

HEALTH AND SAFETY CODE CHAPTER 535. SUPPORT SERVICES

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TITLE 7. MENTAL HEALTH AND MENTAL RETARDATION

SUBTITLE A. TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL

RETARDATION

CHAPTER 535. SUPPORT SERVICES

Sec. 535.001. DEFINITIONS. In this chapter:

(1) "Assistance" means a subsidy granted by the department to provide support services to a client.

(2) "Client" means a person with a mental disability who lives independently or a family who receives assistance under this chapter.

(3) "Family" means a group that consists of a person with a mental disability and that person's parent, sibling, spouse, child, or legal guardian. The group may include others.

(4) "Legal guardian" means a person appointed by a court of competent jurisdiction to exercise powers over a person with a mental disability.

(5) "Mental illness" has the meaning assigned by Section 571.003.

(6) "Mental retardation" has the meaning assigned by Section 591.003.

(7) "Other support programs" means:

(A) all forms of local, state, or federal support services other than assistance;

(B) contract programs; or

(C) support services provided by public or private funds for persons with mental disabilities or their families.

(8) "Parent" means a natural, foster, surrogate, or adoptive parent.

(9) "Person with a mental disability" means:

(A) a person with mental illness;

(B) a person with mental retardation;

(C) a person with a pervasive developmental disorder; or

(D) a person younger than four years of age who is eligible for early childhood intervention services.

(10) "Pervasive developmental disorder" means a disorder that begins in childhood and that meets the criteria for a pervasive developmental disorder established in the Diagnostic and Statistical Manual, Edition III-R.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 10.005(b), eff. Sept. 1, 2001.

Sec. 535.002. ADOPTION OF RULES AND IMPLEMENTATION OF PROGRAM. (a) The department shall adopt rules, procedures, guidelines, and standards to implement and administer this chapter, including:

(1) procedures and guidelines for determining eligibility standards relating to financial qualifications and the need for services and for determining eligibility criteria for selecting clients;

(2) standards and procedures for approving qualified programs and support services;

(3) procedures for conducting a periodic review of clients;

(4) procedures and guidelines for determining when assistance duplicates other support programs or results in excessive support to a client;

(5) rules establishing reasonable payment rates for qualified programs and support services under this chapter; and

(6) rules establishing a copayment system in accordance with Section 535.009.

(b) If feasible and economical, the department may use local mental health and mental retardation authorities to implement this chapter. However, the department may not designate a local mental health or mental retardation authority as a provider of services if other providers are available.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 10.005(c), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 198, Sec. 2.82A, eff.

Sept. 1, 2006.

Sec. 535.003. ELIGIBILITY. (a) A family, or a person with a mental disability who lives independently, may apply for assistance.

(b) The department's rules must provide that an applicant for assistance is eligible to receive assistance if the applicant resides in this state and meets the department's eligibility criteria for income and need. In addition, a person with a mental disability who lives independently must be 18 years of age or older.

(c) The department shall determine eligibility and the need for support services from the results of current evaluations, program plans, and medical reports. Those documents shall be provided to the department on request. The department, if it considers necessary, may require and shall provide any additional evaluations.

(d) The department shall determine the applicant's needs and the support services for which the applicant is eligible after consulting with the applicant.

(e) In determining eligibility for support services under this chapter, the department shall determine if the applicant is eligible to receive the services from other support programs and may deny the application if it determines that the applicant is eligible to receive services that are available from another support program. If the department denies the application, the department shall provide to the applicant information on and referral to the appropriate support program.

(f) A local or state agency may not consider assistance received under this chapter in determining eligibility for another support program unless that consideration is required by federal regulations.

(g) The department shall provide the applicant an opportunity for a hearing to contest the denial of an application.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 10.005(d), eff.

Sept. 1, 2001.

