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Open

Chapter 859

AN ACT

1
2 relating to medical assistance program reimbursement for
3 guardianship expenses of certain recipients.

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

5 SECTION 1. Subchapter B, Chapter 32, Human Resources Code,
6 is amended by adding Section 32.02451 to read as follows:

7 Sec. 32.02451. REIMBURSEMENT FOR GUARDIANSHIP EXPENSES OF
8 CERTAIN RECIPIENTS. To the extent allowed by federal law, the
9 department shall provide medical assistance reimbursement for
10 compensation and costs ordered under Section 670, Texas Probate
11 Code, in a guardianship established for a medical assistance
12 recipient. The executive commissioner of the Health and Human
13 Services Commission shall adopt rules providing a procedure by
14 which a person to whom amounts are ordered paid under that section
15 may submit a claim to and receive reimbursement from the medical
16 assistance program.

17 SECTION 2. Subpart H, Part 2, Chapter XIII, Texas Probate
18 Code, is amended by adding Section 670 to read as follows:

19 Sec. 670. COMPENSATION OF CERTAIN GUARDIANS; CERTAIN OTHER
20 GUARDIANSHIP COSTS. (a) In this section:

21 (1) "Applied income" means the portion of the earned
22 and unearned income of a recipient of medical assistance or, if
23 applicable, the recipient and the recipient's spouse, that is paid
24 under the medical assistance program to a nursing home in which the

1 recipient resides.

2 (2) "Medical assistance" has the meaning assigned by
3 Section 32.003, Human Resources Code.

4 (b) Notwithstanding any other provision of this chapter and
5 to the extent permitted by federal law, a court that appoints a
6 guardian for a recipient of medical assistance who has applied
7 income may order the following to be paid under the medical
8 assistance program:

9 (1) compensation to the guardian in an amount not to
10 exceed \$175 per month;

11 (2) costs directly related to establishing or
12 terminating the guardianship, not to exceed \$1,000 except as
13 provided by Subsection (c) of this section; and

14 (3) other administrative costs related to the
15 guardianship, not to exceed \$1,000 during any three-year period.

16 (c) Costs ordered to be paid under Subsection (b)(2) of this
17 section may include compensation and expenses for an attorney ad
18 litem or guardian ad litem and reasonable attorney's fees for an
19 attorney representing the guardian. The costs ordered to be paid
20 may exceed \$1,000 if the costs in excess of that amount are
21 supported by documentation acceptable to the court and the costs
22 are approved by the court.

23 SECTION 3. The changes in law made by this Act apply to a
24 guardianship created before, on, or after the effective date of
25 this Act.

26 SECTION 4. If before implementing any provision of this Act
27 a state agency determines that a waiver or authorization from a

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1 federal agency is necessary for implementation of that provision,
2 the agency affected by the provision shall request the waiver or
3 authorization and may delay implementing that provision until the
4 waiver or authorization is granted.

5 SECTION 5. This Act takes effect September 1, 2009. _____

David Newkirk
President of the Senate

Jim Strawn
Speaker of the House

I hereby certify that S.B. No. 2435 passed the Senate on
May 5, 2009, by the following vote: Yeas 31, Nays 0. _____

Patricia Spaul
Secretary of the Senate

I hereby certify that S.B. No. 2435 passed the House on
May 27, 2009, by the following vote: Yeas 148, Nays 0, one
present not voting. _____

Robert Haney
Chief Clerk of the House

Approved:

19 JUN '09
Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2 PM O'CLOCK
JUN 19 2009

Colby Shuter III