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Chapter 576

AN ACT

relating to expansion of the use of consumer direction for delivery
of certain services to persons with disabilities and elderly
persons.

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

SECTION 1. The heading to Section 531.051, Government Code,
is amended to read as follows:

Sec. 531.051. CONSUMER DIRECTION [VOUCHER PROGRAM FOR
PAYMENT] OF CERTAIN SERVICES FOR PERSONS WITH DISABILITIES AND
ELDERLY PERSONS.

SECTION 2. Subsections (a) through (d), Section 531.051,
Government Code, are amended to read as follows:

(a) In this section:

(1) "Consumer" means a person who receives services
through a consumer direction model [under the program] established
by the commission under this section.

(2) "Consumer direction" or "consumer direction
model" means a service delivery model under which a consumer or the
consumer's legally authorized representative exercises control
over the development and implementation of the consumer's
individual service plan or over the persons delivering the services
directly to the consumer. The term includes the consumer-directed
service option, the service responsibility option, and other types
of service delivery models developed by the commission under this
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section.

(3) "Consumer-directed service option" means a type of consumer direction model in which:

(A) a consumer or the consumer's legally authorized representative, as the employer, exercises control over:

(i) the recruitment, hiring, management, or dismissal of persons providing services directly to the consumer; or

(ii) the retention of contractors or vendors for other authorized program services; and

(B) the consumer-directed services agency serves as fiscal agent and performs employer-related administrative functions for the consumer or the consumer's legally authorized representative, including payroll and the filing of tax and related reports.

(4) "Designated representative" means an adult volunteer appointed by a consumer or the consumer's legally authorized representative, as an employer, to perform all or part of the consumer's or the representative's duties as employer as approved by the consumer or the representative.

(5) "Legally authorized representative":

(A) means:

(i) a parent or legal guardian if the person is a minor;

(ii) a legal guardian if the person has been adjudicated as incapacitated to manage the person's personal
affairs; or

(iii) any other person authorized or required by law to act on behalf of the person with regard to the person's care; and

(B) does not include a designated representative.

(6) "Service responsibility option" means a type of consumer direction model in which:

(A) a consumer or the consumer's legally authorized representative participates in the selection of, trains, and manages persons providing services directly to the consumer; and

(B) the provider agency, as the employer, performs employer-related administrative functions for the consumer or the consumer's legally authorized representative, including the hiring and dismissal of persons providing services directly to the consumer ["Personal assistance services" and "respite services" have the meanings assigned by Section 142.001, Health and Safety Code].

(b) The commission shall develop and oversee the implementation of consumer direction models under which a person with a disability or an elderly person who is receiving certain state-funded or Medicaid-funded services, or the person's legally authorized representative, exercises control over the development and implementation of the person's individual service plan or over the persons who directly deliver the services [a program in which the use of vouchers is established as a payment option for the
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delivery of certain state-funded and Medicaid-funded services to
persons with disabilities].

(c) In adopting rules for the consumer direction models
[voucher-payment-program], the commission shall:

(1) with assistance from the work group established
under Section 531.052, determine which services are appropriate and
suitable for delivery through consumer direction [ensure that the
program includes the

[(A) delivery to persons with disabilities of
personal assistance services, respite services, supported
employment services, and other services that the commission with
assistance from the work group established under Section 531.052,
determines are appropriate and applicable and may be provided with
available funding; and

[(B) provision of durable medical equipment and
assistive technology to persons with disabilities to the extent
funds are available for that purpose];

(2) [work in conjunction with the comptroller and
appropriate health and human services agencies to develop the
program,

[(3) design the program in a manner in which, for
certain programs considered appropriate by the commission, with
assistance from the work group established under Section 531.052, a
private entity or local governmental entity applies with and is
approved by the Internal Revenue Service to act as the agent for a
consumer for the limited purpose of

[(A) computing federal and state employment

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taxes,

[(B) preparing and filing income tax forms and
reports; and

[(C) distributing money to a service provider
after a deduction for employment taxes,

[(4)] ensure that each consumer direction model [the
program] is designed to comply with applicable federal and state
[tax] laws;

(3) maintain procedures [(5)] ensure that a consumer
is the employer of and retains control over the selection,
management, and dismissal of an individual providing health care
services covered by the program;

[(6) establish a system] to ensure that a potential
consumer or the consumer's legally authorized representative has
adequate and appropriate information, including the
responsibilities of a consumer or representative under each service
delivery [payment] option, to make an informed choice among the
types of consumer direction models [payment options];

[(4) [(7)] require each consumer or the consumer's
legally authorized representative to sign a statement
acknowledging receipt of the information required by Subdivision
(3) [(8)];

(5) maintain procedures [(8) develop a system] to
monitor delivery of services through consumer direction [the
program] to ensure:

(A) adherence to existing applicable program
standards;
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(B) appropriate use of funds; and
(C) consumer satisfaction with the delivery of services;

(6) [(9)] ensure that authorized program services that are not being delivered to a consumer through consumer direction are provided by a provider agency chosen by the consumer or the consumer's legally authorized representative [a consumer may contract with a service provider acting as the consumer's agent under Subdivision (3) to obtain any necessary services, including services not being provided to the consumer under the program]; and

(7) [(10)] work in conjunction with the work group established under Section 531.052 to set a timetable to [implement and] complete the implementation of the consumer direction models [program].

