Senate Bill 127:
Public Health Funding Formulas and Evaluations

83rd Legislature, Regular Session, Amending Texas Health and Safety Code, Chapter 1001

Texas Department of State Health Services
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Table of Contents

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Executive Summary

Senate Bill 127 (SB 127), established during the 83rd Legislative Regular Session, added text to the general provisions of Title 12, Chapter 1001 of the Texas Health and Safety Code, and charged the Department of State Health Services (DSHS) to work collaboratively with the Public Health Funding and Policy Committee (PHFPC) to develop funding formulas for state and federal funding appropriated to DSHS, evaluate the feasibility and benefits of placing a cap on the percentage of public health funds that can be used on administrative costs, and evaluate the public health functions provided by the DSHS, its health service regions, and local health departments. Senate Bill 127 also charged the Department, to the extent allowable under federal law, to create a public health threat policy allowing use of personnel and resources during disasters or public health threats.

Introduction

Senate Bill 127 provided legislative charges to the Department that included working with the PHFPC, which was established by the 81st Legislature. The Department's work on SB 127 complements charges to the PHFPC to address funding and policy issues impacting local public health entities that include defining core services that local health entities should provide, and evaluating public health in the state.

Senate Bill 127 charged the Department to work with the PHFPC to:

- Develop funding formulas for federal and state funds appropriated to DSHS,
- Evaluate the feasibility and benefits of placing a cap on the percentage of public health funds that can be used on administrative costs,
- Evaluate public health functions, and
- Develop a public health threat policy.

The progress on each legislative directive follows.

DSHS Progress: Funding Formulas

The Department, in collaboration with the PHFPC, has created a new Tuberculosis (TB) Funding Formula for Local Health Departments (LHDs) and Health Service Regions (HSRs). The Department established a TB workgroup that included representation from small, medium, and large LHDs with high TB morbidity, DSHS, and representative members of the PHFPC. Over several months, the workgroup revised an existing funding formula tool that took PHFPC recommendations into account. The new formula went into effect for general revenue TB contracts in fiscal year 2014. The number of LHDs accordingly receiving TB contracts increased from 14 to 31.

Based on the success of the TB workgroup, the PHFPC recommended that DSHS create a workgroup to examine funding formulas used to award federal Public Health Emergency Preparedness (PHEP) funding. In October 2014, the workgroup presented the PHFPC with two recommendations that met with the committee's approval. The recommendations were to maintain the current PHEP funding formula strategy for state fiscal year 2016 and to remove the PHEP funding from the bundled contract process currently in place for department funding to LHDs. Removing PHEP funding from the bundling process will allow contracts to better align with the PHEP funding cycle, which will improve the ability of LHDs to manage allocated funds. The PHEP funding formula workgroup will continue to work on the PHEP formula with recommendations for implementation in the fiscal year 2017 funding period.

The Department will continue its collaboration with the PHFPC to review and evaluate funding in order to establish funding formulas where applicable. Upcoming formulas identified for examination are the Sexually Transmitted Disease funding sources and the Preventive Health and Health Services Block Grant.

DSHS Progress: Administrative Cost Caps

The Department researched existing restrictions and guidance provided by the federal government about administrative cost caps for LHDs, local health units, public health districts, and HSRs. Currently, only Ryan White funding entails administrative caps. The Department and the PHFPC will give further evaluation of this charge in fiscal year 2015, to determine what recommendations should be made regarding administrative caps for each funding stream.

New federal regulations were published in the Federal Register as 2 Code of Federal Regulations, Chapter I, Chapter II, Part 200, et al., Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The changes may provide additional guidance for future evaluation of administrative cost caps in DSHS contracting processes. Office of Management and Budget (OMB) rules will no longer allow recipients to force subrecipients to cap their indirect costs for those subrecipients that have a negotiated facilities and administrative rate with the federal government. These rules apply to federal awards made after December 26, 2014. Further guidance about other award types is expected in the future, and will inform the PHFPC's discussions and DSHS' ability to address this legislative charge.

DSHS Progress: Distribution of Public Health Functions

DSHS, in consult with PHFPC, has conducted assessments of the services and functions provided by HSRs and LHDs. This assessment will allow DSHS and PHFPC to evaluate these services, and create an action plan that establishes statewide priorities for improving public health. The PHFPC established a subcommittee workgroup to identify recommendations that may be appropriate based on the assessment of the HSRs and LHDs. The subcommittee's work on this issue will be complete at the end of fiscal year 2015.

DSHS Progress: Public Health Threat Policy

Existing DSHS and federal policies provide the flexibility to use staff and associated funding to establish a public health threat policy as required by Senate Bill 127. Section 319 of the Public Health Service Act: Public Health Emergencies, 42 U.S.C. § 247d, states that in a federally-declared emergency, upon request by state governors or tribal organizations, the Secretary of U.S. Health and Human Service may authorize the temporary reassignment of state and local public health department or agency personnel funded in whole or in part through programs authorized under the Public Health Service Act for the purpose of immediately addressing a federally declared public health emergency. This provides LHDs that receive funding under these areas the flexibility to use staff for disaster response and their affiliated funding source.

In 2006, CDC gave the Department flexibility to use federally-funded state staff for emergencies or disaster surge efforts. All LHDs receiving CDC funding through the state are subject to the General Provisions, Article II Services, Section 2.02 Disaster Services policy that gives LHDs the authority to utilize approximately five percent of staff time in supporting disaster services. Staff time can also allow for activities including participating in drills and exercises pre-event. Similar, sub-recipient LHD contracts allow for limited health and medical equipment and supplies in certain emergency events.

The agency is currently reviewing grant guidance and policy across all funding to LHDs that may include similar language for use in disasters. Efforts will be made to establish a formal policy aimed to address the flexible use of funds to locals that can be used for resources associated with natural or man-made disasters. This recommendation was also addressed in the PHFPC 2012 Annual Report. DSHS supported the recommendation and as a result, LHDs, within their bundled contracts, may utilize up to five percent of their grant funds to respond to emergency situations.

Conclusion

In conclusion, the Department is actively addressing the charges associated with SB 127. The effort is ongoing, and will be conducted in close consultation with the Public Health Funding and Policy Committee.