



T E X A S
Women's Healthcare
COALITION

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**TO: Meagan Kirby, Program Specialist
Texas Health and Human Services Commission**

**CC: Lesley French, Associate Commissioner for Women's Health
Texas Health and Human Services Commission**

DATE: April 22, 2016

SUBJECT: Healthy Texas Women Proposed Rules

Thank you for this opportunity to provide comments on the proposed rules for the Healthy Texas Women program. The Texas Women's Healthcare Coalition (TWHC) and its 63 healthcare, faith, and community-based member organizations are dedicated to improving the health and well-being of Texas women, babies, and families by assuring access to preventive healthcare for all Texas women. Access to preventive and preconception care—including health screenings and contraception—means healthy, planned pregnancies and early detection of cancers and other treatable conditions.

Included below are the TWHC's recommendations related to the proposed rules for the Healthy Texas Women program. Recommended changes for each section are indicated in red, with additional comments following. The TWHC would like to highlight the following concerns, many of which are reflected in the proposed changes below:

- As the HTW rules are currently written, there is insufficient detail on the types of services the program will provide. Core benefits such as pregnancy testing and treatment for certain sexually transmitted infections should be clearly outlined within the rules. The TWHC has suggested benefits language in the comments below.
- The Family Planning Program rules currently in statute include a number of provisions

that are important for a quality family planning program, and that have been removed from the proposed FPP rules. These include provisions regarding civil rights, freedom from coercion, child abuse reporting, not denying services due to inability to pay, and not requiring consent from a spouse to receive services. The TWHC believes these are important components of any family planning program and should be included in both the FPP and HTW rules.

- Healthy Texas Women and the Family Planning Program will work best when enrollment in the two programs is streamlined and the administrative practices of the programs are aligned. For this reason, the TWHC recommends that the calculation for countable income be identical for HTW and FPP. This will simplify transition between the programs and ease the process for clients.
- Child support payments should be excluded from countable income for Healthy Texas Women and the Family Planning program. Excluding child support from countable income will better align HTW and FPP with other healthcare systems, and will ensure that the receipt of child support does not disqualify certain clients from receiving services.
- Neither the FPP nor HTW is considered minimum essential coverage under the Affordable Care Act. Individuals above a certain income who do not enroll in a plan with minimum essential coverage may face a substantial tax penalty. HHSC should therefore take all steps necessary to ensure clients eligible for Medicaid or the health insurance exchange are consistently informed that FPP and HTW participation will not prevent a tax penalty, and are enrolled in those programs.

The TWHC thanks the Health and Human Services Commission (HHSC) for their time and consideration of these issues.

§382.5. Definitions.

(6) Contraceptive method—~~A broad range of birth control options, approved by the Any~~ United States Food and Drug Administration **(FDA)-approved means of pregnancy prevention, with the exception of emergency contraception. Methods include permanent and temporary methods. A broad range of FDA-approved contraceptive methods must be made available to the client, either directly (preferably on-site) or by referral. All brands of the different contraceptive methods need not be made available; however, each major contraceptive category must be made available.**

§382.7. Client Eligibility.

(a)(1) (B) is 15 through 17 years of age, inclusive, and has a parent, **managing conservator**, or legal guardian apply, renew, and report changes to her case on her behalf;

(a)(6) does not currently receive benefits through a Medicaid program, ~~Children's Health Insurance Program~~, or Medicare Part A or B; and

(a)(7) does not have creditable health coverage that covers the services HTW provides, **with no cost sharing**, except as specified in subsection (c) of this section. **A female is eligible for HTW preventive services if her creditable health coverage requires cost-sharing for these services.**

(g) Auto-enrollment from Children’s Medicaid and the Children’s Health Insurance Program. At age 19, a female who is receiving Children’s Medicaid or CHIP and is not otherwise eligible for a Medicaid group will automatically be enrolled into HTW at the end of their CHIP certification period to ensure that there is no gap in health coverage. HHSC will not auto-enroll a female to HTW if she chooses to opt out of receiving HTW.

