by a provider agency chosen by the consumer
7 or the consumer's legally authorized representative [~~a consumer may~~
8 ~~contract with a service provider acting as the consumer's agent~~
9 ~~under Subdivision (3) to obtain any necessary services, including~~
10 ~~services not being provided to the consumer under the program~~]; and

11 (7) [~~10~~] work in conjunction with the work group
12 established under Section 531.052 to set a timetable to [~~implement~~
13 ~~and~~] complete the implementation of the consumer direction models
14 [~~program~~].

15 (d) The consumer direction models established [~~voucher~~
16 ~~payment program developed~~] under this section may be implemented
17 [~~only~~] in appropriate and suitable programs of the commission or a
18 health and human services agency [~~Texas Department of Human~~
19 ~~Services, the Texas Department of Mental Health and Mental~~
20 ~~Retardation, the Texas Rehabilitation Commission, and the Texas~~
21 ~~Department of Health~~].

22 SECTION 3. The heading to Section 531.052, Government Code,
23 is amended to read as follows:

24 Sec. 531.052. CONSUMER DIRECTION [~~DIRECTED SERVICES~~] WORK
25 GROUP.

26 SECTION 4. Section 531.052, Government Code, is amended by
27 amending Subsections (a), (b), (c), (e), and (g), and adding

1 Subsection (c-1) to read as follows:

2 (a) A work group is created to:

3 (1) advise the commission concerning the delivery of
4 services through consumer direction in all programs offering
5 long-term services and supports to ensure that consumers have
6 access to a service delivery model that enhances a consumer's
7 ability to have freedom and exercise control and authority over the
8 consumer's choices, regardless of age or disability; and

9 (2) assist the commission in developing and
10 implementing consumer direction models and expanding the delivery
11 of services through consumer direction [~~the voucher payment~~
12 ~~program~~] under Section 531.051.

13 (b) The work group is composed of:

14 (1) representatives of the commission, appointed by
15 the executive commissioner;

16 (2) representatives of the [~~Texas~~] Department of Aging
17 and Disability [~~Human~~] Services, appointed by the commissioner of
18 that agency;

19 (3) [~~representatives of the Texas Department of Mental~~
20 ~~Health and Mental Retardation, appointed by the commissioner of~~
21 ~~that agency,~~

22 [~~(4)~~] representatives of the [~~Texas~~] Department of
23 State Health Services, appointed by the commissioner of that
24 agency;

25 (4) [(5)] representatives of the Department of
26 Assistive and Rehabilitative Services [~~Texas Rehabilitation~~
27 ~~Commission~~], appointed by the commissioner of that agency;

1 (5) [(6)] consumers or potential consumers of the
2 array of services provided through consumer direction under Section
3 531.051 [under the voucher payment pilot project under former
4 Section 22.0325, Human Resources Code], jointly appointed by the
5 executive commissioner and the commissioner of the health and human
6 services agency that administers the program providing the service
7 [Texas Department of Human Services];

8 (6) advocates for elderly persons who are consumers of
9 the array of services provided to elderly persons through consumer
10 direction [(7) persons with disabilities, including persons with
11 mental illness and persons with mental retardation, who are
12 consumers or potential consumers of services provided under the
13 voucher payment program], appointed by the executive commissioner;

14 (7) [(8)] advocates for persons with disabilities who
15 are consumers of the array of services provided to persons with
16 disabilities through consumer direction[, including persons with
17 mental illness and persons with mental retardation], appointed by
18 the executive commissioner;

19 (8) [(9)] providers of services to be provided through
20 consumer direction [under the voucher payment program], appointed
21 by the executive commissioner;

22 (9) [(10)] representatives of the Texas Workforce
23 Commission, appointed by the executive director of that commission;
24 [and]

25 (10) [(11)] representatives of any other state agency
26 as considered necessary by the executive commissioner, appointed by
27 the governing body of their respective agency;

1 (11) representatives of any other state agency as
2 recommended by the work group and approved by the executive
3 commissioner, appointed by the governing body of the respective
4 agency; and

5 (12) any other public representative appointed by the
6 executive commissioner.

7 (c) A majority of the members of the work group must be
8 composed of consumers and[7] advocates[~~7~~,~~or providers~~] described by
9 Subsection (b).

10 (c-1) Duties of the work group created under this section
11 include:

12 (1) developing recommendations to:

13 (A) expand the delivery of services through
14 consumer direction to other programs serving persons with
15 disabilities and elderly persons;

16 (B) expand the array of services delivered
17 through consumer direction;

18 (C) increase the use of consumer direction models
19 by consumers;

20 (D) optimize the provider base for consumer
21 direction; and

22 (E) expand access to support advisors for those
23 consumers receiving long-term services and supports through
24 consumer direction;

25 (2) monitoring national research for best practices in
26 self-determination and consumer direction; and

27 (3) developing recommendations and providing

1 assistance regarding consumer outreach efforts to increase
2 informed choices, skills, opportunities, and supports as a means to
3 lead self-determined lives through the use of consumer direction
4 models.

5 (e) The executive commissioner shall appoint a member of the
6 work group to serve as presiding officer, and members of the work
7 group shall elect any other necessary officers. The work group
8 shall meet at the call of the presiding officer.

9 (g) Not later than September 1 of each even-numbered year,
10 the work group shall report to the legislature regarding the
11 activities of the work group [~~This section expires September 1,~~
12 ~~2007~~].

13 SECTION 5. Subsections (e) through (h), Section 531.051,
14 Government Code, are repealed.

15 SECTION 6. The executive commissioner of the Health and
16 Human Services Commission shall ensure that not later than January
17 1, 2008, the membership of the work group established under Section
18 531.052, Government Code, complies with the requirements of that
19 section as amended by this Act.

20 SECTION 7. This Act takes effect September 1, 2007.

S.B. No. 1766

David Newkirk
President of the Senate

Tom Craddick
Speaker of the House

I hereby certify that S.B. No. 1766 passed the Senate on April 26, 2007, by the following vote: Yeas 31, Nays 0. _____

Datsy Graw
Secretary of the Senate

I hereby certify that S.B. No. 1766 passed the House on May 17, 2007, by the following vote: Yeas 143, Nays 0, two present not voting. _____

Robert Haney
Chief Clerk of the House

Approved:

15 JUN 07
Date

RICK PERRY
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

4 PM O'CLOCK

ROGER HUMPHREYS
Secretary of State