

**CHAPTER 928**

**H.B. No. 2005**

An Act relating to eligibility to receive services, services provided, and providers of services under the Crippled Children's Services Act.

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

**SECTION 1.** Section 2, Crippled Children's Services Act (Article 4419c, Vernon's Texas Civil Statutes), is amended to read as follows:

**Sec. 2. DEFINITIONS.** (a) In this Act:

(1) "Crippled child" means *an individual [a person]* whose physical function, movement, or sense of hearing is impaired to the extent that the *individual [person]* is or may be expected to be partially or totally incapacitated for educational purposes or for acquiring remunerative occupation and who:

(A) is under 21 years of age and has:

(i) a joint, bone, ossicular chain, muscle, or neurological defect or deformity, including *craniofacial anomaly*, neurofibromatosis, and spina bifida; or

(ii) cancer; or

(B) has cystic fibrosis, regardless of the *individual's [person's]* age.

(2) "Board" means the Texas Board of Health.

(3) "Cancer" means a malignant disease, including leukemia, lymphoma, and histiocytosis, characterized by unrestricted growth of abnormal cells, the natural course of which is fatal.

(4) "Department" means the Texas Department of Health.

(5) "Physician" means a person licensed by the Texas State Board of Medical Examiners to practice medicine in this state.

(6) "Dentist" means a person licensed by the Texas State Board of Dental Examiners to practice dentistry in this state.

(7) "Program" means the crippled children's services program.

(8) "Rehabilitation services" means *the [a] process of the physical restoration of body function destroyed or impaired by congenital defect, disease, or injury that [; and] may include facility care [hospitalization], medical and dental care, optometric care, braces, artificial appliances, durable medical equipment, medical supplies, [and] occupational and physical therapy, and other care specified by the board in the rules of the program.*

(9) "*Craniofacial anomaly*" means *a deformity of the cranial and facial bones that may result from a congenital or hereditary defect or an injury, and that may include a defect of the upper face or midface (craniofacial), a defect of the midface or lower face (maxillofacial), or both.*

(10) "Facility" includes hospitals, ambulatory surgical centers, and outpatient clinics.

(11) "Other benefit" means *a benefit to which an individual is entitled, other than a benefit provided under this Act, for the payment of the costs of rehabilitation services, transportation, subsistence, or burial, including:*

(A) benefits available from:

(i) *an insurance policy, group health plan, or prepaid medical or dental care plan;*

(ii) *Title XVIII or Title XIX of the Social Security Act;*

(iii) *the Veterans Administration;*

(iv) *the Civilian Health and Medical Program of the Uniformed Services; or*

(v) *workers' compensation or any compulsory employers' insurance program;*

(B) *a public program created by federal law, state law, or the ordinances or rules of a municipality or political subdivision of the state, except those benefits created by the establishment of a city or county hospital, a joint city-county hospital, a county hospital authority, a hospital district, or the facilities of a publicly supported medical school; or*

(C) *benefits available from a cause of action for expenses for rehabilitation services, transportation, subsistence, or burial expenses to a child applying for or receiving services from the department, or a settlement or judgment based on the cause of action, if the expenses are related to the need for services provided by this Act.*

(12) "Specialty center" means *a facility and staff that, by virtue of fulfillment of program-established minimum standards, is designated by the board for program use in the comprehensive diagnostic and treatment services for a specific medical condition.*

(b) *The board may define by rule any word or term not defined in this section as necessary to administer this Act. The definition may not be inconsistent or in conflict with the purposes or objectives of this Act.*

**SECTION 2.** Sections 3(b) and (d), Crippled Children's Services Act (Article 4419c, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) The program created ~~[prescribed]~~ by Subsection (a) of this section may provide transportation and subsistence for eligible crippled children. The program may also provide the following services for eligible crippled children who die *in an approved facility while receiving program services [while hospitalized]* for a condition covered by the program ~~[; including]:~~

(1) transportation of the deceased's remains, and a parent or other person accompanying the remains, from the *facility [hospital]* to the place of burial within the state designated by the parent or other person legally responsible for interment;

(2) expense of embalming if embalming is required for transportation;

(3) cost of a casket purchased at a minimum price, if a casket is required for transportation; and

(4) other necessary expenses directly related to the care of the deceased's remains and the return of the remains to the place of burial within the state.

(d) The program established by this Act is separate and distinct from *the* [a] financial or medical assistance program established by Chapters 31 and 32, Human Resources Code.

