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TEXAS REGISTER

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DEC 20 1977

TEXAS DOCUMENTS

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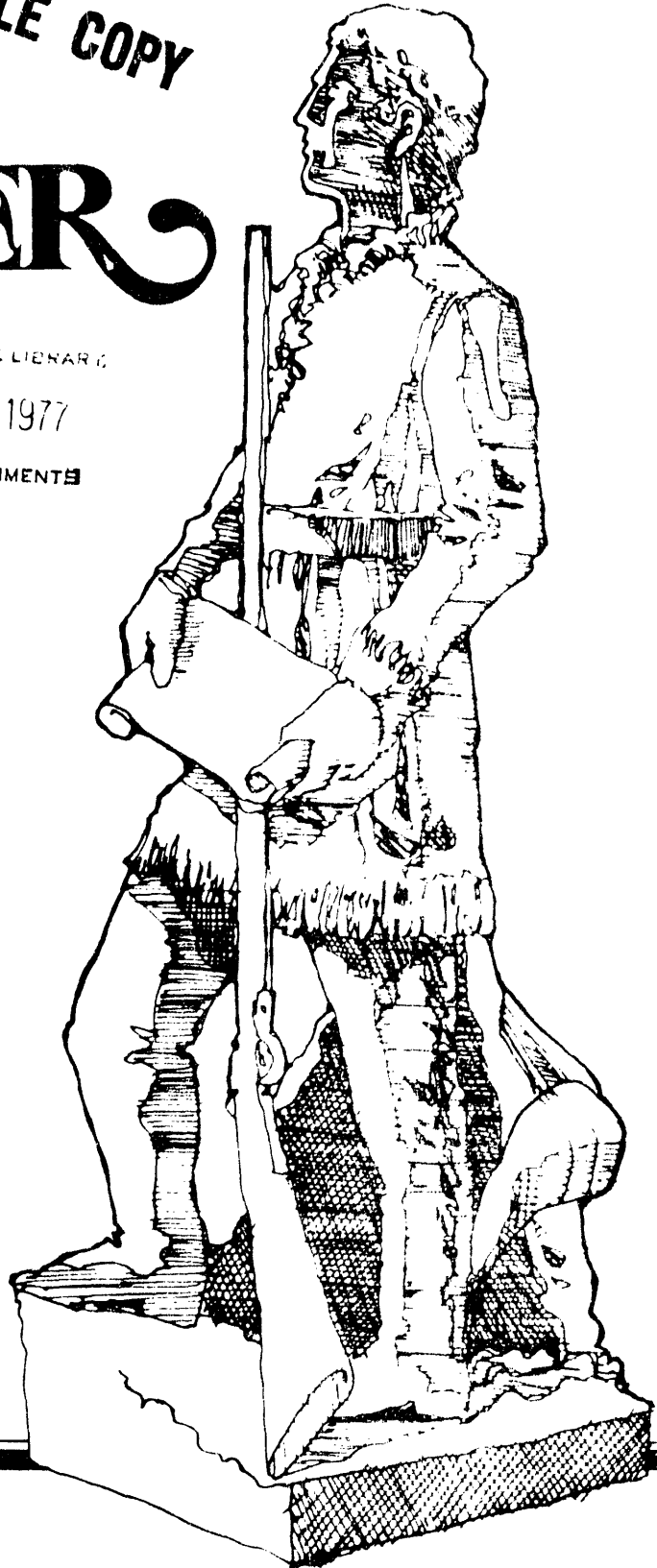
Proposed rules by the Department of Human Resources concerning the implementation of a new computer system

Revisions of Child Welfare Services rules adopted by the Department of Human Resources

Texas Education Agency's adopted amendments to rule on data submitted by school districts

District review committees established by the Texas Board of Medical Examiners in an adopted rule

Private sewage facilities rules adopted by the Texas Department of Health



Office of the Secretary of State

USPS Publication Number 120096

NOTES ON THE ISSUE

This issue contains the remainder of proposed and adopted rules of the Department of Human Resources begun in the issue of December 20. The proposal concerns the implementation of a new computer system SAVERR. The adoptions completely replace the rules governing Child Welfare Services. The department will reevaluate the adopted rules following the outcome of pending litigation involving these services by the department. Among the Child Welfare Services rules adopted are those concerning adoption and foster-care placement services.

The Texas Department of Health adopts rules on wastewater technology and surveillance to regulate private sewage facilities in the state. These rules were written to establish minimum design criteria for constructing private sewage facilities, to inform the public of what types of systems are acceptable, and to convey information concerning the proper operation and maintenance of private sewage facilities.

Cover illustration represents Elisabet Ney's statue of Stephen F. Austin which stands in the foyer of the State Capitol.

