

- SUBJECT:** Permitting life settlement contracts to fund long-term medical care
- COMMITTEE:** Human Services — committee substitute recommended
- VOTE:** 8 ayes — Raymond, N. Gonzalez, Fallon, Klick, Naishtat, Rose, Scott Turner, Zerwas
- 1 absent — Sanford
- WITNESSES:** For — (*Registered, but did not testify:* Leticia Caballero, Texas Health Care Association; Gail Harmon, Texas Assisted Living Association; Chris Orestis, Life Care Funding; Stephen Raines, Preferred Care Partners; Mark Vane, Gardere Wynne Sewell LLP)
- Against — Jennifer Cawley, Texas Association of Life and Health Insurers; Brenda Nation, American Council of Life Insurers; (*Registered, but did not testify:* Miles Mathews, ING Insurance Holdings, Guardian Life Insurance Co.)
- On — (*Registered, but did not testify:* Dee Church, Health and Human Services Commission; Jan Graeber, Texas Department of Insurance)
- BACKGROUND:** Eligibility for Medicaid nursing home services includes a requirement that the applicant's assets not exceed \$2,000 for an individual and \$3,000 for a married couple. Certain assets, such as an applicant's home, are excluded from these limits. If the face value of an applicant's life insurance policy is \$1,500 or less, its cash value is excluded as an asset. If its face value exceeds \$1,500, its cash value is considered an asset.
- DIGEST:** CSHB 2383 would allow an owner of a life insurance policy with a face value of more than \$10,000 to enter into a life settlement contract for the policy's market value. The proceeds of the contract would be held in a state or federally insured account and would be available to the owner to purchase the long-term medical care services of their choice.
- The life settlement contract's value would not be considered an asset in determining eligibility for Medicaid. Until the life settlement contract's proceeds were exhausted, no state or federal funds could be used to purchase long-term medical care services for the owner.

The Health and Human Services Commission (HHSC) would be required to provide notice to any Medicaid applicant of their option to enter into a life settlement contract.

The life settlement contract would require up to \$5,000 be reserved for funeral expenses and would transfer any unpaid balance to a deceased owner's estate. A contracting entity would be required to maintain a surety bond, errors and omissions insurance, or a deposit valued at \$500,000.

The bill would limit claims by the owner or the owner's estate against the life settlement contract to the net value of the policy after any benefits paid.

CSHB 2383 would authorize the HHSC commissioner to adopt rules necessary to implement these provisions, including requirements that Medicaid payments for long-term care services begin the day following the exhaustion of proceeds to buy long-term medical care services.

The bill's provisions modifying Medicaid eligibility would apply beginning January 1, 2014. Any agency needing a federal waiver to implement a provision in the bill would be authorized to request the waiver and delay implementing that provision until it was granted.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

CSHB 2383 would generate significant, recurring savings in Medicaid. Currently, a Medicaid applicant for nursing home care must surrender the person's life insurance policy for a fraction of its market value. The bill would allow potential Medicaid applicants to receive long-term care services using the value of their life insurance policies before relying on Medicaid, directly replacing funds that would have otherwise been spent by the state. Florida State University's Center for Economic Forecasting and Analysis projects a similar program there would create \$150 million in annual savings.

The bill would improve elderly adults' quality of life by delaying their entry into Medicaid and giving them more flexibility to choose the long-term medical services they find most convenient and beneficial. These

individuals would also benefit from the bill's consumer protections.

Despite some critics' claims to the contrary, because the bill would only allow settlement contract proceeds to be spent on long-term medical care services, there is no risk that individuals would quickly exhaust their settlement amounts and be reliant on Medicaid sooner than at present.

**OPPONENTS  
SAY:**

CSHB 2383 would amount to an unnecessary government program. Individuals can already enter into life settlement contracts on their own. The bill extends the government's reach into the economy instead of allowing individuals to determine on their own how to utilize their assets through the free market.

There is no guarantee that CSHB 2383 will save the state money. The Legislative Budget Board has indicated the fiscal impact is indeterminate, and there is a risk the bill would push individuals into Medicaid even sooner than at present.