**SECTION 3.** Section 4, Crippled Children's Services Act (Article 4419c, Vernon's Texas Civil Statutes), is amended to read as follows:

**Sec. 4. ELIGIBILITY REQUIREMENTS.** (a) A child is not eligible to receive services provided under this Act, unless:

(1) the child is a resident of the state;

(2) at least one licensed physician or dentist has certified to the department that he *has* examined the child and found the child to be a crippled child whose disability meets the medical criteria established by the board;

(3) the physician or dentist has reason to expect that the services provided will improve the child's condition or will extend the child's ability to function independently; and

(4) the department has determined that every person who has a legal obligation to provide services for the child is unable to pay for the entire cost of the services.

(b) *If the department determined at the time of application or at any time during the receipt of services that a child or any person who has a legal obligation to support the child is able to pay a portion of the cost of the services, the board shall require the child or the person legally obligated to support the child to pay for or reimburse the department for that portion of the cost of the services that the child or the person is able to pay [A child is not eligible to receive services provided by this Act to the extent that a person who has a legal obligation to provide for the child's care and treatment is financially able to pay for all or part of the services provided by this Act. The department shall require the child or a person who has a legal obligation to provide for the child's care and treatment and who is financially able to bear a portion of the expense to pay for or reimburse the department for the portion of the cost of the services provided by the department to the child for whom application is made or by whom the services are received].*

**SECTION 4.** Section 5, Crippled Children's Services Act (Article 4419c, Vernon's Texas Civil Statutes), is amended to read as follows:

**Sec. 5. OTHER BENEFITS.** (a) *Except as permitted by the program rules, a [In this section, "other benefit" means a benefit, other than a benefit under this Act, to which a person is entitled for payment of the costs of medical or dental care and treatment or burial, including:*

[(1) benefits available from:

[(A) an insurance policy, group health plan, or prepaid medical dental care plan;

[(B) Title XVIII or Title XIX of the Social Security Act;

[(C) the Veterans Administration;

[(D) the Civilian Health and Medical Program of the Uniformed Services; or

[(E) workers' compensation or any compulsory employers' insurance program;

[(2) a public program created by federal law, state law, or the ordinances or rules of a municipality or political subdivision of the state, except those benefits created by the establishment of a city or county hospital, a joint city/county hospital, a county hospital authority, a hospital district, or the facilities of a publicly supported medical school; or

[(3) benefits available from a cause of action for medical or dental expenses to a child applying for or receiving services from the department or a settlement or judgment based on the cause of action if the expenses are related to the need for services provided under this Act.

[(b) A] *A] is not eligible to receive services provided by this Act to the extent that the child or any [a] person who has a legal obligation to support the child is eligible for some other benefit that would pay for all or part of the services provided by this Act.*

(b) [(e)] *An applicant for or a recipient of services provided under this Act shall inform the department at the time of application or at any time during the receipt of services [the time the applicant receives services;] of any other benefit to which the child, the child's parent, the child's managing conservator, or any other person who has a legal obligation to support the child, may be entitled.*

(c) [(d)] *The child, the child's parent, the child's managing conservator, or any other person who has a legal obligation to support a child who has received services that are covered by some other benefit shall reimburse the department to the extent of the services provided when the other benefit is received.*

**SECTION 5.** Section 6, Crippled Children's Services Act (Article 4419c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. **RECOVERY OF COSTS.** The department may recover the cost of services provided under this Act from a person who does not reimburse the department as required by Sections 4(b) and 5(c) ~~(5(d))~~ of this Act or from any third party who has a legal obligation to pay other benefits and to whom notice of the department's interest has been given. At the request of the commissioner of health, the attorney general may bring suit in the appropriate court of Travis County on behalf of the department. The court may award attorney's fees, court costs, and interest accruing from the date the department provides the service to the date the department is reimbursed in a judgment in favor of the department.