Artwork: Gary Thornton

TEXAS REGISTER



Office of the
Secretary of State

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Appointments

122nd Judicial District of Texas

Effective January 1, 1978, to be judge of the 122nd Judicial District of Texas, Galveston County, until the next general election and until his successor shall be duly elected and qualified

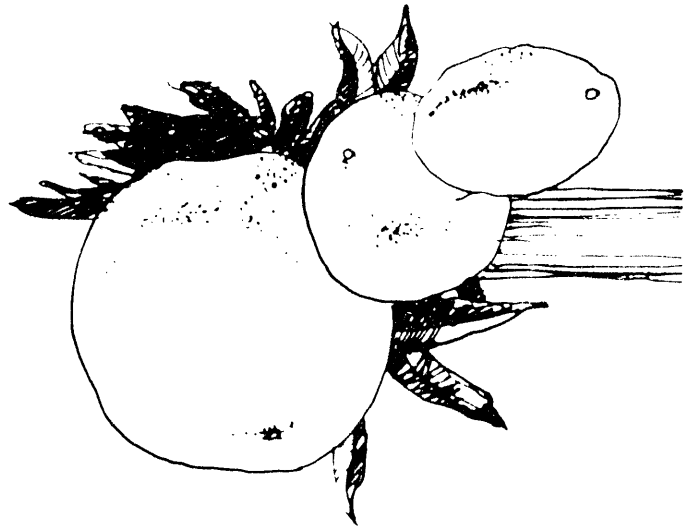
William D. Decker
3415 East Bayou Drive
Dickinson, Texas 77539

Mr. Decker is replacing Judge L. D. Godard of Galveston, Galveston County, who resigned.

Issued in Austin, Texas, on December 13, 1977.

Doc. No. 777162 Dolph Briscoe
Governor of Texas

For further information, please call (512) 475-4571.



Requests for Opinions

Summary of Request for Opinion

RQ-1794

Request for opinion sent to the Attorney General's Opinion Committee by Wilson E. Speir, Texas Department of Public Safety, Austin

Summary of Request: Is a Texas Ranger investigation into allegations of sexual misconduct between employees and students at the Giddings State School excepted from disclosure under the Open Records Act, Section 3(a)(8)?

Doc No 777155

Summary of Request for Opinion

RQ-1795

Request from Leonard Prewitt, Executive Secretary, Teacher Retirement System of Texas, Austin, and Joe Murphy, Executive Director, Employees Retirement System of Texas, Austin

Summary of Request: Should the employees of the newly created School Tax Assessment Practices Board be members of the Teacher Retirement System of Texas or the Employees Retirement System of Texas?

Doc No 777176

Opinions

Summary of Opinion H-1104

Request from Donald C. Klein, P.E., Texas Board of Registration for Professional Engineers, Austin, concerning the authority of the Board of Professional Engineers to regulate the use of certain academic titles

Summary of Opinion: The State Board of Professional Engineers is presently authorized to regulate and restrict the use of the word "engineer" and its variations in academic titles

Doc No 777154

Summary of Opinion H-1105

Request from Cue D. Boykin, Texas Industrial Accident Board, Austin, concerning the computation of benefits due a state employee with a specific injury under the workmen's compensation statutes

Summary of Opinion: State employees who sustain a permanent specific injury entitling them to workmen's compensation benefits should receive the compensation scheduled in Article 8306, Section 12, without deduction for accrued sick leave used

Issued in Austin, Texas, on December 15, 1977

Doc No 777177

C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

For further information, please call (512) 475-5445

EMERGENCY RULES

4964

An agency may adopt emergency rules after determining what it considers to be an imminent peril to the public health, safety, or welfare. These rules are effective immediately on filing with the secretary of state for no more than 120 days, renewable once for no more than 60 days. An agency must submit written reasons, published in the *Register*, for the emergency adoption of rules.

Numbering System-- Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the category of rules to which the rule belongs. The third unit (two digits) indicates the subcategory of rules, if any, within the category. The fourth unit (three digits) indicates the individual rule.

Symbology-- Changes to existing material are indicated in *bold italics*. [Brackets] indicate deletion of existing material.

State Board of Insurance

Rating and Policy Forms

Fixing Rate of Automobile Insurance

059.05.01

To implement Senate Bill 1256, 65th Legislature, which went into effect on August 29, 1977, the State Board of Insurance amended on an emergency basis Rule 059.05.01.001, which adopted by reference *Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements*. Subsequently, the State Board of Insurance has found certain endorsements to have inadvertently caused confusion to the extent that they were detrimental to the welfare of the citizens of Texas in purchasing automobile insurance.

Therefore, the State Board of Insurance has amended Rule 059.05.01.001, as amended, on an emergency basis by repealing the endorsements attached and incorporated by reference.

