

CHAPTER 132

S.B. No. 982

AN ACT

relating to the authority of the Texas Department of Human Services to assess monetary penalties against a home or community care provider.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 32, Human Resources Code, is amended by adding Section 32.0215 to read as follows:

Sec. 32.0215. HOME OR COMMUNITY CARE PROVIDERS: CIVIL MONETARY PENALTIES. (a) The department may include in a contract for the delivery of medical assistance by a home or community care provider a provision for monetary penalties to be assessed for a contract violation or any violation of home or community care requirements, as required by 42 U.S.C. Section 1396t(j).

(b) The department shall develop rules governing the application of civil money penalties, including rules prescribing:

(1) criteria that describe when and how a civil money penalty may be assessed and the amount of the penalty;

(2) a system to ensure standard and consistent application of the penalties throughout the state; and

(3) an administrative appeals process to adjudicate claims in contested cases in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(c) Rules adopted under this section must be designed to minimize the time between the identification of a violation and the final imposition of a penalty. Rules adopted under this section may authorize the imposition of a penalty that assesses and collects a monetary penalty, with interest, for a minimum penalty period and on a subsequent per diem basis.

(d) A penalty must be appropriate to the violation. The department may assess incrementally more severe penalties for repeated or uncorrected violations.

(e) The department shall review a penalized provider within 10 working days after the provider notifies the department that the deficiency that caused the imposition of the penalty has been corrected. If the department is unable to review the provider within that 10-working-day period, the penalty ceases on the earlier of the last day of the minimum penalty period or the date the provider gives notice to the department.

(f) Money collected as a result of the imposition of penalties may be used for the protection of the health or property of an individual whose personal property was lost due to a failure of a home or community care provider to meet the requirements for participation as a provider of home or community care.

SECTION 2. This Act takes effect September 1, 1993, and applies only to a contract between the Texas Department of Health and a home or community care provider that is entered into on or after that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 15, 1993, by a viva-voce vote; passed the House on April 30, 1993, by a non-record vote.

Approved May 11, 1993.

Effective Sept. 1, 1993.