

HEALTH & SAFETY CODE

CHAPTER 46. TERTIARY MEDICAL CARE

Sec. 46.001. DEFINITIONS. In this chapter:

- (1) "Tertiary care facility" means a:
 - (A) primary teaching hospital of a medical school;
 - (B) level I trauma center;
 - (C) level II trauma center; or
 - (D) level III trauma center.

(2) "Tertiary medical services" includes, but is not limited to, services provided by state-designated trauma centers, burn center treatment, neonatology level III unit services, pediatric surgery, trauma surgery, neurosurgery, cardiothoracic and vascular surgery, organ transplant, services provided for a life-threatening dermatologic illness, services provided to a person with a high-risk pregnancy or cancer, and radiation oncology.

(3) "Stabilization services" means services provided by a tertiary care facility or a level IV designated trauma center that are necessary to assure, within reasonable medical probability, that no material deterioration of a patient's medical condition is likely to result from or occur during the transfer of the patient to a tertiary care facility.

(4) "Unreimbursed stabilization services" means stabilization services for which a tertiary care facility or level IV designated trauma facility has not received full payment from any public or private source.

(5) "Unreimbursed tertiary medical services" means tertiary care medical services for which a tertiary care facility has not received full payment from any public or private source.

Added by Acts 1999, 76th Leg., ch. 969, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1377, Sec. 2.01, eff. Sept. 1, 1999.

Sec. 46.002. RULES. (a) The board may adopt rules to implement a system that encourages hospitals to provide tertiary medical services and stabilization services.

(b) The rules must address:

(1) coordination of tertiary medical services and stabilization services among health care facilities in the delivery area;

(2) pre-hospital care management guidelines for triage, transfer, and transportation of patients and periodic evaluation of tertiary care facilities' and level IV trauma facilities' compliance with the guidelines and the trauma facility rules, as appropriate;

(3) requirements for data collection, including patient outcomes;

(4) assurances that tertiary care facilities will not refuse to accept the transfer of a patient solely because of the person's inability to pay for services or because of the person's age, sex, race, religion, or national origin; and

(5) enforcement of the rules.

Added by Acts 1999, 76th Leg., ch. 969, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1377, Sec. 2.01, eff. Sept. 1, 1999.

Sec. 46.003. TERTIARY CARE ACCOUNT. (a) The tertiary care account is an account in the state treasury. Except as by Subsection (e), money in the account may be appropriated only to the department for the purposes of this chapter.

(b) The account is composed of money appropriated to the account and any other funds required to be put in the account.

(c) The department may seek and accept gifts, grants, and donations from any public or private entity on behalf of the account.

(d) Section 403.095, Government Code, does not apply to the account.

(e) For each fiscal year, five percent of the total amount in the account shall be held in reserve and may be used only for reimbursement of unpaid tertiary medical services and stabilization services provided as a result of extraordinary emergencies occurring during that year. Of the amount remaining:

(1) not more than five percent may be used for the costs of administering the account;

(2) five percent shall be allocated for the payment of state assistance under Chapter 61; and

(3) the remaining amount shall be allocated as provided by Subsection (f).

(f) Except as provided by Subsection (e), the account shall be allocated for payment to tertiary care facilities and level IV trauma centers for unreimbursed tertiary medical services and stabilization services, as provided for in Sections 46.005 and 46.006.

Added by Acts 1999, 76th Leg., ch. 969, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1377, Sec. 2.01, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1128, Sec. 5, eff. June 15, 2001.

Sec. 46.004. COLLECTION OF INFORMATION. (a) Each tertiary care facility or level IV trauma facility that seeks payment under this chapter shall submit to the department, in the manner and at the time required by the department, information that relates to the unreimbursed tertiary medical services or stabilization services provided to persons who reside outside the service area of the county, public hospital, or hospital district that is responsible for indigent health care under Chapter 61 in the area in which the tertiary care facility or level IV trauma facility is located.

(b) The board shall adopt rules governing the collection of the information under Subsection (a).

Added by Acts 1999, 76th Leg., ch. 969, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1377, Sec. 2.01, eff. Sept. 1, 1999.

Sec. 46.005. CERTIFICATION TO COMPTROLLER OF UNREIMBURSED TERTIARY MEDICAL SERVICES. (a) The department shall certify to the comptroller for each tertiary care facility the cost of unreimbursed tertiary medical services provided to persons who reside outside the service area of the county, public hospital, or hospital district that is responsible for indigent health care under Chapter 61 in the area in which the tertiary care facility is located.

(b) In each fiscal year the department shall use at least 86 percent of the appropriated money in the tertiary care account to compensate tertiary care facilities for unreimbursed tertiary medical services.

(c) Each year the department shall make, for a facility that operated as a tertiary care facility during the previous year, an initial certification to the comptroller under Subsection (a) in an amount that equals 80 percent of the amount certified under this section for the facility in the previous year. The department shall make a subsequent certification of the cost of additional unreimbursed tertiary medical services provided by the facility on receipt from the facility of the information required to be submitted under Section 46.004.

(d) Except as provided by Subsection (e), each year the comptroller shall pay a tertiary care facility the certified amount determined under Subsection (a) from the funds specified under Section 46.003(f).

Text of subsec. (e) as added by Acts 1999, 76th Leg., ch. 969, Sec. 1

(e) If in any year the total cost of unreimbursed tertiary medical services certified under Subsection (a) for all tertiary care facilities exceeds the amount available for payment to the facilities under Section 46.003(f), the department shall allocate the amount available under Section 46.003(f) to each facility based on the percentages computed by dividing the cost of the facility's unreimbursed services by the total cost of all facilities' unreimbursed services. The comptroller shall pay each tertiary care facility based on the allocation made under this subsection.

