



TO: Health and Human Services Commission
Executive Council

DATE: February 22, 2018

FROM: Tamela Griffin, HHSC Medicaid/CHIP Policy
Director

AGENDA ITEM: 2.e

SUBJECT: Texas Health Steps – Mental Health Screenings

BACKGROUND: Federal Legislative Other: Program Initiative

The Texas Health and Human Services Commission proposes to amend Texas Administrative Code Title 25, Chapter 33, Subchapter E, §33.60, relating to Medical Check-ups. The Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program is a federally mandated Title XIX, Medicaid medical, dental, and case management program. It was created to promote and support preventive health care for children and youth from birth through 20 years of age. In Texas, the EPSDT program is called Texas Health Steps (THSteps).

The 85th Legislature, Regular Session, passed House Bill (H.B.) 1600. This legislation requires the THSteps program to allow providers to conduct, and be reimbursed for conducting, a mental health screening using one or more validated, standardized mental health screening tools during each annual medical exam for recipients at least 12 years of age but younger than 19 years of age. The provisions of H.B. 1600 replace the current THSteps policy which requires providers to conduct one mental health screening, using a validated, standardized mental health screening tool, once in a lifetime for recipients ages 12 through 18.

Additionally, the 85th Legislature, Regular Session, passed H.B. 2466, which requires the THSteps program to allow providers to conduct, and be reimbursed for conducting, a maternal depression screening for a recipient's mother, regardless of whether the mother is also a recipient. The maternal depression screening will be performed during a covered examination for the recipient that occurs before the recipient's first birthday.

ISSUES AND ALTERNATIVES:

HHSC anticipates minimal external stakeholder concern regarding the amended rule, as the rule is permissive (providers may conduct the additional screenings, but are not required to do so).

STAKEHOLDER INVOLVEMENT:

The following external stakeholders registered in support of H.B. 1600 and H.B. 2466 during legislative committee hearings:

American Congress of Obstetricians and Gynecologists-Texas District;
Center for Public Policy Priorities;
Children at Risk;
Children's Health System of Texas;
Clarity Child Guidance Center;
Federation of Texas Psychiatry;
Healthy Futures of Texas;
League of Women Voters of Texas;
March of Dimes;
Meadows Mental Health Policy Institute;
Mental Health America of Greater Houston;
National Alliance of Mental Illness Texas;
National Association of Social Workers – Texas Chapter;
Pregnancy and Postpartum Health Alliance of Texas;
Teaching Hospitals of Texas;
Texas Academy of Family Physicians;
Texas Association of Obstetricians and Gynecologists;
Texas Campaign to Prevent Teen Pregnancy;
Texans Care for Children;
Texas Children's Hospital;
Texas Conference of Urban Counties;
Texas Hospital Association;
Texas Impact;
Texas Medical Association;
Texas Nurses Association;
Texas Pediatric Society; and
United Ways of Texas.

The Citizens Commission on Human Rights opposed H.B. 1600 due to concern that individuals would not be adequately informed of their right to refuse the mental health screenings. The Parent Guidance Center registered against H.B. 1600, but did not testify during the House of Representatives

Public Health Committee meeting. The Citizens Commission on Human Rights registered against H.B. 2466 during the Senate Health and Human Services Committee meeting.

FISCAL IMPACT:

Yes

H.B. 1600 is anticipated to result in no significant fiscal impact to state government.

The table below represents the expected impact for implementing H.B. 2466.

	SFY 2018	SFY 2019	SFY 2020	SFY 2021	SFY 2022
Costs					
State	0	231,042	471,142	724,834	744,670
Federal	0	320,107	655,723	1,008,804	1,036,410
Total	0	551,149	1,126,865	1,733,638	1,781,080
Revenues					
All GR	-	-	5,753	23,210	41,262
Net Impact					
	0	551,149	1,132,619	1,756,849	1,822,342

SERVICES IMPACT STATEMENT:

The proposed rule will promote the health and safety of individuals receiving services by increasing the potential for early identification of mental health issues. Early diagnosis and referral for treatment can alleviate suffering for recipients and their families dealing with behavioral health and maternal depression challenges.

