

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE B. TEXAS DEPARTMENT OF HEALTH PROGRAMS

CHAPTER 31. PRIMARY HEALTH CARE

Sec. 31.001. SHORT TITLE. This chapter may be cited as the Texas Primary Health Care Services Act.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 31.002. DEFINITIONS. (a) In this chapter:

(1) "Facility" includes a hospital, ambulatory surgical center, public health clinic, birthing center, outpatient clinic, and community health center.

(2) "Medical transportation" means transportation services that are required to obtain appropriate and timely primary health care services for eligible individuals.

(3) "Other benefit" means a benefit, other than a benefit provided under this chapter, to which an individual is entitled for payment of the costs of primary health care services, including benefits available from:

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

(B) Title XVIII or XIX of the Social Security Act (42 U.S.C. Section 1395 et seq. or Section 1396 et seq.);

(C) the Veterans Administration;

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

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

(F) a public program created by federal or state law, or by an ordinance or rule of a municipality or political subdivision of the state, excluding benefits created by the establishment of a municipal or county hospital, a joint municipal-county hospital, a county hospital authority, a hospital district, or the facilities of a publicly supported medical school;
or

(G) 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 under this chapter.

(4) "Primary health care services" includes:

- (A) diagnosis and treatment;
- (B) emergency services;
- (C) family planning services;
- (D) preventive health services, including immunizations;
- (E) health education;
- (F) laboratory, X-ray, nuclear medicine, or other appropriate diagnostic services;
- (G) nutrition services;
- (H) health screening;
- (I) home health care;
- (J) dental care;
- (K) transportation;
- (L) prescription drugs and devices and durable supplies;
- (M) environmental health services;
- (N) podiatry services; and
- (O) social services.

(5) "Program" means the primary health care services program authorized by this chapter.

(6) "Provider" means a person who, through a grant or a contract with the department, provides primary health care services that are purchased by the department for the purposes of this chapter.

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

(b) The board by rule may define a word or term not defined by Subsection (a) as necessary to administer this chapter. The board may not define a word or term so that the word or term is inconsistent or in conflict with the purposes of this chapter, or is in conflict with the definition and conditions of practice

governing a provider who is required to be licensed, registered, certified, identified, or otherwise sanctioned under the laws of this state.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 31.003. PRIMARY HEALTH CARE SERVICES PROGRAM.

(a) The board may establish a program in the department to provide primary health care services to eligible individuals.

(b) If the program is established, the board shall adopt rules relating to:

(1) the type, amount, and duration of services to be provided under this chapter; and

(2) the determination by the department of the services needed in each service area.

(c) If budgetary limitations exist, the board by rule shall establish a system of priorities relating to the types of services provided, geographic areas covered, or classes of individuals eligible for services.

(d) The board shall adopt rules under Subsection (c) relating to the geographic areas covered and the classes of individuals eligible for services according to a statewide determination of the need for services.

(e) The board shall adopt rules under Subsection (c) relating to the types of services provided according to the set of service priorities established under this subsection. Initial service priorities shall focus on the funding of, provision of, and access to:

- (1) diagnosis and treatment;
- (2) emergency services;
- (3) family planning services;
- (4) preventive health services, including immunizations;
- (5) health education; and
- (6) laboratory, X-ray, nuclear medicine, or other appropriate diagnostic services.

(f) Except as limited by this section, the department shall develop an integrated framework for the equitable provision of

services throughout the state and shall use existing public and private health, transportation, and education resources.

(g) The board should require that the services provided under this chapter be reserved to the greatest extent possible for low-income individuals who are not eligible for similar services through any other publicly funded program.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 31.004. ADMINISTRATION. (a) The board shall adopt rules necessary to administer this chapter, and the department shall administer the program in accordance with board rules.

(b) With the advice and assistance of the commissioner and the department, the board by rule shall:

(1) establish the administrative structure of the program;

(2) establish a plan of areawide administration to provide authorized services;

(3) designate, if possible, local public and private resources as providers; and

(4) prevent duplication by coordinating authorized primary health care services with existing federal, state, and local programs.

(c) The department shall prescribe the design and content of all necessary forms used in the program.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 31.005. PROVISION OF PROGRAM SERVICES BY DEPARTMENT.

(a) The board shall adopt rules relating to the department's determination of whether program services are to be provided through a network of approved providers, directly by the department, or by a combination of the department and approved providers as prescribed by this section.

(b) The department shall provide services only as prescribed by board rule.