Additional Comments:

- HHSC should take steps to streamline enrollment of minors in Pregnant Women Medicaid into the Healthy Texas Women program, if they are not otherwise eligible for any other Medicaid group.
- At the end of their Pregnant Women’s Medicaid certification period and after being determined not eligible for any other Medicaid group, women’s information should be transferred to the federal Health Insurance Marketplace (as is required by 42 CFR 435.1200(e)) even if those women are auto-enrolled into HTW.

§382.9 Application and Renewal Procedures

(f) Identity. An applicant’s **identity** must **be verified** ~~her identity~~ the first time she applies to receive covered services. **HHSC must use available electronic resources to verify identity and citizenship before requesting documentation from the client.**

(g) Citizenship. If an applicant is a United States citizen, she must provide proof of citizenship. **HHSC must use available electronic resources to verify identity and citizenship before requesting documentation from the client. Citizenship will only be verified once, unless HHSC receives conflicting information related to citizenship. If the client’s citizenship has already been verified by HHSC for eligibility for another program, the client will not be required to re-verify her citizenship.** If the applicant, who is otherwise eligible to receive HTW services, is not an United States citizen, HHSC determines her eligibility in accordance with §366.513 of this title (relating to Citizenship).

(b) Adjunctive eligibility. An applicant or client is considered adjunctively eligible at an initial review or renewal application, and therefore automatically financially eligible, if:

(5) She is in a Children’s Health Insurance Program (CHIP) budget group for someone receiving CHIP.

Additional Comments:

- HHSC should prioritize changes to the TIERS system that would enable TIERS to accept Healthy Texas Women clients who are enrolled in CHIP. Even if the TIERS system is not yet able to accommodate the change, HTW rules should indicate that clients eligible for CHIP may receive HTW services.
- HHSC should define what income is included in “countable income” and how “family size” will be determined.

§382.15. Covered and Non-covered Services.

- (a)(1) health history and physical, **including family planning exam, follow-up visits related to the chosen contraceptive method, and follow-up visits related to sterilization, including procedures to confirm sterilization;**
- (a)(2) counseling and education, **including counseling on specific methods and use of contraception;**
- (a)(3) laboratory testing, **including pregnancy testing and screening for sexually transmitted infections (STIs), diabetes mellitus, and hypercholesterolemia;**
- (a)(4) provision of a contraceptive method **and removal of temporary contraceptive methods. Methods include female sterilization;**
- (a)(5) **treatment of certain sexually transmitted infections (STIs);**
- (a)(65) referrals for additional services, as needed;
- (a)(76) immunizations; and
- (a)(87) breast and cervical cancer screening and diagnostic services.
- (a)(9) **other authorized services. HTW providers may offer treatments for conditions specified by HHSC that are identified during screenings, contingent on available funding. Women on Medicaid who are auto-enrolled into HTW will be able to continue treatment for those chronic conditions for which HTW treatment coverage is available, contingent on available funding.**
- (b) Non-covered services. Services not provided through HTW include:
- (b)(2) ~~counseling on and provision of emergency contraceptives; and~~
- (b)(23) other services that cannot be appropriately billed with a permissible procedure code.

§382.25. Confidentiality and Consent.

(b) Written release authorization. Before an HTW provider may release any information that might identify a particular client, that client must authorize the release in writing, **except reports of child abuse required by Texas Family Code, Chapter 261, and as required or authorized by other law.** If the client is 15 through 17 years of age, inclusive, the client's parent, managing conservator, or guardian, as authorized by Chapter 32 of the Texas Family Code or by federal law or regulations, must authorize the release.

(f) Consent. A provider may not require consent for family planning services from the spouse of a married client.

(g-f) Consent for minors. HTW services must be provided with consent from the minor's parent, managing conservator, or guardian only as authorized by Texas Family Code, Chapter 32, or by federal law or regulations.