This amendment is promulgated under the authority of Articles 5.01, 5.06, and 5.06-1 of the Texas Insurance Code.

.001. *Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements*. The State Board of Insurance adopts by reference the attached *Rules and Rates Governing the Insuring of Automobiles and Standard Endorsements* as amended in **December**, [August] 1977. This document is published by and available from Texas Automobile Service Office, Suite 350, American Bank Tower, 221 West 6th Street, Austin, Texas 78701.

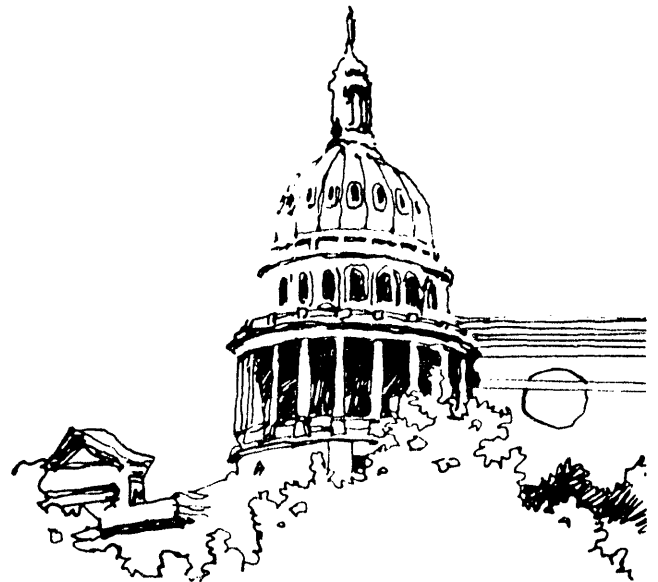
Issued in Austin, Texas, on December 15, 1977.

Doc No 777187 Pat Wagner
Chief Clerk
State Board of Insurance

Effective Date December 15 1977

Expiration Date April 14 1978

For further information, please call (512) 475-3486.



An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, except where a federal statute or regulation requires implementation of a rule on shorter notice.

An agency, on request, shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling considerations urged against the agency's decision.

Numbering System-- Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the category of rules to which the rule belongs. The third unit (two digits) indicates the subcategory of rules, if any, within the category. The fourth unit (three digits) indicates the individual rule.

Texas Department of Human Resources

Food Stamps

Responsibilities 326.15.12

(Editor's note: The following concludes the serial publication of these proposals, begun last issue, December 20, 1977 (2 TexReg 4864-4882). The proposed date of adoption is based on the earlier publication date.)

These amendments are proposed under the authority of Texas Civil Statutes, Article 695c.

.001. Administration.

(a) The Food Stamp Program is a dual operation of the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS), and the Texas [State] Department of Human Resources [Public Welfare] (DHR) [(DPW)]. DHR [(DPW)] is responsible for the certification and issuance of coupons. USDA, FNS, provides guidelines and approval for the [Texas] Food Stamp Program State Plan of Operation [and is responsible for authorization and supervision of participating retailers and participating institutions and meal delivery services].

.002. Certification of Eligible Households.

(a) DHR [(DPW)] is responsible for the certification of eligible households. This certification responsibility includes [shall include] periodic reviews of case records [by the regional administrator or his designated representative] of both PA and Non-PA households certified for participation in the program.

.006. Nondiscrimination.

(b) To further this policy, *the department* [(DPW)] must inform the public that the Food Stamp Program is administered without discrimination. *The department's* [(DPW's)] Public Notification Plan consists of the following:

.007. Records and Reports.

(a) The Texas [State] Department of Human Resources [Public Welfare] shall keep such records and submit such reports and other information as may from time to time be required by USDA, FNS.

.008. Computer Retention of Case and Client Information.

(a) The household's case information and *the monthly summaries of ATP* issuance and redemption *will be available for teleprocessing inquiry as long as the case remains on the computer files* [are retained in the computer's Food Stamp Master File. This information is available through the teleprocessing units for six months after the last negative action date for all cases denied for reasons other than failure to comply fully with work registration requirements and failure to repay overissuance of coupons received because of misrepresentation. Cases denied for these reasons are retained for 12 months after the negative action date. If there is no positive action on the household's case record during the six- or 12-month period, the case is erased from the computer and listed in the List of Cases Purged from the Food Stamp Master File]. *All denied cases, except cases denied for reasons of failure to comply with work registration requirements and nonpayment of fraudulent overissuance, will be purged from the computer file within the following limits: Non-PA--12 months after denial; PA food stamps--24 months after denial.*

(b) *Information concerning specific ATP's is available for teleprocessing inquiry for the current and previous 11 months.* [The ATP's issued to the household will be available on the computer ATP file only for the current and previous two months. This is the computer file which lists the number of the ATP issued to the household. The computer food stamp master file indicates the ATP issuance and redemption history of the household for the past 12 months. This information will not be available on cases which have been erased from the computer.]

