

AN ACT

relating to long-term care insurance and a partnership for long-term care program and to the eligibility for certain home and community-based services.

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

SECTION 1. (a) Section 32.061, Human Resources Code, is amended to read as follows:

Sec. 32.061. COMMUNITY ATTENDANT SERVICES PROGRAM.

(a) Any home and community-based services that the department provides under Section 1929, Social Security Act (42 U.S.C. Section 1396t) and its subsequent amendments to functionally disabled individuals who have income that exceeds the limit established by federal law for Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.) and its subsequent amendments shall be provided through the community attendant services program.

(b) In determining an applicant's eligibility for home and community-based services described by Subsection (a), the department shall exclude \$20 of unearned or earned income from the applicant's monthly income.

(b) For purposes of this section only, the effective date will be September 1, 2007.

SECTION 2. Chapter 32, Human Resources Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. PARTNERSHIP FOR LONG-TERM CARE PROGRAM

1 Sec. 32.101. DEFINITIONS. In this subchapter:

2 (1) "Approved plan" means a long-term care benefit
3 plan that is approved by the Texas Department of Insurance under
4 Subchapter C, Chapter 1651, Insurance Code.

5 (2) "Asset disregard" means the total equity value of
6 assets and resources not exempt under rules governing the medical
7 assistance program that are disregarded in determining eligibility
8 for the medical assistance program and in determining estate
9 recovery obligations.

10 (3) "Asset protection" means the right extended to a
11 plan holder of an approved plan to dollar-for-dollar asset
12 disregard under the medical assistance program.

13 (4) "Dollar-for-dollar asset disregard" means an
14 asset disregard in which the amount of the disregard is equal to the
15 sum of qualifying benefit payments made on behalf of the qualified
16 plan holder.

17 (5) "Executive commissioner" means the executive
18 commissioner of the Health and Human Services Commission.

19 (6) "Partnership for long-term care program" means the
20 program established under this subchapter and Subchapter C, Chapter
21 1651, Insurance Code.

22 Sec. 32.102. PARTNERSHIP FOR LONG-TERM CARE PROGRAM. The
23 partnership for long-term care program is administered as part of
24 the medical assistance program by the department with the
25 assistance of the Texas Department of Insurance. The program must
26 be consistent with provisions governing the expansion of a state
27 long-term care partnership program established under the federal

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1 Deficit Reduction Act of 2005 (Pub. L. No. 109-171).

2 Sec. 32.103. ASSET DISREGARD. (a) To the extent allowed
3 by the federal Deficit Reduction Act of 2005 (Pub. L. No. 109-171)
4 and other federal law, the executive commissioner, in adopting
5 rules and standards governing the medical assistance program, shall
6 allow for dollar-for-dollar asset disregard in determining
7 eligibility for medical assistance for an individual receiving
8 long-term care services if the individual is or was covered by a
9 long-term care benefit plan providing coverage for long-term care
10 that meets the applicable minimum benefit standards of the
11 commissioner of the Texas Department of Insurance under Subchapter
12 C, Chapter 1651, Insurance Code, and other requirements for
13 approval under the partnership for long-term care program.

14 (b) The department may not consider the resources of an
15 individual who has used all or part of the individual's benefits
16 under an approved plan to the extent those resources are the subject
17 of a dollar-for-dollar asset disregard in determining:

18 (1) eligibility for medical assistance under the
19 medical assistance program;

20 (2) the amount of medical assistance provided; or

21 (3) any subsequent recovery by this state from the
22 individual's estate for medical assistance provided to the
23 individual.

24 (c) The department may not provide to an individual eligible
25 for medical assistance under this section those medical assistance
26 services covered under the medical assistance program that are also
27 covered by the individual's benefits under the approved plan until

1 the individual has fully exhausted the individual's benefits under
2 the plan.

3 Sec. 32.104. RECIPROCAL AGREEMENTS. The department may
4 enter into reciprocal agreements with other states to extend asset
5 protection to a resident of this state who purchased a long-term
6 care benefit plan in another state that has a substantially similar
7 asset disregard program.

8 Sec. 32.105. TRAINING; INFORMATION AND TECHNICAL
9 ASSISTANCE. The Health and Human Services Commission shall provide
10 information and technical assistance to the Texas Department of
11 Insurance regarding that department's role in ensuring that each
12 individual who sells a long-term care benefit plan under the
13 partnership for long-term care program receives training and
14 demonstrates evidence of an understanding of these plans as
15 required by Section 1651.105, Insurance Code. The training must
16 satisfy the training requirements imposed under the provisions
17 governing the expansion of a state long-term care partnership
18 program established under the federal Deficit Reduction Act of 2005
19 (Pub. L. No. 109-171).

20 Sec. 32.106. RULES. (a) The executive commissioner shall
21 adopt rules as necessary to administer the partnership for
22 long-term care program and to implement this subchapter.

23 (b) In adopting rules under this section, the executive
24 commissioner shall:

25 (1) provide for dollar-for-dollar asset disregard and
26 asset protection for purchasers of an approved plan; and

27 (2) count benefits paid under the approved plan toward

1 the dollar-for-dollar asset disregard to the extent the benefits
2 are provided for covered services under the approved plan.