RULE DEVELOPMENT SCHEDULE:

February 15, 2018	Present to Medical Care Advisory Committee
February 22, 2018	Present to HHSC Executive Council
March 2018	Publish proposed rules in <i>Texas Register</i>
June 2018	Publish adopted rules in <i>Texas Register</i>
July 2018	Effective date

TITLE 25 HEALTH SERVICES
PART 1 DEPARTMENT OF STATE HEALTH SERVICES
CHAPTER 33 EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND
 TREATMENT
SUBCHAPTER E MEDICAL CHECK-UPS

PROPOSED PREAMBLE

The Texas Health and Human Services Commission (HHSC) proposes amendments to §33.60, concerning Medical Check-ups, under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program.

BACKGROUND AND PURPOSE

The EPSDT benefit, known in Texas as Texas Health Steps (THSteps), provides preventive health and comprehensive care services for children birth through 20 years of age who are enrolled in Medicaid. THSteps provides preventive medical and dental check-ups for Medicaid children to allow early identification and treatment of identified problems.

The 85th Legislature, Regular Session, passed House Bill (H.B.) 1600 and H.B. 2466 requiring the Executive Commissioner to adopt rules allowing additional screenings during a THSteps recipient's annual medical exam.

Currently, THSteps requires one mental health screening using one or more validated, standardized mental health screening tools be conducted for recipients ages 12 through 18. H.B. 1600 expands this benefit by amending Chapter 32, Texas Human Resources Code, to include new Section 32.0249. The new section requires the THSteps program to allow providers to conduct, and be reimbursed for conducting, a mental health screening using one or more validated, standardized mental health screening tools during each annual medical exam of a THSteps recipient at least 12 years of age but younger than 19. The proposed rule is comparable to the American Academy of Pediatrics' (AAP) recommendation regarding the frequency of conducting mental health screenings.

H.B. 2466 amends Chapter 32, Texas Human Resources Code, by adding new Section 32.0561, which requires the THSteps program to allow providers to conduct, and be reimbursed for conducting, a maternal depression screening for a recipient's mother, regardless of whether the mother is also a recipient, during a THSteps medical exam that occurs before the recipient's first birthday. The proposed rule is based on clinical and empirical evidence provided in the Centers for Medicare & Medicaid Services Informational Bulletin, "Maternal Depression Screening and Treatment: A Critical Role for Medicaid in the Care of Mothers and Children,"

and the AAP recommendation to screen mothers for maternal depression as a best practice for primary care pediatricians caring for infants and their families.

SECTION-BY-SECTION SUMMARY

The proposed amendment to §33.60 adds subsection (d) in compliance with Texas Human Resources Code §32.0249, and adds subsection (e) in compliance with Texas Human Resources Code §32.0561.

FISCAL NOTE

Greta Rymal, Deputy Executive Commissioner for Financial Services, has determined that, for each year of the first five years the amended rule, which implements the Medicaid effect of H.B. 1600 and H.B. 2466 from the 85th Legislature, Regular Session, will be in effect, there will be an impact to both costs and revenues of state government. H.B. 1600 is anticipated to result in no significant fiscal impact to state government. The impact reflected below represents implementation of H.B. 2466 only. The costs anticipated to state government, to provide benefits authorized by H.B. 2466, are \$0 All Funds (AF) for fiscal year (FY) 2018, \$551,149 AF (\$231,042 GR) for FY 2019, \$1,126,865 AF (\$471,142 GR) for FY 2020, \$1,733,638 AF (\$724,834 GR) for FY 2021, and \$1,781,080 (\$744,670 GR) for SFY 2022.

In addition, there is an anticipated increase of revenue to the state for adopting and implementing this proposal. The increase results from premium tax paid by managed care organizations when the managed care policies are issued. There is no federal component of the anticipated revenues and all collections are deposited in the state general revenue fund. The expected collections are \$5,753 GR for SFY 2020, \$23,210 GR for SFY 2021, and \$41,262 GR for SFY 2022. There are offsetting costs, such as those related to prior authorization and claims processing, that would be paid by HHSC or the Texas Medicaid & Healthcare Partnership were these clients not included in managed care. These costs are already included in the current capitation rate, so there is not an incremental per-client cost for these activities.