Sec. 535.004. PROVISION OF ASSISTANCE AND SUPPORT SERVICES. (a) The department shall provide assistance to compensate a client for present and future expenses incurred to maintain in the community a family member with a mental disability or a person with a mental disability who lives independently, including:

(1) the purchase or lease of special equipment or architectural modifications of a home to improve or facilitate the care, treatment, therapy, general living conditions, or access of the person with a mental disability;

(2) medical, surgical, therapeutic, diagnostic, and other health services related to the person's mental disability;

(3) counseling or training programs that assist a family in providing proper care for the family member with a mental disability or assist the person with a mental disability who lives independently, and that provide for the special needs of the family or person;

(4) attendant care, home health aid services, homemaker services, and chore services that provide support with training, routine body functions, dressing, preparation and consumption of food, and ambulation;

(5) respite support for a family that is the client;

(6) transportation services for the person with a mental disability; and

(7) transportation, room, and board costs incurred by the family or the person with a mental disability during evaluation or treatment of the person with a mental disability that have been preapproved by the department.

(b) The department by rule may add services and programs for which the department may provide assistance.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 535.005. SUPPORT SERVICES FOR CERTAIN CLIENTS. The department may contract with the Texas Department of Human Services to provide support services to clients of the Texas Department of Human Services who are mentally disabled and eligible to receive assistance under this chapter.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 10.005(e), eff.
Sept. 1, 2001.

Sec. 535.006. LIMITATION OF DUTY. The department's duty to provide assistance under this chapter is determined and limited by the funds specifically appropriated to administer this chapter.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 10.005(f), eff.
Sept. 1, 2001.

Sec. 535.007. PAYMENT OF ASSISTANCE. (a) The department may grant assistance of not more than \$3,600 a year to a client. The department may distribute the assistance periodically or in a lump sum, according to the client's needs. The commissioner or the commissioner's designee may grant additional amounts on consideration of an individual client's needs.

(b) In addition to the assistance authorized by Subsection (a), the department may award to a client a one-time grant of assistance of not more than \$3,600 for architectural renovation or other capital expenditure to improve or facilitate the care, treatment, therapy, general living conditions, or access of a person with a mental disability. The commissioner or the commissioner's designee may individually grant additional amounts to clients.

(c) The department shall consult with the client to determine the manner of distribution of the assistance. On agreement of the person with a mental disability or the head of the family, as appropriate, the department may distribute the assistance directly to the client or to a qualified program or provider of services serving the client.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 535.008. SELECTION OF PROGRAMS OR PROVIDERS.

(a) Each client may select the client's program or provider of services, except that the client may select only a program or provider that complies with the department's support services

standards.

(b) The department shall require each program or provider to comply with the department's support services standards relating to the provision of support services and may disapprove payments to a program or provider that does not comply with the rules.

(c) The department shall assist each client in locating and selecting qualified programs and services.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 535.009. COPAYMENT SYSTEM. The department shall establish a copayment system with each client using a sliding scale for payments determined according to:

(1) the client's need for assistance to acquire the necessary support services; and

(2) the client's ability to pay for those services.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 535.010. CHARGE. (a) The department by rule shall establish a reasonable charge for each authorized support service.

(b) The department's liability for the cost of a support service is limited to the amount of the charge established by the department for the service less the amount of any copayment required from the client.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 535.011. CLIENT RESPONSIBILITY FOR PAYMENT. Each client shall pay:

(1) the client's required copayment; and

(2) the amount of charges in excess of the amount the department establishes for the service or the amount incurred in excess of the maximum amount of assistance authorized by this chapter to be provided by the department.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 10.005(g), eff. Sept. 1, 2001.

Sec. 535.012. REVIEW OF CLIENT'S NEEDS. (a) The

department shall regularly review each client's needs as established by the department.

(b) The department shall review each client's needs when there is a change in the circumstances that were considered in determining eligibility or the amount of the required copayment. Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 535.013. NOTIFICATION OF CHANGE IN CIRCUMSTANCES. The department shall require each client to notify the department of a change in circumstances that were considered in determining eligibility or the amount of the required copayment. Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 535.014. CRIMINAL PENALTY. (a) A person commits an offense if the person, in obtaining or attempting to obtain assistance under this chapter for himself or another person:

(1) makes or causes to be made a statement or representation the person knows to be false; or

(2) solicits or accepts any assistance for which the person knows he, or the person for whom the solicitation is made, is not eligible.

(b) An offense under this section is a felony of the third degree.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 10.005(h), eff. Sept. 1, 2001.