.016. Fair Hearings [Hearing].

(a) Every applicant and participating household *is* [will be] afforded an opportunity for a fair hearing in accordance with fair hearing procedures established by USDA, FNS.

.018. Local Public Assistance Offices.

(a) Local public assistance offices administering the federally aided public assistance programs under

the direction and supervision of the chief, Financial Services Branch, *Texas* [State] Department of *Human Resources* [Public Welfare], through designated staff members, have, in addition to other assigned functions, responsibility for:

.019. *Local Food Stamp Program Certifying Offices.*

(a) Local food stamp program certifying offices under the direction and supervision of the chief, Financial Services Branch, *Texas* [State] Department of *Human Resources* [Public Welfare], through designated staff members, have responsibility for:

Doc No. 776908

Food Stamp Program Violations 326.15.14

These amendments are proposed under the authority of Texas Civil Statutes, Article 695c.

.003. *Reporting and Processing Program Violations.*

(a) All *DHR* [DPW] personnel are responsible for reporting instances of Food Stamp Program violations pertaining to eligibility, certification, issuing, and redemption of ATP's or food coupons that are brought to their attention. Violations on the redemption of food coupons by retail grocery stores must be reported to the Food Stamp Program director of the Food and Nutrition Service, USDA; other instances of Food Stamp Program violations involving a participant's misuse of food stamps, issuing office personnel, and certification violations by workers are reported through appropriate *DHR* [DPW] channels.

Doc No 776909

Department Personnel 326.15.17

This amendment is proposed under the authority of Texas Civil Statutes, Article 695c.

.001. *Conduct.*

(b) To maintain program objectivity, security, and reputability, all personnel under the direction of the *Texas* [State] Department of *Human Resources* [Public Welfare] in the certification process or the issuing of food coupons will adhere to the following policies.

Doc No 776910

Applications by Department Employees 326.15.22

These amendments are proposed under the authority of Texas Civil Statutes, Article 695c.

.001. *Procedure.*

(a) *Department* [DPW] staff should be encouraged to apply for food stamps if they appear to be

potentially eligible. To avoid conflict of interest and to ensure privacy, special handling is given to employee's cases. Failure to comply with these provisions could result in strong disciplinary action.

(b) Eligibility decisions for recipient employees working in financial services units [(AFDC, food stamp, and medical eligibility)] are completed by the next higher administrative level. Cases of recipient employees below eligibility determination level are completed by workers. Certification workers' cases are completed by supervisors. Supervisors' cases are completed by program directors. Cases of employees not working in financial services units are to be assigned to workers responsible for the territory where the recipient employee lives. *Department* [DPW] employees are not to be certified by their immediate supervisors, except in remote rural areas where it is impractical for another individual to process the application.

(c) Control cards for all DPW employee case records must be completed and sent to the regional director for financial services. These cards must include the employee's name, budgeted job number (BJN); names of spouse and certified dependents; date of certification; next review date; and name, position, and BJN of the employee processing the application. These cards must be updated at each review. They are the source of information required for periodic reports to Program Management Division, State Office.]

Doc No 776911

Authorized Representatives 326.15.28.005

These amendments are proposed under the authority of Texas Civil Statutes, Article 695c.

.005. *Exclusions.*

(a) *Department* [DPW] employees may act as authorized representatives only when they are members of a certified household or when they are the only persons who can adequately function in this role. Whenever a *department* [DPW] employee is designated as an authorized representative, the approval of the regional director for financial services is required in writing in a memorandum. The memorandum of approval is filed in the case record and a copy is retained by the regional director for audit purposes.

Doc No 776912

Residency 326.15.31

These amendments are proposed under the authority of Texas Civil Statutes, Article 695c.

.001. Requirements.

(a) Applicants must live in the county in which they are applying. However, applications from Non-PA households can be accepted, processed, and maintained for residents of an adjoining county, under the following conditions:

(2) If both the applicant's county of residence and the adjoining county where application is made are within the same **department** [DPW] region.

(3) If accepting application in the adjoining county would lessen a hardship [(e.g. traveling extra distance, unavailability of public transportation, etc.)] on applicants otherwise required to apply in their county of residence.

.002. Verification of Residency.

(b) **Situations may arise when households request that their ATP's, or coupons if participating in PAW, be mailed to a temporary address. The facts involving the reasons for the temporary address will be documented in the case record. The documentation also will include a statement by the worker that household eligibility has not changed or will not change because of the temporary address. One month is the maximum period allowed for a temporary address.**

Doc No 776913

Verification of Income 326.15.42

This amendment is proposed under the authority of Texas Civil Statutes, Article 695c.