3 Sec. 32.107. BIENNIAL REPORT. (a) Not later than
4 September 30 of each even-numbered year, the department shall
5 submit a report to the legislature on the progress of the
6 partnership for long-term care program during the preceding
7 biennium. The report must include:

8 (1) the number of approved plans sold during each year
9 of the preceding biennium;

10 (2) the average age of individuals purchasing approved
11 plans during each year of the preceding biennium; and

12 (3) a recommendation on whether to continue the
13 program.

14 (b) The department may request information from the Texas
15 Department of Insurance as necessary to prepare the report required
16 by this section.

17 SECTION 3. Chapter 1651, Insurance Code, is amended by
18 adding Subchapter C to read as follows:

19 SUBCHAPTER C. PARTNERSHIP FOR LONG-TERM CARE PROGRAM

20 Sec. 1651.101. DEFINITIONS. In this subchapter:

21 (1) "Approved plan" means a long-term care benefit
22 plan that is approved by the department under this subchapter.

23 (2) "Dollar-for-dollar asset disregard" and "asset
24 protection" have the meanings assigned by Section 32.101, Human
25 Resources Code.

26 (3) "Medical assistance program" means the medical
27 assistance program established under Chapter 32, Human Resources

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1 Code.

2 (4) "Partnership for long-term care program" means the
3 program established under Subchapter C, Chapter 32, Human Resources
4 Code, and this subchapter.

5 Sec. 1651.102. APPLICABILITY. Except to the extent of a
6 conflict, Subchapters A and B apply to a plan issued in accordance
7 with this subchapter.

8 Sec. 1651.103. ASSISTANCE OF DEPARTMENT. The department
9 shall assist the Health and Human Services Commission as necessary
10 for the commission to perform its duties and functions with respect
11 to the administration of the partnership for long-term care
12 program.

13 Sec. 1651.104. LONG-TERM CARE INSURANCE POLICY FOR
14 PARTNERSHIP FOR LONG-TERM CARE PROGRAM. The commissioner, in
15 consultation with the Health and Human Services Commission, shall
16 adopt minimum standards for a long-term care benefit plan that may
17 qualify as an approved plan under the partnership for long-term
18 care program. The standards must be consistent with provisions
19 governing the expansion of a state long-term care partnership
20 program established under the federal Deficit Reduction Act of 2005
21 (Pub. L. No. 109-171).

22 Sec. 1651.105. REQUIRED TRAINING. (a) Each individual who
23 sells a long-term care benefit plan under the partnership for
24 long-term care program must complete training and demonstrate
25 evidence of an understanding of these plans and how the plans relate
26 to other public and private coverage of long-term care.

27 (b) Each long-term care benefit plan issuer that offers a

1 plan under the partnership for long-term care program shall certify
2 to the commissioner, in the form required by the commissioner, that
3 each individual who sells the plan on behalf of the issuer complies
4 with the requirements of this section.

5 Sec. 1651.106. EFFECT OF DISCONTINUATION OF PROGRAM ON
6 POLICY. If the partnership for long-term care program is
7 discontinued, an individual who purchased an approved plan before
8 the date the program is discontinued remains eligible to receive
9 dollar-for-dollar asset disregard and asset protection under the
10 medical assistance program.

11 Sec. 1651.107. RULES. The commissioner may adopt rules as
12 necessary to implement this subchapter.

13 SECTION 4. Subchapter B, Chapter 531, Government Code, is
14 amended by adding Section 531.0841 to read as follows:

15 Sec. 531.0841. LONG-TERM CARE INSURANCE AWARENESS AND
16 EDUCATION CAMPAIGN. (a) The commission, in consultation with the
17 Department of Aging and Disability Services and the Texas
18 Department of Insurance, shall develop and implement a public
19 awareness and education campaign designed to:

20 (1) educate the public on the cost of long-term care,
21 including the limits of Medicaid eligibility and the limits of
22 Medicare benefits;

23 (2) educate the public on the value and availability
24 of long-term care insurance; and

25 (3) encourage individuals to obtain long-term care
26 insurance.

27 (b) The Department of Aging and Disability Services and the

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1 Texas Department of Insurance shall cooperate with and assist the
2 commission in implementing the campaign under this section.

3 (c) The commission may coordinate the implementation of the
4 campaign under this section with any other state outreach campaign
5 or activity relating to long-term care issues.

6 SECTION 5. The Health and Human Services Commission shall
7 amend this state's Medicaid plan as necessary to allow for
8 dollar-for-dollar asset disregard and asset protection for
9 purchasers of an approved policy under the partnership for
10 long-term care program established under Subchapter C, Chapter 32,
11 Human Resources Code, as added by this Act.

12 SECTION 6. If before implementing any provision of this Act
13 a state agency determines that a waiver or authorization from a
14 federal agency is necessary for implementation of that provision,
15 the agency affected by the provision shall request the waiver or
16 authorization and may delay implementing that provision until the
17 waiver or authorization is granted.

18 SECTION 7. Except as otherwise provided by this Act, this
19 Act takes effect March 1, 2008.

David Newkirk
President of the Senate

Jon Caddick
Speaker of the House

I hereby certify that S.B. No. 22 passed the Senate on April 26, 2007, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 18, 2007, by the following vote: Yeas 29, Nays 0.

Patricia Saw
Secretary of the Senate

I hereby certify that S.B. No. 22 passed the House, with amendment, on May 15, 2007, by the following vote: Yeas 137, Nays 0, one 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
5 PM O'CLOCK
JUN 15 2007
Roger Williams
Secretary of State