

CHAPTER 946

H.B. No. 1847

AN ACT

relating to maternal and infant health care.

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

SECTION 1. Sections 2(a)(10)–(16), Maternal and Infant Health Improvement Act (Article 4447y, Vernon's Texas Civil Statutes), are amended to read as follows:

(10) "Medical assistance program" means the program administered by the Texas Department of Human Services under Chapter 32, Human Resources Code.

(11) "Other benefit" means a benefit, other than a benefit provided under this Act, to which an individual is entitled for payment of the costs of maternal and infant health improvement services, ancillary services, or educational or transportation services, including:

(A) benefits available under:

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

(ii) Title XVIII [~~or Title XIX~~] of the Social Security Act;

(iii) the Veteran's Administration;

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

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

(B) a public program created by federal or state law, *other than Title XIX of the Social Security Act*, or by an ordinance or rule 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 by the facilities of a publicly supported medical school; or

(C) benefits resulting from a cause of action for medical, facility, or medical transportation expenses, 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) [(11)] "Perinatal care" means maternal and infant health improvement services and ancillary services that are appropriate for a pregnant woman and the fetus during the

period beginning on the 20th complete week of gestation and ending on the infant's 28th completed day of life.

(13) [(12)] "Person" includes an individual, corporation, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity.

(14) [(13)] "Prenatal care" means maternal and infant health improvement services and ancillary services that are appropriate for a pregnant woman and the fetus during the period beginning on the date of conception and ending on the commencement of labor.

(15) [(14)] "Program" means the maternal and infant health improvement services program created by this Act.

(16) [(15)] "Provider" means a person that through a grant or a contract with the department, *or through other means approved by the department*, delivers maternal and infant health improvement services and ancillary services that are purchased by the department for the purposes of this Act.

(17) [(16)] "Support" means the contribution of money or services necessary for a person's maintenance, including food, clothing, shelter, transportation, and health care.

SECTION 2. Section 3, Maternal and Infant Health Improvement Act (Article 4447y, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. LIMITATIONS. The department is not required to deliver maternal and infant health improvement services unless funds are appropriated to the department *or to the Texas Department of Human Services* to administer this Act.

SECTION 3. Sections 4(b) and (d), Maternal and Infant Health Improvement Act (Article 4447y, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) If the department establishes the program, the board shall adopt rules relating to the services to be furnished and, if budgetary limitations exist, rules establishing a system of priorities relating to the types of services provided, geographic areas covered, or classes of individuals eligible for services. The board shall base the rules on a statewide determination of the need for services. *In structuring the program and adopting rules, the department and the board shall attempt to maximize the amount of federal matching funds available for maternal and infant health improvement services while continuing to serve targeted populations. If necessary, the rules may provide for coordinating services and other aspects of the program with the medical assistance program. However, the rules may not affect the status of the Texas Department of Human Services as the single state agency to administer the medical assistance program.*

(d) The program may provide services, including' all or any combination of the following services, to eligible individuals:

(1) maternal and infant health improvement services, including:

(A) comprehensive prenatal and perinatal care;

(B) obstetrical consultation services;

(C) preventive, health, medical, and facility intrapartum care;

(D) neonatal intensive care;

(E) followup services for eligible infants [~~who are considered to be at high risk of suffering personal mortality or morbidity or of suffering long-lasting defect or disability~~]; and

(F) emergency medical transportation necessary to secure appropriate perinatal care;

(2) ancillary services;

(3) a special program of preventive, health, medical, and facility care and health education services for adolescents concentrating on adolescent pregnancy and pregnancy prevention;

(4) health education and health promotion services, including:

(A) organized continuing education for health care workers emphasizing perinatal education;

(B) public health education to provide information relating to the importance of perinatal care and the availability of resources for care; and

(C) nutrition education; and

(5) a special program of pregnancy prevention services for women receiving benefits for two or more pregnancies, including the availability of family planning services as provided in the medical assistance program, *unless the provision of those services would cause the program established under this Act to be out of compliance with federal law so that federal matching funds would not be available to the state* ~~administered by the Texas Department of Human Resources under Chapter 32, Human Resources Code~~.

SECTION 4. Section 5, Maternal and Infant Health Improvement Act (Article 4447y, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. RULES. (a) The board shall adopt necessary rules to administer this Act, including rules relating to:

- (1) the type, amount, and duration of services to be delivered;
- (2) application procedures for admission to the program and for the receipt of services, including health or medical, financial, and other criteria for eligibility;
- (3) the selection of physicians, registered nurses, facilities, and other providers;
- (4) the determination by the department of the services needed in each service area and whether the services are to be delivered through a network of approved providers, directly by the department, or by a combination of the department and approved providers as provided by Section 4(e) of this Act;
- (5) the expedited selection of providers; and
- (6) the denial of program participation and the modification, suspension, or termination of program participation.

(b) *If the department coordinates services and other aspects of the program with the medical assistance program, the board may not adopt rules relating to the services provided under either program that would cause the program established under this Act to be out of conformity with federal law to the extent that federal matching funds would not be available, or that would affect the status of the Texas Department of Human Services as the single state agency to administer the medical assistance program.*

SECTION 5. Section 6(b), Maternal and Infant Health Improvement Act (Article 4447y, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) *Except as prohibited by federal law or regulation, the [The] board may charge fees for the services delivered directly by the department or through approved providers in accordance with Chapter 641, Acts of the 68th Legislature, Regular Session, 1983 (Article 4414c, Vernon's Texas Civil Statutes).*

SECTION 6. Section 9(b), Maternal and Infant Health Improvement Act (Article 4447y, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) *Except as necessary to coordinate the program with the medical assistance program, and except as modified by other program rules, the criteria must include requirements that:*

- (1) the individual is a bona fide resident of this state;
- (2) at least one licensed physician certifies to the department that the individual meets the health or medical criteria established by the board; and
- (3) the physician has reason to expect that the services delivered by the program will prevent or reduce the probability of maternal, fetal, or infant death; complications of pregnancy, including handicapping conditions found in infants that are associated with complications of pregnancy; or adolescent pregnancy.

