

**SUBJECT:** Funds shift to community-based services as clients leave nursing homes

**COMMITTEE:** Human Services — favorable, without amendment

**VOTE:** 8 ayes — Hupp, Eissler, A. Allen, J. Davis, Gonzalez Toureilles, Goodman, Naishtat, Paxton

0 nays

1 absent — Reyna

**WITNESSES:** For — Dennis Borel, Coalition of Texans with Disabilities; Bob Kafka, Institute for Disability Access; Amber McCarthy, National Multiple Sclerosis Society; Amy Mizcles, The Arc of Texas; Susan Murphree, Advocacy Inc.; *Registered, but did not testify:* Will Brown and Jow Sanchez, AARP; Michael Crowe, Texas Assisted Living Association; Colleen Horton, Center for Disability Studies; Jennifer McPhail, ADAPT; Rona Statman, Texas Advocates; Heather Vasek, Texas Association for Home Care; Cathy Cranston; Ron Cranston; Karen Greebon; Melanie Oldham; JT Templeton

Against — None

On — Adelaide Horn, Department of Disability and Aging Services

**BACKGROUND:** Medicaid, the state-federal health insurance program for low-income families, children, disabled, and elderly, pays for institutional care in nursing homes or other settings but does not pay for community services as part of the basic program. People who are moved to an institution, but who could live in the community if assistive services were offered, may qualify for one of the state's "waiver" programs.

A waiver is a way for the state to get permission from the federal government to have a program that does not precisely match basic requirements. Some of the waiver programs in Texas include: Community-Based Alternatives (CBA) for people with disabilities who are eligible for nursing-home care; Community Living Assistance and Support Services (CLASS) for people with developmental disabilities

other than mental retardation; Medically Dependent Children's Program (MDCP); and Deaf-Blind with Multiple Disabilities (DBMD).

One of the requirements to obtain a waiver slot is that the person's care in the community must be cost-neutral to the state. Often, it costs less. In 1999, the 77th Legislature established a principle called "money follows the client" in a rider attached to the Department of Disability and Aging Services budget (then, the Department of Human Services, rider 28 in the fiscal 2004-05 general appropriations act). The rider, since carried forward, says that funds for services should be transferred from the nursing services appropriation to the community care services appropriation to cover the cost of the shift in services.

**DIGEST:**

CSHB 1867 would require the Health and Human Services Commission (HHSC) to calculate, when a client moves into the community, the amount of money that would have been spent if a client had remained in a nursing home for the remainder of the fiscal biennium. It would require HHSC or another health and human services agency to redirect the funds from nursing services to community services.

If a waiver or other federal authorization were required, HHSC would be directed to obtain it.

The bill would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

HB 1867 would codify in statute the rider the Legislature has adopted since fiscal 2002 that ensures that services for clients are not compromised by a lack of funding if the person moves into the community. Community waiver programs have worked well, and the funding has allowed many people to live fuller, more productive lives. Thousands more Texans are waiting for waiver slots to open up so that they can move into the community. The state should have a statutory mechanism for money to follow the client so that it serves an ongoing function.

The concept was first placed in a rider so that the state could ensure that it would work in practice. Since fiscal 2002, more than 7,600 clients have moved into the community, and their services have been funded with this rider. It has not hampered budget writers in any way and now should move from rider status to statute.

OPPONENTS  
SAY:

This statutory requirement could drain resources from the nursing home allocation. Today, if a client transfers from a nursing home to the community, the cost of the community services are redirected. This bill would require the total cost of the nursing home care to be redirected, a greater amount than the cost of the community care. Even though this would not be a cost to the state, it could drain resources from the nursing home allocation.

OTHER  
OPPONENTS  
SAY:

The concept of "money follows the client " is important and should be part of the budget instructions the Legislature sends to agencies every biennium, but it is best kept as a rider. Future budget writers should not be unduly constrained by statute, but instead should continue to work under the more flexible priorities established in an appropriations bill rider that can be reviewed each biennium.