

**Department of State Health Services
Agenda Item for State Health Services Council
October 10-11, 2007**

Agenda Item Title: Amend 25 TAC §§14.1, 14.2, 14.101-14.105, and 14.201 Rules Relating to County Indigent Health Care Program

Agenda Number: 4-c

Recommended Council Action:

For Discussion Only

For Discussion and Action by the Council

Background: The TAC provisions affected are 25 TAC, Chapter 14, Subchapters A through C, County Indigent Health Care Program.

A mandatory review in accordance with Government Code §2001.039 is being conducted. Rule amendments are needed to reflect changes and/or requirements in other segments of Texas law.

The County Indigent Health Care Program provides health care services to the indigent population of Texas. The department provides technical assistance to counties, hospital districts, and public hospitals that provide health care services to eligible residents who are unable to access the same care through other funding sources or programs.

Summary: The rules implement Chapter 61, Health and Safety Code, affecting counties, hospital districts, and public hospitals regarding program administration, determining eligibility, and providing services. The amendments provide clarification to the rule regarding the State Assistance Fund; eligibility disputes; application processing; residency; household; income; resources; and optional health care services.

Summary of Stakeholder Input to Date (including advisory committees): On June 29, 2007, e-mails or letters were sent to stakeholders requesting their input regarding revisions, clarifications, and/or additions to the current language. No comments were received concerning the proposed amendments by 5:00 p.m. on July 6, 2007 as requested.

Proposed Motion: Motion to recommend HHSC approval for publication of rules contained in agenda item # 4-c.

Agenda Item Approved by: Evelyn Delgado

Date Submitted
August 22, 2007

Presented by: David Hagerla **Title:** Manager, Prevention & Primary Care Unit

Program/Division: CHS/FCCHS **Contact Name/Phone:** Imelda Garcia ext. 6633

Title 25. Health Services
Part 1. Department of State Health Services
Chapter 14. County Indigent Health Care Program
Subchapter A. Program Administration
Amendments §§14.1-14.2
Subchapter B. Determining Eligibility
Amendments §§14.101-14.105
Subchapter C. Providing Services
Amendments §14.201

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes amendments to §§14.1, 14.2, 14.101-14.105, and 14.201, concerning the County Indigent Health Care Program.

BACKGROUND AND PURPOSE

The amendments are necessary to assist the department in the implementation of the County Indigent Health Care Program, which is a health care program for the indigent population of Texas. The department provides technical assistance to counties, hospital districts, and public hospitals that provide health care services to eligible residents who are unable to access the same care through other funding sources or programs.

Government Code, §2001.039, requires that each state agency review and consider for re-adoption each rule adopted by that agency pursuant to the Government Code, Chapter 2001 (Administrative Procedure Act). Sections 14.1, 14.2, 14.101-14.105, and 14.201 have been reviewed, and the department has determined that reasons for adopting §§14.1, 14.2, 14.101-14.105, and 14.201 continue to exist because rules on this subject are needed.

SECTION-BY-SECTION SUMMARY

An amendment to §14.1 incorporates the current department name to be consistent with the current department terminology.

An amendment to §14.2 revises language and adds an additional subsection to clarify the responsibility of the department regarding eligibility disputes.

An amendment to §14.101 revises language to provide a concise definition of program terminology regarding application processing.

An amendment to §14.102 adds a new subsection to clarify residency requirements regarding a person's dwelling.

An amendment to §14.103 adds a new subsection to define non-household members with regard to eligibility determination. The addition requires the re-lettering of existing subsections.

An amendment to §14.104 adds a new subsection to provide clarification on excluded income with regard to eligibility determination.

An amendment to §14.105 reflects additional language to clarify the program definition of assets. Additionally, §14.105 has been amended by deleting detailed requirements regarding countable resources that are more appropriate for inclusion in a policy manual.

An amendment to §14.201 adds a new subsection to provide guidance and clarity to counties regarding optional health care services. Additionally, §14.201 has been amended to clarify that physician assistants may now bill Medicaid for services provided to patients independently, as well as through their supervising physicians.

FISCAL NOTE

Jan Maberry, Program Manager, County Indigent Health Care Program, has determined that there will be no new fiscal implications to state or local governments as a result of administering the proposed amendments. The proposed amendments do not change current program structure and implementation. These amendments are intended to clarify the rules, and are not anticipated to be controversial nor will they have a new fiscal impact on the department or local government.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Jan Maberry has also determined that there will be no effect on small businesses or micro-businesses required to comply with the sections as proposed, because neither small businesses nor micro-businesses participate in the County Indigent Health Care Program. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

Jan Maberry has also determined that the public benefit anticipated as a result of the proposed amendments will be that counties and hospital districts will have a clearer and more concise understanding of the rules that will further enhance their proper implementation of the County Indigent Health Care Program rules.

