

Title 25. HEALTH SERVICES
Part 1. DEPARTMENT OF STATE HEALTH SERVICES
Chapter 159. Tertiary Medical Care
Repeal §159.1

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission on behalf of the Department of State Health Services (department) proposes the repeal of §159.1, concerning the reimbursement of Tertiary Care Facilities and Level IV Trauma Facilities.

BACKGROUND AND PURPOSE

The repeal is proposed because the reimbursement program was not funded by the Texas Legislature for fiscal years 2004-2005 or fiscal years 2006-2007. Repeal of this section will align the department's rules more accurately with the General Appropriations Act (GAA).

SECTION-BY-SECTION SUMMARY

The repeal of §159.1 is proposed to align the department's rules with the GAA now that there is no funding for the program. By not funding that program, it can no longer provide reimbursement and a rule governing that program are unnecessary.

FISCAL NOTE

Wilson Day, Bureau Chief, has determined that for each year of the first five-year period that the repeal will be in effect, there will be no fiscal implications to state or local government as a result of repealing the section as proposed.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Wilson Day has also determined that there are no anticipated economic costs to small businesses or micro-businesses because the program has not existed since fiscal year 2003, and business practices will not be altered in order to comply with the proposed repeal of the section. There are no anticipated economic costs to persons because of the repeal. There will be no impact on local employment.

PUBLIC BENEFIT

Wilson Day has also determined that for each year of the first five years the repeal of the section is in effect, the public benefit anticipated as a result of the repeal is to prevent duplication and redundancy between department rules, policies and procedures.

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 repeal does 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, does not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Julienne Sugarek, Special Assistant to the Chief Financial Officer, Office of the Chief Financial Officer, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756, 512/458-7111, ext. 6815. Comments will be accepted for 30 days following publication of the proposal in the Texas Register.

STATUTORY AUTHORITY

The proposed repeal is authorized by the 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 operation and provision of health and human services by the department and for the administration of Chapter 1001, Health and Safety Code.

The proposed repeal affects the Government Code, Chapter 531; and Health and Safety Code, Chapter 1001.

LEGAL CERTIFICATION

The proposed rule has been thoroughly reviewed by legal counsel for the department and has been determined to be a valid exercise of HHSC's legal authority under Government Code, §531.0055 (e) and the department's legal authority to implement or enforce under Tex. Health and Safety Code, ch. 1001.

Section for repeal.

§ 159.1 Reimbursement to Tertiary Care Facilities and Level IV Trauma Facilities

Legend = (Proposed Repeal)

Regular Print with Strikethrough = Proposed repeal language

~~§159.1. Reimbursement to Tertiary Care Facilities and Level IV Trauma Facilities.~~

~~(a) Introduction. The Texas Department of Health (department) shall, on an annual basis, allocate available funds to eligible facilities to compensate the facilities for the costs of unreimbursed tertiary medical services and unreimbursed stabilization services.~~

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

~~–(1) Cost of tertiary medical services—The cost of a tertiary medical service provided by a tertiary care facility is the average amount payable under Medicare reimbursement policies for that service.~~

~~–(2) Cost of stabilization services—The cost of a stabilization service provided by a tertiary care facility or level IV trauma facility is the average amount payable under Medicare reimbursement policies for that service.~~

~~–(3) Emergency reserve—Five percent of the total amount of funds in the Tertiary Care Account to be used only for reimbursement of unreimbursed tertiary medical services or unreimbursed stabilization services resulting from an extraordinary emergency.~~

~~–(4) Stabilization services—Services provided by a tertiary care facility or a designated level IV trauma center that are necessary to assure, within reasonable medical probability, that no material deterioration of a patient's medical condition is likely to result from or occur during the transfer of the patient to a tertiary care facility.~~

~~–(5) Tertiary Care Account—An account in the state treasury.~~

~~–(6) Tertiary care facility—A primary teaching hospital of a medical school or a designated level I, II or III trauma center.~~

~~–(7) Tertiary medical services—Includes, but is not limited to services provided by state-designated trauma centers, burn center treatment, neonatology level III unit services, pediatric surgery, trauma surgery, neurosurgery, cardiothoracic and vascular surgery, organ transplant, magnetic resonance imaging, positron emissions tomography, services provided for a life-threatening dermatologic illness, services provided to a person with a high-risk pregnancy or cancer, inpatient care for AIDS patients, and radiation oncology. These services are provided by specialized hospitals equipped with diagnostic and treatment facilities not generally available at hospitals other than primary teaching hospitals and Levels I, II, and III trauma centers.~~

~~—(8) Unreimbursed stabilization services—Stabilization services for which a tertiary care facility or a designated level IV trauma center has not received full payment from any public or private source.~~

~~—(9) Unreimbursed tertiary medical services—Tertiary medical services for which a tertiary care facility has not received full payment from any public or private source.~~

(c) Eligibility for funds.

~~—(1) The department shall allocate available funds for unreimbursed tertiary medical services to tertiary care facilities who submit the required information on a timely basis.~~

~~—(2) The department shall allocate available funds for unreimbursed stabilization services to tertiary care facilities and designated level IV trauma centers who submit the required information on a timely basis.~~

~~—(3) A facility must have operated as a tertiary care facility or level IV trauma facility during the previous calendar year in order to claim costs of unreimbursed services.~~

(d) Application for funds.