There is no anticipated impact to costs and revenues of local government.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the sections will be in effect:

(1) the proposed rule will not create or eliminate a government program;

- (2) implementation of the proposed rule will not affect the number of employee positions;
- (3) implementation of the proposed rule will not require an increase or decrease in future legislative appropriations as the Fiscal Note presented to the legislature reflected no fiscal impact to the state;
- (4) the proposed rule will not affect fees paid to the agency;
- (5) the proposed rule will not create a new rule;
- (6) the proposed rule will expand, limit, or repeal an existing rule;
- (7) the proposed rule will not change the number of individuals subject to the rule; and
- (8) the proposed rule will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Ms. Rymal has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. Participation in providing the additional benefits described in subsections (d) and (e) of the amended rule is optional.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

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.

COSTS TO REGULATED PERSONS

Texas Government Code, §2001.0045 does not apply to this rule because the rule is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

PUBLIC BENEFIT

Enrique Marquez, Deputy Executive Commissioner, Medical and Social Services Division, has determined that for each year of the first five years the section is in effect, the public will benefit from adoption of the section. The public benefit anticipated for administering the section will be an increase of early identification and referral for effective treatment of mental health issues which can alleviate suffering for infants, young people and their families dealing with behavioral health and maternal depression challenges.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that the proposal 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

Written comments on the proposal may be submitted to Laura Ethridge, Unit Coordinator, P.O. Box 149347, Mail Code 1938, Austin, TX 78714-9347; by fax to (512)-(776-7574); or by e-mail to laura.ethridge@hhsc.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

To be considered, comments must be submitted no later than 30 days after the date of this issue of the *Texas Register*. Comments must be postmarked or shipped before the last day of the comment period, or faxed or e-mailed by midnight on the last day of the comment period. When faxing or e-mailing comments, please indicate "Comments on Proposed Rule 18R012" in the subject line.

STATUTORY AUTHORITY

The proposed rule amendments are authorized by Texas Government Code §531.033 that provides the Executive Commissioner of HHSC with broad rulemaking authority to adopt rules necessary to carry out the Commission's duties under Chapter 531; Texas Government Code §531.0055(e) that directs the Executive Commissioner of HHSC to adopt rules and policies for the operation of and provision of health and human services by the health and human services system; and Texas Human Resources Code §32.021 and Texas Government Code §531.021(a) that provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas.

The proposed rule amendments implement Texas Human Resources Code §§32.0249 and §32.0561.

This agency hereby certifies that this proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

TITLE 25 HEALTH SERVICES
PART 1 DEPARTMENT OF STATE HEALTH SERVICES
CHAPTER 33 EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND
TREATMENT
SUBCHAPTER E MEDICAL CHECK-UPS

§33.60. Medical Check-ups.

(a) Clients are entitled to receive a comprehensive medical check-up for the early detection of health problems and the referral for definitive diagnosis and treatment when indicated by the check-up.

(b) Following are the federally-mandated components of a THSteps comprehensive medical check-up:

(1) comprehensive health and developmental history, including physical and mental health and development;

(2) comprehensive unclothed physical examination;

(3) immunizations appropriate for age and health history;

(4) laboratory tests appropriate to age and risk, including lead toxicity screening; and

(5) health education, including anticipatory guidance.

(c) THSteps providers may be required to perform additional services or screening during a medical check-up, as described in the TMPPM.

(d) THSteps providers may conduct mental health screenings, using one or more validated, standardized mental health screening tools, during each annual medical check-up for clients who are at least 12 years of age but younger than 19 years of age. THSteps providers are reimbursed for conducting one such screening annually.

(e) THSteps providers may conduct maternal depression screenings for a client's mother, regardless of whether the mother is also a client, that are performed before the client's first birthday during a covered medical check-up. THSteps providers are reimbursed for conducting one such screening.