

SUBJECT: State requirement to make Medicaid the payor of last resort

COMMITTEE: Public Health — favorable, without amendment

VOTE: 11 ayes — Kolkhorst, Naishtat, Alvarado, Coleman, S. Davis,  
V. Gonzales, S. King, Laubenberg, Schwertner, Truitt, Zerwas

0 nays

WITNESSES: For — None

Against — None

On — Billy Millwee, Texas Health and Human Services Commission; Jon  
Weizenbaum, Department of Aging and Disability Services

DIGEST: HB 2722 would require the executive commissioner of the Health and  
Human Services Commission (HHSC) to adopt rules to ensure, to the  
extent allowed by federal law, that the Medicaid program:

- was the payor of last resort; and
- provided reimbursement for services, including long-term care services, only if, and to the extent, other adequate public or private sources of payment were not available.

If a state agency determined that a waiver or authorization from a federal agency was necessary to implement the bill, the agency would be required to request the waiver or authorization and could delay implementing the provision until the waiver or authorization was granted.

The 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, 2011.

SUPPORTERS SAY: Federal law requires Medicaid to be the payor of last resort. Currently, when an individual moves into a nursing home, Medicaid is billed on the first day, and third party payors are prorated over the first month. If the individual leaves the facility in the first month, for reasons such as the need for a hospital stay or the death of the patient, Medicaid has paid a

disproportionate share of the cost of care for that individual, since other payment sources have not been exhausted. HB 2722 would require the HHSC commissioner to adopt rules to ensure that Medicaid was not paying until other resources were exhausted. The bill would improve “cost avoidance” policies, resulting in a claim being denied if there was evidence of third-party liability.

**OPPONENTS  
SAY:**

This bill is not necessary because federal law already requires Medicaid to be the payor of last resort. There already are systems in place to ensure that Medicaid does not pay a disproportionate share of the cost of care for patients who stay in a nursing home less than a full month.