REGULATORY ANALYSIS

The department has determined that this proposal is not a “major environmental rule” as defined by Government Code, §2001.0225. “Major environmental rule” is defined to mean a

rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed sections do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Karen Gray, Mail Code Y990, Community Health Services Section, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3189 or by email to karen.gray@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

STATUTORY AUTHORITY

The proposed amendments are authorized by Government Code, §531.0055, and Health and Safety Code §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001, and Health and Safety Code, §§61.006-61.009, that require the department to establish rules for eligibility standards and application, documentation, verification, and reporting procedures for counties in determining eligibility under this program.

The proposed amendments affect Government Code, Chapter 531, and Health and Safety Code, Chapter 1001. Review of the sections implements Government Code, §2001.039.

Legend: (Proposed Amendments)

Single Underline = Proposed new Language

[Bold Print and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

SUBCHAPTER A. PROGRAM ADMINISTRATION

§14.1. State Assistance Fund.

(a) The Department of State Health Services **[Texas Department of Health]** (department) is responsible for distributing state assistance to eligible counties to the extent appropriated state funds are available.

(b)-(d) (No change.)

§14.2. Eligibility Dispute.

(a)-(b) (No change.)

(c) From the information submitted, the department shall determine the household's eligibility for assistance **[From the information submitted, the department shall determine the household's eligibility for assistance and, not later than the 45th day after the receipt of the matter, shall notify each governmental entity or hospital district and the provider of assistance of the decision and the reasons for the decision].**

(d) Not later than the 45th day after the receipt of the matter, the department shall notify each governmental entity or hospital district and the provider of assistance of the decision and the reasons for the decision.

SUBCHAPTER B. DETERMINING ELIGIBILITY

§14.101. Application Processing.

(a)-(d) (No change.)

(e) Day **[The word day]** is defined as a calendar day, unless otherwise clearly defined.

§14.102. Residence.

(a)-(e) (No change.)

(f) A person is not required to have a permanent dwelling or a fixed residence.

§14.103. Household.

(a)-(e) (No change.)

(f) Non-household members are defined as individuals who cohabituate without legal responsibility.

(g)~~(f)~~ A minor child is a person under 18 years of age who is not, or has not been, married and has not had the disabilities of minority removed for general purposes.

(h)~~(g)~~ An adult is a person at least 18 years of age, or a younger person, who is or has been married or had the disabilities of minority removed for general purposes.

(i)~~(h)~~ The following persons are disqualified from inclusion in the household:

- (1) a person who receives or is categorically eligible to receive Medicaid;
- (2) a person who receives TANF or SSI benefits; and
- (3) a Medicaid recipient who has exhausted a part or all of that recipient's Medicaid benefit.

(j)~~(i)~~ The following persons are considered a one-person household:

- (1) an adult living alone;
- (2) an adult living with others who are not legally responsible for supporting each other;
- (3) a minor child living alone or with others who are not legally responsible for his support; or
- (4) a Medicaid-ineligible parent whose spouse and/or minor children are Medicaid-eligible.

(k)~~(j)~~ The following persons living together are considered a household group:

- (1) two persons legally married to each other;
- (2) one or both legal parents and their legal minor children;
- (3) a managing conservator and a minor child and the conservator's spouse and other legal minor children, if any;

- (4) minor children who are siblings; or
- (5) both Medicaid-ineligible parents of Medicaid-eligible children.

(1)~~[(k)]~~ When one household lives with another household, eligibility for each household must be determined independently.

§14.104. Income.

(a)-(c) (No change.)

(d) Income from non-household members and/or disqualified household members is excluded.

§14.105. Resources.

(a) Definitions. The following words and terms when used within this chapter shall have the following meanings, unless the context clearly indicates otherwise.

(1) Assets--All items of monetary value owned by an individual, excluding personal possessions.

(2)-(8) (No change.)

(b)-(c) (No change.)

(d) In determining eligibility:

(1) (No change.)

(2) a county must consider as a resource the **[fair market]** value of a vehicle **[that is in excess of the amount exempt]** under department-established guidelines;

(3)-(5) (No change.)

SUBCHAPTER C. PROVIDING SERVICES.

§14.201. Basic and Optional Services.

(a) (No change.)

(b) The following services are optional health care services.

(1)-(2) (No change.)

(3) Physician assistant (PA) services. These services must be medically necessary and provided by a PA under the direction of a physician and may **[must]** be billed by and paid to the supervising physician.

(4)-(12) (No change.)

(13) Other medically necessary services or supplies that the local governmental municipality/entity determines to be cost effective.