

Attachment 1
(Revised 06-14-05)

Standard Rulemaking Process for HHS Agencies and HHSC Divisions

Legend:

Originating agency: HHS Agencies or HHSC Divisions

Step	Step- by- Step Process and Action Needed	Timeline Business Days
<i>Rule Development Phase (including advisory committee and agency council input)</i>		
Step 1	Originating agency notifies appropriate HHS Senior Policy Advisor of proposed rule action. <ul style="list-style-type: none"> • Originating agency completes and submits a Rulemaking Notification Form (Attachment 2) to the HHS Senior Policy Advisor after all internal agency development and review processes are completed. • HHS Senior Policy Advisor coordinates with HHS Deputy Executive Commissioner and other HHS senior policy advisors from the Offices of Health Services, Social Services, Financial Services, System Support Services, and Inspector General, as needed. 	To be determined by originating agency
Step 2	Originating agency develops the initial rule packet and submits to the HHS Senior Policy Advisor. The HHS Senior Policy Advisor sends a copy to the Civil Rights Office for information only and coordinates with other HHS senior policy advisors and Medicaid/CHIP Division as needed. For Medicaid rules, coordinate with HHSC Medicaid/CHIP Division for consistency with Medicaid policy. <u>Rule packet includes:</u> <ul style="list-style-type: none"> • Rulemaking Notification Form • Medical Care Advisory Committee or other advisory committee documents, as required (Attachment 3). • Originating agency’s memo to the agency council, preamble, rule, and rulemaking fiscal impact form (Attachment 4). 	To be determined by originating agency
<i>Rules that do <u>not</u> require advisory committee input – Go to Step 5.</i>		
Step 3	For Medicaid rules only (originating from HHS agencies and HHSC), originating agency sends the initial rule packet to HHSC Medicaid/CHIP Division Policy Development Support unit. Policy Development Support unit coordinates: <ul style="list-style-type: none"> • Processing for Medical Care Advisory Committee agenda and Medical Care Advisory Committee member information distribution. 	To be determined by originating agency
		15 days
Step 4	Originating agency: <ul style="list-style-type: none"> • Presents to Medical Care Advisory Committee and/or other advisory committees. • Considers Medical Care Advisory Committee and/or other advisory committee recommendations. • Documents the recommendations and originating agency’s response to recommendations. • Consults with HHS Senior Policy Advisor on any substantive changes based on advisory committee’s recommendations. • Obtains originating agency Commissioner’s approval to submit to agency council. 	To be determined by Medical Care Advisory Committee schedule and agenda

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<i>Rule Development Phase (including advisory committee and agency council input)</i>		
Step 5	Originating agency: <ul style="list-style-type: none"> • Presents to originating agency’s agency council, including any substantive advisory committee recommendations or comments. • The agency council receives public testimony and formulates recommendations. • Considers agency council’s recommendations. • Documents the council’s recommendations and originating agency’s response to recommendations. • Consults with HHS Senior Policy Advisor on any substantive changes and makes revisions to rules based on agency council recommendations, as necessary. • Obtains originating agency Commissioner’s approval. • Sends revised rule to agency council members, as necessary. 	To be determined by originating agency

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<i>Proposed Rule Publication Phase</i>		
Step 6	<p>Agency Commissioner or his designee submits the proposed rule publication packet requesting Executive Commissioner approval for rule publication in electronic format to the Executive Clerk's office mailbox at HHS_Rules@hhsc.state.tx.us. <u>The rule packet consists of the following files and should be submitted in the order shown below</u> (see Attachment 5 for detail):</p> <ol style="list-style-type: none"> 1. Request for Publication of Proposed Rules Memo (follows the Executive Clerk Action Memo format and must include details of the proposed rule, summary of advisory committee and/or agency council recommendations, any changes made to rules based on those changes, and agency General Counsel line approval that the rule meets all legal requirements for publication as proposed) 2. Rulemaking Notification Form 3. Preamble 4. Rule 5. Rulemaking Fiscal Impact Form 	To be determined by originating agency
Step 7	<ul style="list-style-type: none"> • Upon receipt of the rule packet, the Executive Clerk's office simultaneously routes for comments to the HHS Senior Policy Advisor, HHS Legal, and HHS Financial Services prior to routing to Executive Commissioner for approval. • HHS Senior Policy Advisor, HHS Legal, and HHS Financial Services will add to the Request for Publication of Proposed Rules Memo any significant comments on the rules and their recommendation for approval or disapproval of proposed rule. • Executive Commissioner approves, amends, or disapproves publication of proposed rules. • Executive Clerk's office will e-mail the agency Commissioner the Executive Commissioner's approval/modifications/disapproval for publication of proposed rules. Copies of the e-mail will be forwarded to the Deputy Executive Commissioner and HHS Senior Policy Advisor. The HHS Senior Policy Advisor will forward the e-mail to the originating agency (program contact). 	7 days
Step 8	Originating agency prepares and submits rule for publication in <i>Texas Register</i> as proposed and sends copies to agency council members if significant changes have been made.	To be determined by originating agency
Step 9	Originating agency staff prepares proposal for publication in <i>Texas Register</i> and originating agency accepts public comment.	30 days