.003. Verification of Earned Income.

(b) Verification from other sources include employer's wage records and statements from employers. **The TEC Income** [A management] Report [called the Food Stamp NPA Wage Report is sent to certification workers shortly after the first of each quarter and] should assist workers in determining the reliability of verification provided by employers and recipients for past periods. [This report becomes a permanent part of the household's case record].

Doc No 776914

Certification Periods 326.15.63

These amendments are proposed under the authority of Texas Civil Statutes, Article 695c.

.003. PA Households.

(a) Food stamp certification periods for PA households should coincide with their PA review data but may never exceed six months for **Categories** [Aid Types] **6** [200] and **8** [600] or 12 months for **Category**

[Aid Type] **7** [500]. However, shorter periods should be assigned to coincide with the probability of changes.

Doc No 776915

Notice of Adverse Action 326.15.65

This amendment is proposed under the authority of Texas Civil Statutes, Article 695c.

.002. Changes Not Requiring An Advance Notice.

(a) Individual notices of adverse action are not required **in** [under] the following circumstances:

(1) Individual notices of adverse action are not required when mass changes in food stamp benefits are required for certain classes of households because of changes in federal or state law, federal regulations, or **DHR** [DPW] policy. These mass changes can be made by the computer, a scheduled desk review, or on an as-reviewed basis. Workers should ensure that these households understand the reason for the change in their benefits.

Doc No 776916

Fair Hearings 326.15.71

These amendments are proposed under the authority of Texas Civil Statutes, Article 695c.

.001. Requirements.

(a) **DHR** [DPW] must grant a fair hearing and provide a prompt decision on the hearing to any household whose entitlement to Food Stamp Program benefits is affected by an action of **DHR** [DPW]. This provision is required by federal law. Under this provision, a household may, for example, appeal its entitlement to or the amount of retroactive benefits and refunds, the same as it may appeal any other program benefit.

.002. Request for Fair Hearing.

(a) Any household which is dissatisfied with any **DHR** [DPW] or issuing agency action may request a hearing. The request may be made verbally or in writing by a household member, the authorized representative, or some other person acting on the household's behalf, such as a legal representative, relative, or friend. The right to request a fair hearing must not be impeded, limited, or interfered with in any way.

(b) The decision of the hearing officer is the definitive and final administrative action by **DHR** [DPW] in relation to an appeal. That action must be taken within 60 days of the request for a hearing.

Doc No 776917

Food Coupon Overissuance and Recovery 326.15.76

These amendments are proposed under the authority of Texas Civil Statutes, Article 695c.

.001. Definitions.

(d) Recovery is a general term which refers to the different methods used by **DHR** [DPW] to obtain repayment of erroneously or fraudulently received food stamp and AFDC benefits. Restitution, recoupment, and case denial (in food stamps only) are methods of recovery.

(e) Restitution is the process of clients making payments [to DPW] in the form of cashier's checks and money orders payable to **DHR** [DPW] as reimbursement for food stamp and/or AFDC benefits received through misrepresentation, fraud, error, or misunderstanding.

(f) Recoupment is **DHR's** [DPW's] method of withholding wrongfully received AFDC funds by reduction of an AFDC grant. This term is used only in reference to the AFDC Program.

.014. Procedure for Terminating Collection Action.

(a) Fiscal Division will request USDA's concurrence to terminate collection action on behalf of **DHR** [DPW], in appropriate cases. Once USDA concurrence is received, collection action may be terminated. The amount determined uncollectible in fraud cases will be recovered by case denial.

.022. Type of Payments.

(a) Recipients will be advised that payments are to be made with either a cashier's check, or bank or postal money order, payable to the Texas Department of **Human Resources** [Public Welfare]. The payments must be delivered or mailed to the certifying office where the client's case is maintained, or to the investigative unit for cases which they are processing.

Doc. No 776918

Emergency Food Stamp Assistance in Disasters 326.15.77

These amendments are proposed under the authority of Texas Civil Statutes, Article 695c.

.007. Disaster Preplanning.

(a) **DHR** [The State Department of Public Welfare] will maintain liaison with the governor's assistant in charge of disaster coordination, Federal Disaster Assistance Administration in the Department of Housing and Urban Development, Civil Defense, Red Cross, Salvation Army, and other disaster agencies. These offices can alert the department to any potential disaster and provide assessments of destruction, the number of victims, and their needs.

.009. Application for Disaster Designation.

(a) When a disaster strikes, the commissioner of the **Texas** [State] Department of **Human Resources** [Public Welfare], or authorized representative, will relay a request for disaster designation from the regional administrator to the USDA regional office in Dallas. This request can be made informally by telephone as soon as the need has been established. However, a written application, with substantiating facts, must be submitted as soon as possible. This should include the following information:

Doc No 776919

Transfers 326.15.81

These amendments are proposed under the authority of Texas Civil Statutes, Article 695c.