Text of subsec. (e) as added by Acts 1999, 76th Leg., ch. 1377, Sec. 2.01

(e) If in any year the total cost of unreimbursed tertiary medical services certified under Subsection (a) for all tertiary care facilities exceeds the amount available for payment to all facilities under Section 46.003(f), less the amount allocated for stabilization services under Section 46.006(b), the department shall allocate the amount available under Section 46.003(f) to each facility based on the percentages computed by dividing the cost of the facility's unreimbursed tertiary medical services by the total cost of all facilities' unreimbursed tertiary medical services. The comptroller shall pay each tertiary care facility based on the allocation made under this subsection.

(f) For purposes of this section and Section 46.007, the cost of each service provided by a tertiary care facility is the average amount payable under Medicare reimbursement policies for that service.

Added by Acts 1999, 76th Leg., ch. 969, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1377, Sec. 2.01, eff. Sept. 1, 1999.

Sec. 46.006. CERTIFICATION TO COMPTROLLER OF UNREIMBURSED STABILIZATION SERVICES. (a) The department shall certify to the comptroller for each tertiary care facility or level IV trauma facility the cost of unreimbursed stabilization services provided to persons who reside outside the service area of the county, public hospital, or hospital district that is responsible for indigent health care under Chapter 61 in the area in which the tertiary care facility or level IV trauma facility is located.

(b) In each fiscal year the department shall use no more than four percent of the appropriated money in the tertiary care account to compensate tertiary care facilities and level IV trauma facilities for unreimbursed stabilization services.

(c) Each year the department shall make, for a facility that operated as a tertiary care facility or level IV trauma facility during the previous year, an initial certification to the comptroller under Subsection (a) in an amount that equals 80 percent of the amount certified under this section for the facility in the previous year. The department shall make a subsequent certification of the cost of additional unreimbursed stabilization services provided by the facility on receipt from the facility of the information required to be submitted under Section 46.004.

(d) Except as provided by Subsection (e), each year the comptroller shall pay a tertiary care facility or level IV trauma facility the certified amount determined under Subsection (a) from the funds specified under Section 46.003(f).

Text of subsec. (e) as added by Acts 1999, 76th Leg., ch. 969, Sec. 1

(e) If in any year the total cost of unreimbursed stabilization services certified under Subsection (a) for all tertiary care facilities or level IV trauma facilities exceeds the amount available for payment to the facilities under Section 46.003(f), the department shall allocate the amount available under Section 46.003(f) to each facility based on the percentages computed by dividing the cost of the facility's unreimbursed stabilization services by the total cost of all facilities' unreimbursed stabilization services. The comptroller shall pay each tertiary care facility or level IV trauma facility based on the allocation made under this subsection.

Text of subsec. (e) as added by Acts 1999, 76th Leg., ch. 1377, Sec. 2.01

(e) If in any year the total cost of unreimbursed stabilization services certified under Subsection (a) for all tertiary care facilities or level IV trauma facilities exceeds the amount available for payment to the facilities under Section 46.003(f), as limited by Subsection (b), the department shall allocate the amount available to each facility based on the percentages computed by dividing the cost of the facility's unreimbursed stabilization services by the total cost of all facilities' unreimbursed stabilization services. The comptroller shall pay each tertiary care facility or level IV trauma facility based on the allocation made under this subsection.

(f) For purposes of this section and Section 46.007, the cost of each service provided by a tertiary care facility or level IV trauma facility is the average amount payable under Medicare reimbursement policies for that service.

Added by Acts 1999, 76th Leg., ch. 969, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1377, Sec. 2.01, eff. Sept. 1, 1999.

Sec. 46.007. CERTIFICATION OF EMERGENCIES. (a) For purposes of reimbursing extraordinary emergencies under this chapter, the department shall certify an extraordinary emergency:

(1) if the governor issues an executive order or a proclamation under Chapter 418, Government Code;

(2) if a disaster is declared by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.); or

(3) for another similar disaster the department finds has resulted in an extraordinary cost to a tertiary care facility or level IV trauma facility.

(b) If an extraordinary emergency is certified under Subsection (a), the department shall certify to the comptroller the amount of unreimbursed tertiary medical services or stabilization services or transportation services incurred by a tertiary care facility or level IV trauma facility, as appropriate, during the emergency.

(c) Except as provided by Subsection (d), each year the comptroller shall pay a tertiary care facility or level IV trauma facility the certified amount determined under Subsection (b) from the funds specified under Section 46.003(e).

Text of subsec. (d) as added by Acts 1999, 76th Leg., ch. 969, Sec. 1

(d) If in any year the total cost of unreimbursed tertiary medical services or stabilization services certified under Subsection (b) for all facilities exceeds the amount available for payment to the facilities under Section 46.003(e), the department shall allocate the amount available under Section 46.003(e) to each facility based on the percentages computed by dividing the cost of the facility's or provider's unreimbursed services by the total cost of all facilities' unreimbursed services. The comptroller shall pay each tertiary care facility or level IV trauma facility based on the allocation made under this subsection.

Text of subsec. (d) as added by Acts 1999, 76th Leg., ch. 1377, Sec. 2.01

(d) If in any year the total cost of unreimbursed tertiary medical services or stabilization services certified under Subsection (b) for all facilities exceeds the amount available for payment to the facilities under Section 46.003(e), the department shall allocate the amount available under Section 46.003(e) to each facility based on the percentages computed by dividing the cost of the facility's unreimbursed services by the total cost of all facilities' unreimbursed services. The comptroller shall pay each tertiary care facility or level IV trauma facility based on the allocation made under this subsection.

Added by Acts 1999, 76th Leg., ch. 969, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1377, Sec. 2.01, eff. Sept. 1, 1999.