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<i>Final Rule Adoption Phase</i>		
Step 10	<p>Originating agency prepares responses to public comments and adoption preamble and revises the rule as necessary. Originating agency coordinates with HHS Senior Policy Advisor.</p> <p>If the agency Commissioner determines that the comments provided warrant further consideration of the proposed rule, the agency Commissioner will communicate his decision to the Executive Commissioner via Information Memo with a copy to the Senior Policy Advisor. The subject line of the Information Memo should contain the unique number as described in Attachment 5 of this circular and be forwarded to the Executive Clerk's office mailbox at HHS_Rules@hhsc.state.tx.us.</p> <p>If the Senior Policy Advisor determines that the comments provided warrant further consideration of the proposed rule, the Senior Policy Advisor requests direction from the Executive Commissioner via an Action Memo with a copy to the agency Commissioner. The Action Memo would provide two options for Executive Commissioner action: (1) return to the agency Commissioner for further review and determination; or (2) instruct that the rule be reviewed by the agency council in an open meeting, thereby requesting that the agency council make recommendations to the agency Commissioner. The subject line of the Action Memo should contain the unique number as described in Attachment 5 of this circular and be forwarded in electronic format to the Executive Clerk's office mailbox at HHS_Rules@hhsc.state.tx.us.</p> <p>Note: If a decision is made to republish the rules, go to Step 2.</p>	To be determined by originating agency
Step 11	If the Executive Commissioner or agency Commissioner determines that significant comments are received that were not raised at the agency council meeting, the council will review them in an open meeting and will make recommendations to the originating agency Commissioner.	To be determined by originating agency

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<i>Final Rule Adoption Phase</i>		
Step 12	<p>Agency Commissioner or his designee submits the proposed rule adoption packet requesting Executive Commissioner approval for rule adoption in electronic format to the Executive Clerk’s office mailbox at HHS_Rules@hhsc.state.tx.us. <u>The rule packet consists of the following files and should be submitted in the order shown below</u> (see Attachment 6 for detail):</p> <ol style="list-style-type: none"> 1. Request for Adoption of Proposed Rules Memo (follows the Executive Clerk Action Memo format and must include agency General Counsel line approval certifying the rule meets all applicable legal requirements for adoption and must include summary of comments from publication). 2. Order Adopting Rule (Attachment 7) 3. Preamble 4. Rule 5. Rulemaking Fiscal Impact Form 	To be determined by originating agency
Step 13	<ul style="list-style-type: none"> • Upon receipt of the rule packet the Executive Clerk’s office simultaneously routes to the HHS Senior Policy Advisor, HHS Legal, and HHS Financial Services for comments prior to routing to the Executive Commissioner for approval for adoption. • HHS Senior Policy Advisor, HHS Legal, and HHS Financial Services will add to the Request for Adoption of Proposed Rules Memo any significant comments on the rules and their recommendation for approval or disapproval of proposed rule. • Executive Commissioner approves/disapproves adoption of final rules for publication in the <i>Texas Register</i>. • Executive Clerk’s office will e-mail the agency Commissioner the Executive Commissioner’s approval/disapproval for adoption of the proposed rules. Copies of the e-mail will be forwarded to the HHS Deputy Executive Commissioner and HHS Senior Policy Advisor. The HHS Senior Policy Advisor will forward the e-mail to the originating agency (program contact). 	7 days
Step 14	<p>Originating agency submits adoption to <i>Texas Register</i>, notifies agency council members, and Medicaid/CHIP Division Policy Development Support unit (for Medicaid rules only).</p>	20 days