(d) The consumer direction models established [voucher payment program developed] under this section may be implemented [only] in appropriate and suitable programs of the commission or a health and human services agency [Texas Department of Human Services, the Texas Department of Mental Health and Mental Retardation, the Texas Rehabilitation Commission, and the Texas Department of Health].

SECTION 3. The heading to Section 531.052, Government Code, is amended to read as follows:

Sec. 531.052. CONSUMER DIRECTION [DIRECTED SERVICES] WORK GROUP.

SECTION 4. Section 531.052, Government Code, is amended by amending Subsections (a), (b), (c), (e), and (g), and adding
Subsection (c-1) to read as follows:

(a) A work group is created to:

(1) advise the commission concerning the delivery of
services through consumer direction in all programs offering
long-term services and supports to ensure that consumers have
access to a service delivery model that enhances a consumer's
ability to have freedom and exercise control and authority over the
consumer's choices, regardless of age or disability; and

(2) assist the commission in developing and
implementing consumer direction models and expanding the delivery
of services through consumer direction [the voucher payment
program] under Section 531.051.

(b) The work group is composed of:

(1) representatives of the commission, appointed by
the executive commissioner;

(2) representatives of the [Texas] Department of Aging
and Disability [Human] Services, appointed by the commissioner of
that agency;

(3) representatives of the Texas Department of Mental
Health and Mental Retardation, appointed by the commissioner of
that agency;

(4) representatives of the [Texas] Department of
State Health Services, appointed by the commissioner of that
agency;

(5) representatives of the Department of
Assistive and Rehabilitative Services [Texas Rehabilitation
Commission], appointed by the commissioner of that agency;
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(5) [(6)] consumers or potential consumers of the array of services provided through consumer direction under Section 531.051 [under the voucher payment pilot project under former Section 22.0325, Human Resources Code], jointly appointed by the executive commissioner and the commissioner of the health and human services agency that administers the program providing the service [Texas Department of Human Services];

(6) advocates for elderly persons who are consumers of the array of services provided to elderly persons through consumer direction [(7)] persons with disabilities, including persons with mental illness and persons with mental retardation, who are consumers or potential consumers of services provided under the voucher payment program], appointed by the executive commissioner;

(7) [(8)] advocates for persons with disabilities who are consumers of the array of services provided to persons with disabilities through consumer direction [under the voucher payment program], including persons with mental illness and persons with mental retardation], appointed by the executive commissioner;

(8) [(9)] providers of services to be provided through consumer direction [under the voucher payment program], appointed by the executive commissioner;

(9) [(10)] representatives of the Texas Workforce Commission, appointed by the executive director of that commission; [and]

(10) [(11)] representatives of any other state agency as considered necessary by the executive commissioner, appointed by the governing body of their respective agency;
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(11) representatives of any other state agency as recommended by the work group and approved by the executive commissioner, appointed by the governing body of the respective agency; and

(12) any other public representative appointed by the executive commissioner.

(c) A majority of the members of the work group must be composed of consumers and advocates, or providers, described by Subsection (b).

(c-1) Duties of the work group created under this section include:

(1) developing recommendations to:

(A) expand the delivery of services through consumer direction to other programs serving persons with disabilities and elderly persons;

(B) expand the array of services delivered through consumer direction;

(C) increase the use of consumer direction models by consumers;

(D) optimize the provider base for consumer direction; and

(E) expand access to support advisors for those consumers receiving long-term services and supports through consumer direction;

(2) monitoring national research for best practices in self-determination and consumer direction; and

(3) developing recommendations and providing
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assistance regarding consumer outreach efforts to increase informed choices, skills, opportunities, and supports as a means to lead self-determined lives through the use of consumer direction models.

(e) The executive commissioner shall appoint a member of the work group to serve as presiding officer, and members of the work group shall elect any other necessary officers. The work group shall meet at the call of the presiding officer.

(g) Not later than September 1 of each even-numbered year, the work group shall report to the legislature regarding the activities of the work group [This section expires September 1, 2007].

SECTION 5. Subsections (e) through (h), Section 531.051, Government Code, are repealed.

SECTION 6. The executive commissioner of the Health and Human Services Commission shall ensure that not later than January 1, 2008, the membership of the work group established under Section 531.052, Government Code, complies with the requirements of that section as amended by this Act.

SECTION 7. This Act takes effect September 1, 2007.
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David Dewhurst
President of the Senate

I hereby certify that S.B. No. 1766 passed the Senate on April 26, 2007, by the following vote: Yeas 31, Nays 0.

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 1766 passed the House on May 17, 2007, by the following vote: Yeas 143, Nays 0, two present not voting.

Robert Haney
Secretary of the Senate

Chief Clerk of the House

Approved:

15 JUN 07
Date

Rick Perry
Governor