~~—(1) If funds are appropriated, on an annual basis, the department, in writing, will inform each tertiary care facility and level IV trauma facility of the following:~~

~~—(A) that it may apply for funds to compensate it for the costs of unreimbursed tertiary medical services (tertiary care facilities only) and unreimbursed stabilization services (tertiary care facilities and level IV trauma facilities) provided to persons who reside outside the service area of the county, public hospital, or hospital district that is responsible for indigent health care under the Health and Safety Code, Chapter 61, in the area in which the tertiary care facility or level IV trauma facility is located;~~

~~—(B) the estimated, total amount of funding available at the end of the reporting period;~~

~~—(C) the number of facilities eligible to apply for funds;~~

~~—(D) the information required to be submitted to the department in order to apply for the funds;~~

~~—(E) the date by which the information must be submitted to the department; and~~

~~—(F) the date by which the department expects to certify amounts to the state comptroller of public accounts.~~

~~—(2) By the date established by the department, each tertiary care facility or level IV trauma facility must submit the following information on a form provided by the department:~~

~~—(A) name of the facility;~~

~~—(B) location including mailing address, city and county;~~

~~—(C) total costs of unreimbursed tertiary medical services (tertiary care facilities only) provided during the reporting period to persons who reside outside the service area of the county, public hospital, or hospital district that is responsible for indigent health care under the Health and Safety Code, Chapter 61, in the area in which the tertiary care facility is located; and~~

~~—(D) total costs of unreimbursed stabilization services (tertiary care facilities and level IV trauma facilities) provided during the reporting period to persons who reside outside the service area of the county, public hospital, or hospital district that is responsible for indigent health care under the Health and Safety Code, Chapter 61, in the area in which the tertiary care facility or level IV trauma facility is located.~~

~~—(3) The form must be signed by the chief operating officer and the chairman of the facility's board of directors.~~

~~—(4) The form must be notarized.~~

~~—(5) A form postmarked after the due date will not be considered for allocation of funds.~~

~~—(6) If a facility receives partial reimbursement from another source for its tertiary medical services or stabilization services provided to persons who reside outside the service area of the county, public hospital, or hospital district that is responsible for indigent health care under the Health and Safety Code, Chapter 61, in the area in which the tertiary care facility or level IV trauma facility is located, the facility may request compensation for the portion of the costs not covered by the partial reimbursement.~~

~~—(7) By signing the application form, a facility that is reimbursed in full by a private or public source for tertiary medical services or stabilization services after the services have been reported to the department, agrees to promptly reimburse the State of Texas for such funds paid to the facility under this section.~~

~~(e) Reporting period. A facility's annual application for funds shall apply to costs incurred during the preceding state fiscal year.~~

~~(f) Allocation of funds.~~

~~-(1) If the total cost of unreimbursed tertiary medical services certified for all eligible facilities exceeds the amount available in the Tertiary Care Account, the department shall allocate funds based on percentages computed by dividing the costs of each facility's unreimbursed tertiary medical services by the total cost of all facilities' unreimbursed tertiary medical services.~~

~~-(2) If the total cost of unreimbursed stabilization services certified for all eligible facilities exceeds the amount available in the Tertiary Care Account, the department shall allocate funds based on percentages computed by dividing the costs of each facility's unreimbursed stabilization services by the total cost of all facilities' unreimbursed stabilization services.~~

~~-(3) The department may allocate not more than four percent of available funds to eligible facilities for the cost of unreimbursed stabilization services.~~

~~(g) Certification to comptroller. Once the department has determined the amount of reimbursement allotted for each eligible facility, the department will certify those amounts to the state comptroller of public accounts for processing of payments.~~

~~(h) Emergency reserve.~~

~~-(1) The department may allocate funds to tertiary care facilities or level IV trauma centers to compensate the facilities for the costs of unreimbursed tertiary medical services or unreimbursed stabilization services resulting from an extraordinary emergency.~~

~~-(2) An extraordinary emergency shall be certified by the department:~~

~~—(A) if the governor issues an executive order or a proclamation under Government Code, Chapter 418, pertaining to emergency management;~~

~~—(B) if a disaster is declared by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §5121 et seq.); or~~

~~—(C) for another similar disaster the department finds has resulted in an extraordinary cost to a tertiary care facility or level IV trauma facility.~~

~~-(3) A facility which incurs costs as a result of an extraordinary emergency may apply to the department at any time; however, reimbursement may be provided only for costs incurred during the emergency.~~

~~-(4) The facility must submit, in writing, the following information:~~

~~—(A) name of the facility;~~

~~—(B) location including mailing address, city and county;~~

~~—(C) total costs of unreimbursed tertiary medical services (tertiary care facilities only) resulting from an extraordinary emergency;~~

~~—(D) total costs of unreimbursed stabilization services (tertiary care facilities and level IV trauma facilities) resulting from an extraordinary emergency; and~~

~~—(E) a description of the extraordinary emergency.~~

~~-(5) The written statement must be signed by the chief operating officer and the chairman of the facility's board of directors.~~

~~-(6) The department will review requests for emergency funds and certify costs to the state comptroller of public accounts until the emergency reserve is exhausted.~~

~~(i) Audits. The department may conduct random, on-site audits of documentation used by the facilities to calculate their reported costs for unreimbursed services.~~