

HEALTH AND SAFETY CODE CHAPTER 32. MATERNAL AND INFANT HEALTH
IMPROVEMENT

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE B. TEXAS DEPARTMENT OF HEALTH PROGRAMS

CHAPTER 32. MATERNAL AND INFANT HEALTH IMPROVEMENT

SUBCHAPTER A. PROGRAM FOR WOMEN AND CHILDREN

Sec. 32.001. SHORT TITLE. This chapter may be cited as the Maternal and Infant Health Improvement Act.

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

Sec. 32.002. DEFINITIONS. (a) In this chapter:

(1) "Adolescent" means an individual younger than 18 years of age.

(2) "Ancillary services" means services necessary to obtain timely, effective, and appropriate maternal and infant health improvement services, and includes prescription drugs, medical social services, transportation, health promotion services, and laboratory services.

(3) "Facility" includes a hospital, public health clinic, birthing center, outpatient clinic, or community health center.

(4) "Infant care" means maternal and infant health improvement services and ancillary services appropriate for an individual from birth to 12 months of age.

(5) "Intrapartum care" means maternal and infant health improvement services and ancillary services appropriate for a woman, fetus, or infant during childbirth.

(6) "Maternal and infant health improvement services" means services necessary to assure quality health care for women and children.

(7) "Medical assistance program" means the program administered by the single state agency under Title XIX of the Social Security Act (42 U.S.C. Section 1396 et seq.).

(8) "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 maternal and infant health improvement services, ancillary services, educational services, or transportation services, including benefits available from:

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

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

(9) "Perinatal care" means maternal and infant health improvement services and ancillary services that are appropriate for women and infants during the perinatal period, which begins before conception and ends on the infant's first birthday.

(10) "Postpartum care" means maternal and infant health improvement services and ancillary services appropriate for a woman following a pregnancy.

(11) "Preconceptional care" means maternal and infant health improvement services and ancillary services appropriate for a woman before conception that are provided with the intent of planning and reducing health risks that might adversely affect her pregnancies.

(12) "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.

(13) "Program" means the maternal and infant health improvement services program authorized by this chapter.

(14) "Provider" means a person who, through a grant or a contract with the department or through other means approved by the department, provides maternal and infant health improvement services and ancillary services that are purchased by the department for the purposes of this chapter.

(15) "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. Amended by Acts 1995, 74th Leg., ch. 124, Sec. 2, eff. Sept. 1, 1995.

Sec. 32.003. MATERNAL AND INFANT HEALTH IMPROVEMENT SERVICES PROGRAM. (a) The board may establish a maternal and infant health improvement services program in the department to provide comprehensive maternal and infant health improvement services and ancillary services to eligible women and infants.

(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 the rules according to a statewide determination of the need for services.

(e) In structuring the program and adopting rules, the department and 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.

(f) If necessary, the board by rule may coordinate services and other parts of the program with the medical assistance program. However, the board may not adopt rules relating to the services under either program that would:

(1) cause the program established under this chapter not to conform with federal law to the extent that federal matching funds would not be available; or

(2) affect the status of the single state agency to administer the medical assistance program.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 124, Sec. 3, eff. Sept. 1, 1995.

Sec. 32.005. ABORTION SERVICES RESTRICTED. Notwithstanding any other provision of this chapter, funds administered under this chapter may not be used to provide abortion services unless the mother's life is in danger.

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

Sec. 32.006. 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) 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. 32.011. DENIAL, MODIFICATION, SUSPENSION, OR TERMINATION OF SERVICES. (a) The department may, for cause, deny, modify, suspend, or terminate services to an individual eligible

for or receiving services after notice to the individual and an opportunity for a hearing.

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

(c) Chapter 2001, Government Code, does 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.

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

(e) 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; Acts 1995, 74th Leg., ch. 124, Sec. 4, eff. Sept. 1, 1995.

Sec. 32.012. 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 a determination of eligibility to receive maternal and infant health improvement services is made under this chapter or when the services are received, the individual requesting 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 any other 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. Amended by Acts 1995, 74th Leg., ch. 124, Sec. 5, eff. Sept. 1, 1995.

Sec. 32.013. 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 32.012 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. 32.014. FEES. (a) Except as prohibited by federal law or regulation, 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. 32.015. 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) Notwithstanding other law, the department's authority to spend funds appropriated for the program established by this chapter is not affected by the amount of federal funds the department receives.

(c) The department is not required to provide maternal and infant health improvement services unless funds are appropriated to the department to administer this chapter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 124, Sec. 6, eff. Sept. 1, 1995.

Sec. 32.016. 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. 32.017. 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 32.004(d);

(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. 32.018. 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 provision 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 32.017 to develop the long-range and short-range plans.

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

Sec. 32.021. REQUIREMENTS REGARDING THE WOMEN, INFANTS AND CHILDREN PROGRAM. (a) An agency, organization, or other entity that contracts with the Special Supplemental Nutrition Program for Women, Infants and Children shall each month provide the clinical and nutritional services supported by that program during extended hours, as defined by the department.