(c) The department may provide primary health care services directly to eligible individuals to the extent that the board determines that existing private or public providers or other

resources in the service area are unavailable or unable to provide those services. In making that determination, the department shall:

(1) initially determine the proposed need for services in the service area;

(2) notify existing private and public providers and other resources in the service area of the department's initial determination of need and the services the department proposes to provide directly to eligible individuals;

(3) provide existing private and public providers and other resources in the service area a reasonable opportunity to comment on the department's initial determination of need and the availability and ability of existing private or public providers or other resources in the service area to satisfy the need;

(4) provide existing private and public providers and other resources in the service area a reasonable opportunity to obtain approval as providers under the program; and

(5) eliminate, reduce, or otherwise modify the proposed scope or type of services the department proposes to provide directly to the extent that those services may be provided by existing private or public providers or other resources in the service area that meet the board's criteria for approval as providers.

(d) The department shall maintain a continuing review of the services it provides directly to the eligible individuals who participate in the program. At least annually, the department shall review and determine the continued need for the services it provides directly in each service area, in accordance with the methods and procedures used to make the initial determination as prescribed by this section.

(e) If after a review the board determines that a private or public provider or other resource is available to provide services and has been approved as a provider, the department shall, immediately after approving the provider, eliminate, reduce, or modify the scope and type of services the department provides directly to the extent the private or public provider or other resource is available and able to provide the service.

Sec. 31.006. SERVICE PROVIDERS. (a) The board shall adopt rules relating to:

(1) the selection and expedited selection of providers, including physicians, registered nurses, and facilities; and

(2) the denial, modification, suspension, and termination of program participation.

(b) The department shall select and approve providers to participate in the program according to the criteria and following the procedures prescribed by board rules.

(c) The department shall pay only for program services provided by approved providers, except in an emergency.

(d) The board may not adopt facility approval criteria that discriminate against a facility solely because it is operated for profit.

(e) The department may not exclude a provider solely because the provider receives federal funds if the federal funds are inadequate to provide the services authorized by this chapter to all eligible individuals seeking services from that provider.

(f) The board shall provide a due process hearing procedure for the resolution of conflicts between the department and a provider. Chapter 2001, Government Code, do not apply to conflict resolution procedures adopted under this section.

(g) The department shall render the final administrative decision in a due process hearing to modify, suspend, or terminate the approval of a provider.

(h) The department may not terminate a grant or contract while a due process hearing is pending under this section. The department may withhold payments while the hearing is pending but shall pay the withheld payments and resume grant or contract payments if the final determination is in favor of the provider.

(i) The notice and hearing required by this section do not apply if a grant or contract:

(1) is canceled by the department because of exhaustion of funds or because insufficient funds require the board

to adopt service priorities; or

(2) expires according to its terms.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(65), eff. Sept. 1, 1995.

Sec. 31.007. APPLICATION FOR SERVICES. (a) The board shall adopt rules relating to application procedures for admission to the program.

(b) An applicant must complete or cause to be completed an application form prescribed by the department.

(c) The application form must be accompanied by:

(1) a statement by the applicant, or by the person with a legal obligation to provide for the applicant's support, that the applicant or person is financially unable to pay for all or part of the cost of the necessary services; and

(2) any other assurances from the applicant or any documentary evidence required by the board that is necessary to support the applicant's eligibility.

(d) Except as permitted by program rules, the department may not provide services or authorize payment for services delivered to an individual before the eligibility date assigned to the individual by the department.

(e) The department shall determine or cause to be determined the eligibility date in accordance with board rules. The date may not be later than the date on which the individual submits a properly completed application form and all supporting documents required by this chapter or board rules.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 31.008. ELIGIBILITY FOR SERVICES. (a) The board shall adopt rules relating to eligibility criteria for an individual to receive services under the program, including health, medical, and financial criteria. The department shall determine or cause to be determined an applicant's eligibility in accordance with this chapter and board rules.

(b) Except as modified by other rules adopted under this chapter, the board by rule shall provide that to be eligible to

receive services, the individual must be a resident of this state.
Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 31.009. DENIAL, MODIFICATION, SUSPENSION, OR TERMINATION OF SERVICES. (a) The department for cause may deny an application for services after notice to the applicant and an opportunity for a fair hearing.

(b) The department may modify, suspend, or terminate services to an individual eligible for or receiving services after notice to the individual and an opportunity for a fair hearing.

(c) The board by rule shall provide criteria for action by the department under this section.

(d) Chapter 2001, Government Code, do not apply to the granting, denial, modification, suspension, or termination of services. The department shall conduct hearings in accordance with the board's due process hearing rules.

(e) The department shall render the final administrative decision in a due process hearing to deny, modify, suspend, or terminate the receipt of services.

(f) The notice and hearing required by this section do not apply if the department restricts program services to conform to budgetary limitations that require the board to establish service priorities.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(65), eff. Sept. 1, 1995.

Sec. 31.010. FINANCIAL ELIGIBILITY; OTHER BENEFITS.