.001. Transfer of Cases.

(a) The transfer of case records **provides** [will provide] a continuity of information and food stamp case **numbers** [number] when **households move** [the household moves] from one county to another within the state or **are** [is] reassigned within the same county.

(b) Transfers **ordinarily** apply [only] to food stamp cases which have been active within the past **12** [six] months. **Cases which have been inactive for periods exceeding 12 months may be transferred if requested by the gaining office.**

.003. Transfer Procedures.

(e) Upon expiration of the adverse action period, the computer form **with** [reflecting] the negative action **entry** will be processed, and the necessary form will be **sent** [transmitted] to the gaining office.

Doc. No 776920

ATP System 326.15.92.015

This repeal is proposed under the authority of Texas Civil Statutes, Article 695c.

.015. Holds.

(a) In PA and Non-PA cases, a hold will be placed on the ATP if:

(1) the certification period expires and the worker has not authorized a new certification period, or
(2) if the client fails to redeem his or her ATP for three consecutive months.

(b) When either of these two things occurs, the hold code is entered directly in the system.

Doc. No. 776921

326.15.92.016

This amendment is proposed under the authority of Texas Civil Statutes, Article 695c.

.016. Failure to Participate.

(a) When a *PA or Non-PA* household fails to redeem an ATP for three consecutive months, the case is automatically placed on hold and no further ATP's will be mailed. However, if the case has a positive action or reinvestigation date entered within the previous two months, the case will not be placed on hold at that time. The worker will be notified that cases have been placed on hold for nonparticipation.

Doc No 776922

Medicaid Eligibility

General Information 326.25.10

The following amendment is proposed under the authority of Texas Civil Statutes, Article 695c and 695j-1.

.001. Identification of Eligible Recipients.

(a) Recipients eligible for Medicaid benefits receive a "Medical Care Identification Card" from the Texas Department of *Human Resources* [Public Welfare] each month. This card is valid only for the month indicated on it.

Doc No 776923

Eligible Recipients for Title XIX (Medicaid) 326.25.21

The following amendments are proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

.001. Categorically Needy

(c) Individuals who are receiving supplemental security income (SSI) cash benefits under Title XVI of the Social Security Act. The Social Security Administration (SSA) establishes initial and continuing eligibility by using SSI eligibility criteria. These individuals are eligible for Medicaid benefits as long as they are eligible to receive an SSI cash benefit. SSA notifies the department when an individual is added to the SSI eligibility rolls, and *DHR* [DPW] sends the recipient notification of his *or her* Medicaid eligibility, identification cards, Medical Assistance Record Book, and an explanation of Title XIX benefits.

(e) Individuals who were SSI recipients and were denied SSI cash benefits solely because of a cost of living increase in Social Security benefits may be eligible for continued Title XIX coverage under Type Program 03. These individuals must meet all current SSI eligibility criteria, with the exclusion of the Social Security cost of living increase.

The first groups to qualify under the provisions of this law are those individuals who were denied SSI

because of the 5.9 percent cost of living increase received in July, 1977.

When extended Medicaid benefits are being provided because of the provisions of this law, all subsequent cost of living increases are also excluded.

Doc. No. 776924

Individuals for Whom SSI Eligibility Criteria Are Used 326.25.31

The following amendments are proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

(a) The eligibility criteria of the Federal Supplemental Security Income (SSI) Program is used in determining Medicaid eligibility for the following categories of assistance:

(2) *RSDI increase* [20 percent OASDI] MAO (Type Program 03). Individuals who *are entitled to the exclusion of a Social Security increase may qualify for Medicaid benefits under Type Program 03 even though their income exceeds the current income maximum* [were recipients of both public assistance and Social Security benefits in August, 1972, may qualify for Medicaid benefits under Type Program 03 even though their income exceeds the current income maximum]. To qualify, these individuals must meet SSI eligibility criteria except for income. The amount of the 20 percent *RSDI* [OASDI] increase of October, 1972, is excluded before income is measured against the appropriate budgetary standard.

Doc No 776925

Resources for Individuals Related to the SSI Program 326.25.33

The following amendments are proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

.016. Prepaid Burial Contracts [Insurance].

(a) A prepaid burial *contract* [insurance] is an arrangement between an individual and a funeral director by which the individual prepays burial expenses in exchange for the funeral director's agreement to furnish the burial.

(c) To be considered a resource, the *applicant/recipient* [individual] must be the purchaser of the prepaid burial contract. The beneficiary of such a contract is immaterial. However, a prepaid burial contract not purchased by the *applicant/recipient* [individual] may affect eligibility if purchased by an individual (ineligible spouse or parent) whose resources are subject to the deeming provision.

