

HUMAN RESOURCES CODE

TITLE 2. HUMAN SERVICES AND PROTECTIVE SERVICES IN GENERAL

SUBTITLE C. ASSISTANCE PROGRAMS

CHAPTER 35. SUPPORT SERVICES FOR PERSONS WITH DISABILITIES

Sec. 35.001. DEFINITIONS. In this chapter:

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

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

(3) "Department" means the Department of Aging and Disability Services.

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

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

(6) "Other support programs" means:

(A) all forms of local, state, or federal support services other than those established by this chapter;

(B) contract programs; or

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

(7) "Parent" includes only a natural, foster, surrogate, or adoptive parent.

(8) "Person with a disability" includes a person who has a physical or mental impairment that substantially limits one or more major life activities or has a record of such an impairment. This term does not include an individual whose impairment is a communicable disease.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.171, eff. April 2, 2015.

Sec. 35.002. ADOPTION OF RULES AND IMPLEMENTATION OF PROGRAM. The executive commissioner shall adopt rules 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 to receive assistance;

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

(6) a copayment system in accordance with Section [35.007](#).

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.172, eff. April 2, 2015.

Sec. 35.003. ELIGIBILITY. (a) 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. A family or a person with a disability living independently may apply for assistance.

(b) The department shall determine in accordance with department rules eligibility 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, shall provide any additional evaluations.

(c) The department shall determine the applicant's needs and the support services for which the applicant is eligible in

accordance with department rules and after consulting with the applicant.

(d) 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. If the department determines that the applicant may receive the services from another support program and those services are available to the applicant, the department may deny the application. If the department denies the application, the department shall provide to the applicant information on and referral to the appropriate support program.

(e) 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.

(f) If requested by the applicant, the commission's appeals division shall hold a hearing on the denial of an application.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

Amended by Acts 1991, 72nd Leg., ch. 76, Sec. 17, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.173, eff. April 2, 2015.

Sec. 35.004. PROVISION OF ASSISTANCE AND SUPPORT SERVICES.

(a) The department shall provide assistance to compensate a client for present and future expenses, 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 a person with a disability;

(2) medical, surgical, therapeutic, diagnostic, and other health services related to a person's disability or disabilities;

(3) counseling or training programs that assist a family in providing proper care for a family member with a disability or assist a person with a disability in an independent

living situation and that provide for the special needs of the family or person with a disability;

(4) attendant care, home health aide 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, if the family is the client;

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

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

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

(c) The department's duty to provide assistance under this chapter is determined and limited by the funds specifically appropriated to administer this chapter.

(d) The department may seek, accept, and expend funds from other sources to provide assistance under this chapter.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.174, eff. April 2, 2015.

Sec. 35.005. PAYMENT OF ASSISTANCE. (a) The department may grant assistance of not more than \$3,600 a year to a client and make periodic distributions or a lump-sum distribution according to the client's needs. The commissioner of aging and disability services 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 disability. The commissioner of aging and disability services or the commissioner's designee may grant additional amounts on consideration of an individual client's needs.

(c) The department shall consult with the client to determine the manner of distribution of the assistance. On agreement of the person with a 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 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.175, eff. April 2, 2015.

Sec. 35.006. 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 department standards.

(b) The department shall require each program or provider to comply with department standards relating to the provision of support services and may disapprove payments for 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 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

Sec. 35.007. COPAYMENT SYSTEM. In accordance with department rules, the department shall establish a copayment system with each client using a scale for payments determined according to the client's need for financial assistance to acquire the necessary support services and the client's ability to pay for those services.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.176, eff. April 2, 2015.

Sec. 35.008. PAYMENT RATE. (a) The executive commissioner 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 for the service less the amount of any copayment required from the client.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.177, eff. April 2, 2015.

Sec. 35.009. CLIENT RESPONSIBILITY FOR PAYMENT. Each client shall pay:

(1) the client's copayment;

(2) the amount of charges in excess of the amount determined by the executive commissioner to be reasonable; and

(3) the amount of charges incurred in excess of the maximum amount of assistance authorized by this chapter to be provided by the department.

Added by Acts 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 4.178, eff. April 2, 2015.

Sec. 35.010. 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 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

Sec. 35.011. 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 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.

Sec. 35.012. 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 that 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 1989, 71st Leg., ch. 1208, Sec. 1, eff. Sept. 1, 1989.