

BILL ANALYSIS

Senate Research Center
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S.B. 1321
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1321 enables Medicaid applicants who own a life insurance policy to convert that policy into a long-term care benefit plan. Once the policy is converted, the individual is able to receive funds rather than being forced to surrender the policy and use the proceeds from the sale of the life insurance policy for their long-term care needs. The funds are placed into an irrevocable trust or licensed financial institution that is used to spend-down the proceeds on Medicaid eligible expenses, paid directly to a long-term care service provider.

The bill requires that Medicaid applicants be given notice about the option to convert the policy and requires that all transactions be in accordance with existing life settlement law and protections. S.B. 1321 requires that a funeral expense benefit be preserved for the family and that any unused proceeds from the account be paid to the owner's estate or beneficiary if the individual dies prior to exhausting the funds in his or her trust.

S.B. 1321 provides an option for an individual who qualifies for and is in need of long-term care Medicaid but is forced to relinquish his or her life insurance policy to maintain eligibility and will delay the time when the individual is dependent on state funding for his or her long-term care services.

As proposed, S.B. 1321 amends current law relating to the consideration of a life insurance policy in determining eligibility for medical assistance.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 32.02613, Human Resources Code) and SECTION 2 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.02613, as follows:

Sec. 32.02613. EXCLUSION OF LIFE INSURANCE POLICIES UNDER CERTAIN CIRCUMSTANCES. (a) Requires the Health and Human Services Commission or an agency operating part of the medical assistance program, as appropriate (department), in determining eligibility and need of a person for medical assistance, to treat a life insurance policy owned by the person in the manner provided by this section.

(b) Prohibits the department from considering as assets or resources of a person who meets the state's nursing home level of care the value of a life insurance policy that is in force and owned by the person if the person enters into a life settlement contract in accordance with this section. Defines, in this subsection, "value."

(c) Authorizes the owner of a life insurance policy with a face amount of more than \$10,000 to enter into a life settlement contract under Chapter 1111A (Life Settlement Contracts), Insurance Code, in exchange for guaranteed periodic

payments to the state to be used only for the provision of Medicaid long-term care services to the owner of the policy.

(d) Requires a life settlement contract entered into as provided by Subsection (b), in addition to the requirements under Chapter 1111A (Life Settlement Contracts), Insurance Code, to:

(1) provide that the lesser of five percent of the face amount of the life insurance policy or \$5,000 is reserved as a death benefit payable to the owner's estate or a named beneficiary;

(2) provide that the balance of payments required under the contract that are unpaid on the death of the owner must be paid to the owner's estate or a named beneficiary;

(3) include a schedule evidencing the total amount payable, the number of payments, and the amount of each payment required to be paid under the life settlement contract; and

(4) require that all proceeds of the life settlement contract be held in an irrevocable state or federally insured account.

(e) Requires the department to provide as part of the application for medical assistance written notice of the option to enter into a life settlement contract as provided in this section.

(f) Requires the executive commissioner of the Health and Human Services Commission in consultation with the commissioner of insurance to adopt rules necessary to implement this section.

SECTION 2. Requires the executive commissioner of the Health and Human Services Commission, not later than January 1, 2014, to adopt rules necessary to implement Section 32.02613, Human Resources Code, as added by this Act.

SECTION 3. Provides that the change in law made by this Act applies only to a determination of eligibility of a person for medical assistance benefits made on or after January 1, 2014. Provides that a determination of eligibility made before January 1, 2014, is governed by the law in effect on the date the determination was made, and the former law is continued in effect for that purpose.

SECTION 4. Requires the agency affected by the provision, if before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, to request the waiver or authorization and is authorized to delay implementing that provision until the waiver or authorization is granted.

SECTION 5. Effective date: upon passage or September 1, 2013.