

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE B. TEXAS DEPARTMENT OF HEALTH PROGRAMS

CHAPTER 43. ORAL HEALTH IMPROVEMENT

Sec. 43.001. SHORT TITLE. This chapter may be cited as the Texas Oral Health Improvement Act.

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

Sec. 43.002. LIBERAL CONSTRUCTION. It is the intent of the legislature that this chapter be construed liberally so that eligible individuals may receive appropriate and adequate oral health services in a timely manner.

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

Sec. 43.003. DEFINITIONS. (a) In this chapter:

(1) "Dentist" means an individual licensed by the State Board of Dental Examiners to practice dentistry in this state.

(2) "Oral health services" means:

(A) preventive or treatment services affecting the structures of the mouth, including the hard and soft tissues such as teeth, jaws, gums, vestibule, tongue, cheeks, lips, floor and roof of the mouth, and adjacent masticatory structures; and

(B) oral health education and promotion activities.

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

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

(B) Title XVIII or Title XIX of the Social Security Act, as amended (42 U.S.C. Sec. 1395 et seq. and 42 U.S.C. Sec. 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 employer's insurance program;

(F) a public program created by federal law, state law, or the ordinances or rules of a municipality or other political subdivision of the state; or

(G) a cause of action for the expenses of dental or oral health treatment services, or a settlement or judgment based on the cause of action, if the expenses are related to the need for treatment services provided under this chapter.

(4) "Provider" means a person who, through a contract with the department, furnishes oral health treatment services that are purchased by the department for the purposes of this chapter.

(5) "Support" means to contribute 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.

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

Sec. 43.004. ORAL HEALTH IMPROVEMENT SERVICES PROGRAM.

(a) The oral health improvement services program is in the department to provide comprehensive oral health services to eligible individuals.

(b) The board shall adopt rules to govern the program, to prescribe the type, amount, and duration of oral health services to be provided, and, if necessary to conform to budgetary limitations, to prescribe a system of program priorities regarding the types of services to be furnished, the geographic areas to be covered, or the classes of individuals eligible for services.

(c) Except as limited by Subsection (b), the department shall develop an integrated framework for the equitable provision of oral health services throughout the state or designated geographic areas, using existing public and private health care

resources when possible.

(d) The program may consist of all or any combination of the following:

(1) treatment services for eligible individuals, including:

(A) emergency care for relief of pain and infection, including extractions and basic restorative services to prevent premature loss of teeth;

(B) periodontal therapy for the prevention and treatment of periodontal disease;

(C) endodontics to maintain aesthetics and occlusion;

(D) orthodontic care only in cases of severely handicapping malocclusion; and

(E) oral surgery and prosthetics in cases in which health is impaired;

(2) a program of oral disease prevention, including:

(A) the fluoridation of community water supplies;

(B) fluoride mouth rinse programs in schools;

(C) the promotion and implementation of sealants programs; and

(D) the development of appropriate means for prevention of oral disease, including the continued use of recognized methods of primary, secondary, and tertiary prevention;

(3) oral health education and promotion, including:

(A) public health education to promote the prevention of oral disease through self-help methods, including the initiation and expansion of preschool, school age, and adult education programs;

(B) organized continuing health education training programs for health care providers; and

(C) preventive health education information for the public; and

(4) facilitation of access to oral health services, including:

(A) the improvement of the existing oral health

services delivery system for the provision of services to low-income residents;

(B) outreach activities to inform the public of the type and availability of oral health services to increase the accessibility of oral health care for low-income residents; and

(C) assistance and cooperation in promoting better distribution of dentists and other oral health professionals throughout the state.

(e) The department may provide services only as prescribed by board rules.

(f) The services listed in Subsection (d) may be furnished either directly by the department or through a network of approved providers.

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

Sec. 43.005. ADMINISTRATION. (a) The department shall:

(1) administer the program of oral health services established by the board; and

(2) adopt the design and content of all forms necessary for the program.

(b) The department may conduct field research, collect data, and prepare statistical and other reports relating to the need for and the availability of oral health services.

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

Sec. 43.006. SERVICE PROVIDERS. (a) The board may adopt substantive and procedural rules relating to:

(1) the selection of dentists, physicians, facilities, and other providers to furnish program services, including criteria for the emergency selection of providers; and

(2) the denial, modification, suspension, or termination of a provider's program participation.