(b) Each agency, organization, or other entity that contracts with the program to provide clinical or nutritional services shall include in its annual plan submitted to the department a plan to expand client access to services through extended hours, the schedule for each site that provides services, and the reasons for each site's schedule. An agency, organization, or other entity that contracts with the program is not required to offer extended hours at each of its service sites.

(c) The department shall adopt guidelines for extended hours and waivers from the requirement of Subsection (a).

(d) To obtain a waiver, an agency, organization, or other entity shall submit a written justification to the department explaining the extraordinary circumstances involved and identifying the time frame needed for their resolution.

(e) The department may not grant a waiver to an agency, organization, or other entity for a period of more than two years.

(f) If an agency, organization, or other entity required by this section to maintain extended hours provides other maternal and child health services, that entity shall also make those services available during the extended hours.

Added by Acts 1993, 73rd Leg., ch. 328, Sec. 1, eff. Aug. 30, 1993.

Amended by Acts 1997, 75th Leg., ch. 1317, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER B. PERINATAL HEALTH CARE SYSTEM

Sec. 32.041. LEGISLATIVE FINDINGS. (a) The legislature

finds that the perinatal period beginning before conception and continuing through the first year of life poses unique challenges for the health care system. The development of a coordinated, cooperative system of perinatal health care within a geographic area will reduce unnecessary mortality and morbidity for women and infants.

(b) In order to improve the health of women and infants, it is necessary to promote health education, to provide assurance of reasonable access to safe and appropriate perinatal services, and to improve the quality of perinatal care by encouraging optimal use of health care personnel.

Added by Acts 1995, 74th Leg., ch. 124, Sec. 7, eff. Sept. 1, 1995.

Sec. 32.042. DUTIES OF BOARD; RULES. (a) The board by rule shall adopt:

(1) minimum standards and objectives to implement voluntary perinatal health care systems; and

(2) policies for health promotion and education, risk assessment, access to care, and perinatal system structure, including the transfer and transportation of pregnant women and infants.

(b) The rules must:

(1) reflect all geographic areas of the state, considering time and distance;

(2) provide specific requirements for appropriate care of perinatal patients; and

(3) facilitate coordination among all perinatal service providers and health care facilities in the delivery area.

(c) The rules must include:

(1) risk reduction guidelines for preconceptional, prenatal, intrapartum, postpartum, and infant care, including guidelines for the transfer and transportation of perinatal patients;

(2) criteria for determining geographic boundaries of perinatal health care systems;

(3) minimum requirements of health promotion and education, risk assessment, access to care, and coordination of

services that must be present in a perinatal health care system;

(4) minimum requirements for resources and equipment needed by a health care facility to treat perinatal patients;

(5) standards for the availability and qualifications of the health care personnel treating perinatal patients in a facility;

(6) requirements for data collection, including operation of the perinatal health care system and patient outcomes;

(7) requirements for periodic performance evaluation of the system and its components; and

(8) assurances that health care facilities will not refuse to accept the transfer of a perinatal 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.

Added by Acts 1995, 74th Leg., ch. 124, Sec. 7, eff. Sept. 1, 1995.

Sec. 32.043. DUTIES OF DEPARTMENT. The department shall:

(1) develop and monitor a statewide network of voluntary perinatal health care systems;

(2) develop and maintain a perinatal reporting and analysis system to monitor and evaluate perinatal patient care in the perinatal health care systems in this state; and

(3) provide for coordination and cooperation in this state and among this state and adjoining states.

Added by Acts 1995, 74th Leg., ch. 124, Sec. 7, eff. Sept. 1, 1995.

Sec. 32.044. SYSTEM REQUIREMENTS. (a) Each voluntary perinatal health care system must have:

(1) a coordinating board responsible for ensuring, providing, or coordinating planning access to services, data collection, and provider education;

(2) access to appropriate emergency medical services;

(3) risk assessment, transport, and transfer protocols for perinatal patients;

(4) one or more health care facilities categorized according to perinatal care capabilities using standards adopted by board rule; and

(5) documentation of broad-based participation in planning by providers of perinatal services and community representatives throughout the defined geographic region.

(b) This subchapter does not prohibit a health care facility from providing services that it is authorized to provide under a license issued to the facility by the department.

Added by Acts 1995, 74th Leg., ch. 124, Sec. 7, eff. Sept. 1, 1995.

Sec. 32.045. GRANT PROGRAM. (a) The department may establish a program to award grants to initiate, expand, maintain, and improve voluntary perinatal health care systems.

(b) The board by rule shall establish eligibility criteria for awarding the grants. The rules must require the department to consider:

(1) the need of an area and the extent to which the grant would meet the identified need;

(2) the availability of personnel and training programs;

(3) the availability of other funding sources;

(4) the assurance of providing quality services;

(5) the need for emergency transportation of perinatal patients and the extent to which the system meets the identified needs; and

(6) the stage of development of a perinatal health care system.

(c) The department may approve grants according to rules adopted by the board. A grant awarded under this section is governed by Chapter 783, Government Code, and rules adopted under that chapter.

Added by Acts 1995, 74th Leg., ch. 124, Sec. 7, eff. Sept. 1, 1995.