SECTION 7. Section 15(a), Maternal and Infant Health Improvement Act, (Article 4447y, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) To prevent duplication of services, the board and the department should coordinate the services authorized by this Act with existing federal, state, and local programs. ~~[The~~

~~board should require that the services provided under this Act are reserved to the greatest extent possible for low-income women and infants who are not eligible for similar services through any other publicly funded program.]~~

SECTION 8. The Maternal and Infant Health Improvement Act (Article 4447y, Vernon's Texas Civil Statutes) is amended by adding Sections 18 and 19 to read as follows:

Sec. 18. MEMORANDUM OF UNDERSTANDING. (a) The department and the Texas Department of Human Services shall adopt a memorandum of understanding relating to:

(1) each department's role in providing maternal and infant health services;
(2) coordination of services provided by each department to low-income pregnant women or children; and

(3) ways to maximize federal matching funds.

(b) Not later than the last month of each fiscal year, the department and the Texas Department of Human Services shall review and update the memorandum.

(c) Each agency by rule shall adopt the memorandum of understanding and all revisions to the memorandum.

Sec. 19. EFFECT OF FEDERAL FUNDS. Notwithstanding other law, the department's authority to expend funds appropriated for the program established by this Act is not affected by the amount of federal funds the department receives.

SECTION 9. Chapter 131, Human Resources Code, is amended by adding Section 131.0041 to read as follows:

Sec. 131.0041. ADVISORY COMMITTEE ON MATERNAL AND INFANT HEALTH.

(a) The council shall appoint a statewide advisory committee on maternal and infant health improvement services and any necessary areawide advisory committees. Appointments to the advisory committees shall be made without regard to the race, creed, handicap, sex, religion, age, or national origin of the appointee. In addition, appointments to the statewide advisory committee shall be made with consideration of the geographical representation of the appointee.

(b) The statewide advisory committee is composed of:

(1) one physician licensed to practice medicine in this state who is board certified in obstetrics and who has been actively engaged in the practice of obstetrics for at least five years prior to appointment;

(2) one physician licensed to practice medicine in this state who is board certified in pediatrics and who has been actively engaged in the practice of pediatrics for at least five years prior to appointment;

(3) one physician licensed to practice medicine in this state who is board certified in family medicine and who has been actively engaged in family practice for at least five years prior to appointment;

(4) one professional nurse registered by the Board of Nurse Examiners who has experience in providing neonatal care and who has been actively engaged in the practice of professional nursing for at least five years prior to appointment;

(5) one professional nurse registered by the Board of Nurse Examiners who has experience in providing care to mothers and infants and who has been actively engaged in the practice of professional nursing for at least five years prior to appointment;

(6) two facility administrators who have been actively engaged in facility administration for at least five years prior to appointment; and

(7) five members of the general public.

(c) A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the health care field;

(2) is employed by a health care facility, corporation, or agency, or by a corporation authorized to underwrite health care insurance;

- (3) governs or administers a health care facility, corporation, or agency; or
- (4) has a financial interest, other than a consumer's interest, in a health care facility, corporation, or agency.
- (d) Statewide advisory committee members serve for staggered six-year terms, with the terms of three members expiring on August 31 of each odd-numbered year.
- (e) A vacancy on the statewide advisory committee is filled by the council in the same manner as other appointments to the advisory committee.
- (f) A member of the statewide advisory committee is entitled to reimbursement for expenses incurred in performing duties under this Act. The reimbursement may not exceed the amount specified in the General Appropriations Act for travel and per diem allowances for state employees. The council shall execute a contract with the Department of Health under which the department reimburses the committee for any expenses incurred by the committee in performing duties under this Act. The department shall reimburse the committee from funds appropriated to the department to administer the maternal and infant health improvement services program.
- (g) The council shall adopt rules to govern the statewide and areawide committees' operations.
- (h) The committee shall provide advice to the Texas Department of Health on the implementation of the Maternal and Infant Health Improvement Act (Article 4447y, Vernon's Texas Civil Statutes).

SECTION 10. (a) The members of the advisory committee established under Section 14, Maternal and Infant Health Improvement Act (Article 4447y, Vernon's Texas Civil Statutes), who were serving on the committee on August 31, 1987, automatically become members of the advisory committee established under Section 131.0041, Human Resources Code. A member is entitled to serve on the new advisory committee for the remainder of the term for which the member was entitled to serve on the previous advisory committee unless otherwise removed.

(b) The Texas Health and Human Services Coordinating Council shall appoint three additional public members to the advisory committee. The council shall designate one member to serve a term expiring August 31, 1989, one member to serve a term expiring August 31, 1991, and one member to serve a term expiring August 31, 1993.

SECTION 11. Not later than January 1, 1988, the Texas Department of Health and Texas Department of Human Services shall adopt a memorandum of understanding as prescribed by Section 18, Maternal and Infant Health Improvement Act (Article 4447y, Vernon's Texas Civil Statutes), as added by this Act.

SECTION 12. Section 14, Maternal and Infant Health Improvement Act (Article 4447y, Vernon's Texas Civil Statutes), is repealed.

SECTION 13. This Act takes effect September 1, 1987.

SECTION 14. 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 by the House on May 5, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1847 on May 25, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 19, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 20, 1987.

Effective Sept. 1, 1987.