§382.28 Freedom of Choice

Clients have the right to freely choose family planning methods and sources of services. Clients shall not be coerced to accept services.

§382.29 Abuse Reporting

Texas Family Code, Chapter 261, requires child abuse reporting.

(1) The department may distribute appropriated funds only to providers that show good faith efforts to comply with all child abuse reporting guidelines and requirements as interpreted by department policy.

(2) Additionally, providers must develop an agency specific policy for Human Anti-Trafficking and Intimate Partner Violence to comply with abuse reporting guidelines and requirements.

§382.30 Civil Rights

Providers shall make family planning services available without regard to marital status, parenthood, handicap, age, color, religion, sex, ethnicity, or national origin. The provider must comply with Title VI of the Civil Rights Act of 1964 (Public Law 88 – 352); §504 of the Rehabilitation Act of 1973 (Public Law 93 – 112); The Americans with Disabilities Act of 1990 (Public Law 101 – 336), including all amendments to each; and all regulations issued pursuant to these Acts.

Thank you for your time and consideration, and for your support for women’s preventive healthcare. If you have any questions or we can provide further information, please contact Janet Realini at JRealini@TexasWHC.org.

Respectfully,



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Texas Women’s Healthcare Coalition Steering Committee Members

Texas Medical Association
 District XI (Texas) American Congress of Obstetricians and Gynecologists
 Texas Academy of Family Physicians
 Texas Association of Community Health Centers
 Methodist Healthcare Ministries
 Teaching Hospitals of Texas
 Texans Care for Children
 Center for Public Policy Priorities
 Healthy Futures of Texas

Texas Women’s Healthcare Coalition General Members

Access Esperanza Clinics Inc.	North Harris Montgomery Advanced Practice Nurse Society
Amistad Community Health Center	North Texas Alliance to Reduce Teen Pregnancy
Austin Advanced Practice Nurses	North Texas Nurse Practitioners
Austin Physicians for Social Responsibility	Panhandle Nurse Practitioner Association
AWHONN Texas	People’s Community Clinic
Brazos Valley Nurse Practitioner Association	Port Arthur Housing Authority
Cardea	SALVERE (Striving to Achieve Literacy via Education, Research, and Engagement)
Center for Community Health, UNTHSC	San Antonio Metro Health Clinic
Central Texas Nurse Practitioners	San Antonio Nurses in Advanced Practice
Children’s Hospital Association of Texas	Schneider Communications
Coalition for Nurses in Advanced Practice	South Plains Nurse Practitioner Association
Coastal Bend Advanced Practice Nurses	South Texas Family Planning & Health Corp.
Consortium of Texas Certified Nurse Midwives	Southeast Texas Nurse Practitioner Associates
Department of Ob/Gyn of UNTHSC and the ForHER Institute	St. David’s Foundation
El Paso Area Advanced Practice Nurse Association	Susan Wolfe and Associates
Fort Worth Region Nurse Practitioners	Texas Association of Obstetricians and Gynecologists
Gateway to Care	Texas Campaign to Prevent Teen Pregnancy
Generation Covenant Healthcare	Texas Council on Family Violence
Good Neighbor Health Center	Texas Health Institute
Healthy Futures Alliance	Texas Hospital Association
Hill Country Advanced Practice Nurses & Physicians	Texas Medical Association Alliance
Assistants Association	Texas Nurse Practitioners
Houston Area Chapter of NAPNAP	Texas Nurses Association
Houston Area Nurse Practitioners	Texas Pediatric Society
League of Women Voters of Texas	Texas Unitarian Universalist Justice Ministry
Legacy Community Health Services	University Health System
National Council of Jewish Women—Texas State Policy	Women’s & Men’s Health Services of the Coastal Bend, Inc.
Advocacy Network	
National Latina Institute for Reproductive Health	