(a) The department shall require an individual receiving services under this chapter, or the person with a legal obligation to support the individual, to pay for or reimburse the department for that part of the cost of the services that the individual or person is financially able to pay.

(b) Except as provided by board rules, an individual is not eligible to receive services under this chapter to the extent that the individual, or a person with a legal obligation to support the individual, is eligible for some other benefit that would pay for all or part of the services.

(c) When an application is made under this chapter or when services are received, the individual applying for or receiving services shall inform the department of any other benefit to which the individual, or a person with a legal obligation to support the individual, may be entitled.

(d) An individual who has received services that are covered by some other benefit, or a person with a legal obligation to support that individual, shall reimburse the department to the extent of the services provided when the other benefit is received.

(e) The commissioner may waive enforcement of Subsections (b)-(d) of this section as prescribed by board rules in certain individually considered cases in which enforcement will deny services to a class of otherwise eligible individuals because of conflicting federal, state, or local laws or rules.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 31.011. RECOVERY OF COSTS. (a) The department may recover the cost of services provided under this chapter from a person who does not reimburse the department as required by Section 31.010 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.

(b) At the request of the commissioner, the attorney general may bring suit in the appropriate court of Travis County on behalf of the department.

(c) In a judgment in favor of the department, the court may award attorney's fees, court costs, and interest accruing from the date on which the department provides the services to the date on which the department is reimbursed.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 31.012. FEES. (a) The board may charge fees for the services provided directly by the department or through approved providers in accordance with Subchapter D, Chapter 12.

(b) The board shall adopt standards and procedures to develop and implement a schedule of allowable charges for program services.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 31.013. FUNDING. (a) Except as provided by this chapter or by other law, the board may seek, receive, and spend funds received through an appropriation, grant, donation, or reimbursement from any public or private source to administer this chapter.

(b) The department is not required to provide primary health care services unless funds are appropriated to the department to administer this chapter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 31.014. CONTRACTS. The department shall enter into contracts and agreements or award grants necessary to facilitate the efficient and economical provision of services under this chapter, including contracts and grants for the purchase of services, equipment, and supplies from approved providers.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 31.015. RECORDS AND REVIEW. (a) The department shall require each provider receiving reimbursement under this chapter to maintain records and information for each applicant for or recipient of services.

(b) The board shall adopt rules relating to the information a provider is required to report to the department and shall adopt procedures to prevent unnecessary and duplicative reporting of data.

(c) The department shall review records, information, and reports prepared by program providers and shall annually prepare a report for submission to the governor and the legislature relating to the status of the program. The department shall make the report available to the public.

(d) The report required under Subsection (c) must include:

(1) the number of individuals receiving care under this chapter;

(2) the total cost of the program, including a delineation of the total administrative costs and the total cost

for each service authorized under Section 31.003(e);

(3) the average cost per recipient of services;

(4) the number of individuals who received services in each public health region; and

(5) any other information required by the board.

(e) In computing the number of individuals to be reported under Subsection (d)(1), the department shall ensure that no individual is counted more than once.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 31.016. PROGRAM PLANS. (a) The department shall have a long-range plan, covering at least six years, that includes at least the following elements:

(1) quantifiable indicators of effort and success;

(2) identification of priority client population and the minimum types of services necessary for that population;

(3) a description of the appropriate use of providers, including the role of providers, and considering the type, location, and specialization of the providers;

(4) criteria for phasing out unnecessary services;

(5) a comprehensive assessment of needs and inventory of resources; and

(6) coordination of administration and service delivery with federal, state, and local public and private programs that provide similar services.

(b) The department shall revise the plan by January 1 of each even-numbered year.

(c) The department shall develop a short-range plan that is derived from the long-range plan and that identifies and projects the costs relating to implementing the short-range plan.

(d) As part of the department's budget preparation process, the department shall biennially assess its achievement of the goals identified in each plan. The department's biennial budget shall be made according to the results of the assessment and the short-range plan. The department shall make its requests for new program funding and for continued funding according to demonstrated need.

(e) The department shall use the information collected

under Section 31.015 to develop the long-range and short-range plans.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

For expiration of this section, see Subsection (b).

Sec. 31.017. FEDERALLY QUALIFIED HEALTH CENTERS. (a) The department may make grants to establish new or expand existing facilities that can qualify as federally qualified health centers, as defined by 42 U.S.C. Section 1396d(1)(2)(B), in this state, including:

- (1) planning grants;
- (2) development grants;
- (3) capital improvement grants; and
- (4) grants for transitional operating support.

(b) This section expires September 1, 2009.

Added by Acts 2003, 78th Leg., ch. 860, Sec. 1, eff. Sept. 1, 2003.