

By: Schwertner

S.B. No. 1385

A BILL TO BE ENTITLED

AN ACT

relating to the authorization of the imposition of administrative penalties on providers participating in certain Medicaid waiver programs.

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

SECTION 1. Subchapter D, Chapter 161, Human Resources Code, is amended by adding Section 161.088 to read as follows:

Sec. 161.088. ADMINISTRATIVE PENALTIES. (a) This section applies to the following waiver programs established under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)), and administered by the department to serve persons with an intellectual or developmental disability:

(1) the home and community-based services (HCS) waiver program; and

(2) the Texas home living (TxHmL) waiver program.

(b) The department may assess and collect an administrative penalty against a provider who participates in a program to which this section applies for a violation of a law, including a rule, or department policy relating to the program.

(c) After consulting with the department, the executive commissioner shall develop and adopt rules regarding the imposition of administrative penalties under this section. The rules must:

(1) include criteria that describe:

(A) the types of violations that warrant

1 imposition of an administrative penalty; and

2 (B) the method by which the department may assess
3 an administrative penalty;

4 (2) prescribe reasonable amounts to be imposed for
5 each violation giving rise to an administrative penalty;

6 (3) ensure standard and consistent application of
7 administrative penalties throughout the state; and

8 (4) provide for an administrative appeals process to
9 adjudicate claims and appeals relating to the imposition of an
10 administrative penalty under this section that is in accordance
11 with Chapter 2001, Government Code.

12 (d) Rules adopted under this section may authorize the
13 imposition of an administrative penalty, with interest, for a
14 minimum penalty period or on a subsequent per diem basis.

15 SECTION 2. The Department of Aging and Disability Services
16 may impose an administrative penalty in accordance with Section
17 161.088, Human Resources Code, as added by this Act, only for
18 conduct that occurs on or after the effective date of this Act.

19 SECTION 3. If before implementing any provision of this Act
20 a state agency determines that a waiver or authorization from a
21 federal agency is necessary for implementation of that provision,
22 the agency affected by the provision shall request the waiver or
23 authorization and may delay implementing that provision until the
24 waiver or authorization is granted.

25 SECTION 4. This Act takes effect September 1, 2015.