(d) Although not considered a resource in determining eligibility, private health insurance must be used before Medicaid payments are made to providers.

Doc No 776926

Income for Individuals Related to the SSI Program 326.25.34

The following amendments are proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

.014. Special Income Exclusion for Type Program 03 Applicants/Recipients.

(a) Individuals who received both public assistance and Social Security benefits in August of 1972 are entitled to have the amount of the 20 percent Social Security increase received in October, 1972, excluded from income prior to eligibility determination. Therefore, if an individual who qualifies for this exclusion is determined ineligible for another type of assistance because of income, the amount of the October, 1972, 20 percent *RSDI* [OASDI] increase is subtracted from income and eligibility is redetermined under Type Program 03.

(b) *Individuals who are denied SSI cash assistance solely because of a cost of living increase in Social Security benefits on or after July, 1977, are entitled to have the amount of that cost of living increase excluded from income prior to Medicaid eligibility determination. Individuals who qualify for Medicaid because of the exclusion of one cost of living increase are entitled to the exclusion of any subsequent cost of living increase in Social Security benefits.*

When an application for Type Program 03 assistance is received, the worker must verify the amount of the appropriate RSDI benefit increase. [When an application for Type Program 03 assistance is received, the worker must verify the amount of the 20 percent OASDI benefit increase received in October, 1972, and that the applicant was receiving a public assistance money grant in August, 1972.]

Doc No 776928

Budgeting for Individuals Related to the SSI Program 326.25.35

The following amendments are proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

.008. Budget Steps for Nonvendor Living Arrangements.

(a) The following steps are used to construct a budget for nonvendor living arrangements. This procedure must be followed at the time of application and for every redetermination and the computations recorded.

(5) For Type Program 03 cases, deduct the amount of the *RSDI* [20 percent OASDI] increase received in October, 1972.

.011. Budget to Determine Eligibility.

(d) For individual and couple budgets, the following steps are used to determine eligibility:

(3) For Type Program 03 cases, determine the amount of the *RSDI* [20 percent OASDI] increase exclusion.

Doc No 776927

Legal Requirements for Type Program 02 326.25.41

The following amendments are proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

.013. Aid to the Permanently and Totally Disabled.

(c) Permanent and total disability, as defined here, is established from a current, applicable medical report of an examination by a physician legally licensed to practice medicine in the State of Texas and approved by the *Texas* [State] Department of *Human Resources* [Public Welfare] to make such examinations. The examining physician certifies in writing, on forms prescribed by the department, the information the department requires for proper diagnosis, prognosis, and recommendations for medical and surgical treatment. The reports are reviewed by a physician legally licensed to practice medicine in the State of Texas and employed by the department. He *or she* determines eligibility from this medical evidence. The reviewing physician also determines the feasibility of referring the applicant for vocational rehabilitation.

Doc No 776929

Needs Allowance for Type Program 02 326.25.42

The following amendment is proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

.001. Personal Needs Allowance.

(b) The amount budgeted as a personal needs

allowance for adult recipients is \$25 and essential persons is \$129.]

Doc No. 776930

Income for Type Program 02, 326.25.44

The following amendments are proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

.008. *Farm Income.*

(i) [If a farm is rented primarily for shelter purposes and the farm land is incidental thereto, cash rental is budgeted as a shelter cost and the acreage is considered in connection with general income. This is likewise applicable when the recipient owns his property and annual payments are being made. The amount budgeted for shelter in these situations is within the chart maximums for shelter.

(j) Soil bank practices vary from county to county. Knowledge about local practices should be acquired and landowners or operators should be acquainted with such practices and referred to the appropriate agency.] Those participating in soil bank practices have in their possession a copy of the written agreement they entered with the government, specifying the amount of their payment and the length of the contract. In the absence of this agreement, verification should be made with the appropriate office. [Normally, it is expected that the soil bank payment or reentitlement is the minimum anticipated income from a farm that is not participating in the program.] Any expense in complying with the agreement with the Agricultural Stabilization Conservation Office is deducted from the soil bank payment to arrive at net income.

(j) [(k)] In farming activity, expenses of capital improvement are netted against gross income only when the expenses are essential to the continuation of income [i.e. repairing fences in order to rent the pasture, cleaning out pools or wells to supply water for cattle, etc.].

(k) [(l)] The department does not usually recognize payment of old debts. However, certain debts may have been accumulated in the process of financing farming operations and represent a current obligation that must be recognized in netting income.