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

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

(d) 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.

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

(f) The department may not terminate a 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 contract payments if the final determination is favorable to the provider.

(g) Subsections (d)-(f) do not apply if a contract:

(1) is canceled by the department because of the exhaustion of funds;

(2) expires according to its terms; or

(3) is canceled because program services are restricted to conform to budgetary limitations as prescribed by Section 43.004(b).

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(66), eff. Sept. 1, 1995.

Sec. 43.007. INDIVIDUAL REFERRAL AND APPLICATION FOR SERVICES. (a) The board may adopt substantive and procedural rules to govern the application for admission to the program and the receipt of treatment services, including the dental, financial, and other criteria for eligibility to receive treatment services.

(b) An applicant for treatment services must be referred to the program by a person who knows the individual's economic condition, such as a school administrator or school nurse, social worker, municipal or county official, dentist, physician, public health clinic, community health center, hospital, or any other source acceptable to the board.

(c) An applicant for treatment services must complete or cause to be completed an application form prescribed by the department.

(d) The application form must include or be accompanied by:

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

(2) a statement from the referring person that the treatment services are necessary to prevent or reduce the probability of pain, infection, or disease; and

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

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

Sec. 43.008. ELIGIBILITY FOR SERVICES. (a) The department shall determine an individual's eligibility for treatment services according to this chapter and the program rules.

(b) An individual is not eligible to receive treatment services provided under this chapter unless:

(1) the individual is a resident of this state;

(2) the department has determined that neither the individual nor a person with a legal obligation to support the individual is financially able to pay for all or part of the treatment services provided by this chapter;

(3) the individual complies with any other requirements stated in the program rules; and

(4) at least one licensed dentist or licensed physician has certified to the department that the dentist or physician has examined the individual and has found that:

(A) the individual meets the board's dental criteria; and

(B) the dentist or physician has reason to expect that the treatment services provided by or through the department will prevent or reduce the probability of the individual's experiencing pain, infection, or disease.

(c) Except as permitted by program rules, the department may not provide treatment services before an individual's eligibility date assigned by the department or authorize payment for treatment services furnished by a provider before that date.

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

Sec. 43.009. DENIAL, MODIFICATION, SUSPENSION, OR TERMINATION OF SERVICES. (a) The department may, for cause, deny an application for treatment services or modify, suspend, or terminate a recipient's treatment services after notice to the applicant or recipient and the opportunity for a due process hearing.

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

(c) Chapter 2001, Government Code, do not apply to the granting, denial, modification, suspension, or termination of treatment 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 oral health services.

(e) This section does not apply if oral health services are restricted to conform to budgetary limitations as prescribed by Section 43.004(b).

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(66), eff. Sept. 1, 1995.

Sec. 43.010. FINANCIAL ELIGIBILITY; OTHER BENEFITS.

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

(b) An individual is not eligible to receive treatment 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 treatment services.

(c) When the application is made under this chapter or at any time during eligibility and the receipt of treatment services, the applicant for or recipient of treatment 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 treatment services that are covered by some other benefit, or a person with a legal obligation to support the individual, shall reimburse the department to the extent of the treatment services provided when the other benefit is received.

(e) The commissioner may waive the enforcement of Subsection (b) as prescribed by board rules in certain individually considered cases in which enforcement will deny treatment 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. 43.011. RECOVERY OF COSTS. (a) The department may recover the cost of treatment services provided under this chapter from a person who does not pay or reimburse the department as required by this chapter 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 service to the date on which the department is reimbursed.

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

Sec. 43.012. FEES. The board may charge fees for the oral health services provided directly by the department or through approved providers in accordance with Subchapter D, Chapter 12.

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

Sec. 43.013. FUNDS. (a) Subject to limitations or conditions prescribed by the legislature, the board may seek,



receive, and spend funds received from any public or private source for the purposes of this chapter.

(b) The department is not required to provide oral health services unless funds are appropriated to the department for that express purpose.

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

Sec. 43.014. CONTRACTS. The department may enter into contracts and agreements necessary to facilitate the efficient and economical provision of oral health services under this chapter, including contracts for the purchase of services, equipment, and supplies from qualified providers.

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