**SECTION 6.** Section 7, Crippled Children's Services Act (Article 4419c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. **MODIFICATION, SUSPENSION, OR TERMINATION OF SERVICES.** (a) The department may *for cause deny the application of or modify, suspend, or terminate services to a [crippled] child who has applied [is eligible] for or is receiving services [from the department] after notice to the child or the person who is legally obligated to support the child [persons affected] and an opportunity for a [fair] hearing.*

(b) The program rules adopted by the board shall contain *the criteria for the department's action.*

(c) *Sections 13 through 20, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), do not apply to the grant, denial, modification, suspension, or termination of services provided under this Act. However, the department [The board] shall conduct [fair] hearings in accordance with [under] the board's due process [informal] hearing rules.*

(d) *This section does not apply if program services are restricted to conform to budgetary limitations and service priorities regarding types of services to be furnished are adopted by the board under Section 8 of this Act.*

**SECTION 7.** The Crippled Children's Services Act (Article 4419c, Vernon's Texas Civil Statutes) is amended by adding Section 7A to read as follows:

Sec. 7A. **PROVIDERS.** (a) *The board shall approve physicians, dentists, facilities, specialty centers, and other providers to participate in the program according to the criteria and procedures adopted by the board.*

(b) *The board shall provide a due process hearing procedure for the resolution of conflicts between the department and a provider. Sections 13 through 20, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), do not apply to conflict resolution procedures adopted under this section.*

(c) *If the department approves a provider to furnish program services, the department may not terminate the approval during the pendency of a hearing under this section. The department may withhold payments during the pendency of a hearing. However, the department shall pay the withheld payments and resume contract payments if the final determination is favorable to the provider.*

(d) *Subsection (b) of this section does not apply if a contract expires according to its own terms or if the contract is canceled because program services are restricted to conform to budgetary limitations and service priorities are adopted by the board regarding types of service to be furnished.*

**SECTION 8.** Section 8, Crippled Children's Services Act (Article 4419c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. **GENERAL PROVISIONS.** (a) The board shall:

(1) *adopt rules specifying [prescribing] the type, amount, and duration of rehabilitation services, transportation, subsistence, and the [and support] services to be provided under Section 3(b) of this Act;*

(2) *adopt rules specifying [and] the medical, financial, and other criteria for eligibility to receive services;*

(3) ~~(2)~~ *adopt substantive and procedural rules for the selection of physicians, dentists, facilities, and other providers [and hospitals] for participation in the program, including rules for the selection of facilities recognized by the board as specialty centers and rules requiring providers to accept program payment as payment in full for services furnished;*

(4) *adopt substantive and procedural rules for the modification, suspension, or termination of a provider's approval to participate in the program;*

(5) ~~(3)~~ *adopt substantive and procedural rules for the denial of applications and for the modification, suspension, or termination of services to an individual [a crippled child] who is [eligible for or] receiving services provided under this Act; and*

(6) ~~[(A)]~~ select physicians, dentists, facilities, specialty centers, and other providers to participate in the program ~~[and hospitals to provide rehabilitation services]~~.

(b) The department may:

- (1) provide services only for conditions specified in this Act or by the board;
- (2) pay only for rehabilitation services furnished ~~[provided]~~ by a provider ~~[physician, dentist, or hospital]~~ approved by the board, except in an emergency situation;
- (3) adopt reasonable procedures and standards to govern the determination of fees and charges for program payment;
- (4) take census, make surveys, and establish permanent records of crippled children;
- (5) receive and expend gifts and donations for the purposes of this Act;
- (6) receive *and expend* funds appropriated or granted by the state or federal government to provide rehabilitation services for crippled children; and
- (7) enter into contracts and agreements necessary to carry out this Act.

(c) Except as specified in the program rules ~~[prescribed by Subsection (d) of this section]~~, a recipient of services may select any provider ~~[physician, dentist, or hospital]~~ approved by the board to provide *rehabilitation services* ~~[treatment]~~. If the recipient is a minor, the person legally authorized to consent to the treatment may select the provider ~~[physician, dentist, or hospital]~~.

~~[(d) The board shall require a person selecting a physician, dentist, or hospital as prescribed by Subsection (e) of this section to use existing rehabilitation services in a location as close to the recipient's home as possible.]~~

**SECTION 9.** Section 11, Crippled Children's Services Act (Article 4419c, Vernon's Texas Civil Statutes), is amended to read as follows:

**Sec. 11. INTERAGENCY COOPERATION ACT.** The Interagency Cooperation Act (Article 4413(32), Vernon's Texas Civil Statutes) does not apply to a payment made by the department for services provided by a publicly supported medical school facility to an eligible crippled child. A publicly supported medical school facility receiving payment under this Act shall deposit the payment in local funds.

**SECTION 10.** 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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 14, 1985, by a non-record vote; passed by the Senate on May 26, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 15, 1985

Effective: August 26, 1985