.011. *Retirement [Old Age], Survivors, and Disability Insurance (RSDI) [OASDI].*

(a) *RSDI* [OASDI] is a program providing monthly benefits for workers when they are fully insured, have attained retirement age, and have filed application for [old age] benefits. Under certain conditions, wives, divorced wives, husbands, children, widows, widowers, and parents of insured individuals may also be eligible for benefits. In addition, monthly

benefits are paid to severely disabled individuals who have sufficient quarters of coverage.

(c) All recipients and essential persons should be requested to apply for *RSDI* [OASDI] benefits if they are potentially eligible, even if they would have to accept the benefit at a reduced rate. Reasonable time is granted to process an application for these benefits. Medical assistance may continue during this interim period (generally not to exceed three months).

(d) If the individual refuses to apply for *RSDI* [OASDI] benefits, the amount to which he *or she* is entitled must be calculated. The Social Security Administration will make this determination. This amount is budgeted as income even if the individual chooses not to receive it.

[(e) Special Social Security benefits (Prouty) became available on October 1, 1966, to individuals age 72 or over or who attained the age of 72 before 1968, without regard to quarters of coverage. After December 31, 1967, an individual reaching age 72 must have three quarters of coverage for each year elapsing after 1966 and before the year he or she reaches 72 years of age.]

.012. *Veterans' Benefits.*

(a) When information submitted reveals that veterans' benefits may be a possible source of income, clarification is secured. Every effort is made to assist the individual in utilizing such benefits.

(b) A veteran enrolled in school under the GI Bill receives a subsistence allowance. If he or she has dependents, they too are eligible for an allowance which normally is paid directly to the veteran.

(c) If a veteran, who made an allotment to his or her dependents while in the service, received an injury that is considered in excess of 50 percent disabling, the dependent is entitled to a payment. This usually is paid directly to the veteran.]

(b) [(d)] A veteran receiving disability compensation benefits whose service-connected disability requires that he or she wear or use a prosthetic or orthopedic appliance is also eligible for a clothing allowance [of \$150 a year]. This clothing allowance meets a special need and is not included as income.

(e) Veterans of World War I who have a certain degree of disability are eligible for compensation at the age of 60.

(f) Any veteran who is entitled to an aid and attendance allowance is also eligible to receive all needed drugs and medicines prescribed by a duly licensed doctor or osteopathic physician. If he or she is not eligible for an aid and attendance allowance, he or she may be eligible for a household award.

(g) A widow, who is eligible for a regular VA pension, may also receive an additional aid and attendance allowance if in a nursing home or if in need of someone to care for her in her own home.

(h) If, following completion of hospital care for a service-connected disability, a veteran is in need of nursing home care, VA can pay for this with no time limitation.]

(c)(i) Recipients should be referred to VA if it is indicated that they might be eligible for benefits. If the veteran's application for benefits is denied at the age of 60 or over and an evaluation indicates that his condition has worsened, he should be encouraged to reapply, especially after he attains the age of 65.

(j) To be eligible, the veteran must have had 90 days of active service in the Armed Forces.]

Doc No 776931

Applications for Medicaid 326.25.52

The following amendments are proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

.001. Applications.

(a) In accordance with an agreement between SSA and *DHR* [DPW], SSA makes all Medicaid eligibility determinations for:

(1) aged, blind, and disabled individuals who are not residing in vendor situations, and

(2) aged, blind, and disabled individuals who are residing in public or private Title XIX approved facilities if:

(A) Application is made during the month of entry into the facility and countable income does not equal or exceed the SSI standard payment amount for an individual in his *or her* own home.

(B) Application is made subsequent to the month of entry into the facility and countable income does not equal or exceed the SSI standard payment amount for an individual in an institution.

(b) *DHR* [DPW] processes Medicaid applications for [any individual]:

(1) *SSI-related MAO (Type Program 14). Any individual residing within a public or private Title XIX approved facility if* [Applying for Medicaid coverage for the three months prior to the month of application for SSI, and (2)]:

(A) Application is made during the month of entry into the facility and countable income equals or exceeds the SSI standard payment amount for an individual in his *or her* own home.

(B) Application is made subsequent to the month of entry into the facility and countable income equals or exceeds the SSI standard payment amount for an individual in an institution.

(2) *RSDI increase (Type Program 03). Any individual who is entitled to the disregard of a Social Security increase. Type Program 03 eligibility is not tested unless the individual is in-*

eligible for another type assistance because of income.

(3) *Three months prior program. Individuals who apply for Medicaid coverage for the three months prior to the month of application for SSI or MAO. This includes applications filed on behalf of deceased individuals.*

.002. Date of Application.

(a) The date of application for Title XIX (Medicaid) benefits is:

(2) The date upon which the local *DHR* [DPW] office receives a completed, signed, and dated application form for medical assistance only.

(3) *The date upon which the local DHR office is notified that an SSI recipient residing in a Title XIX nursing care facility is denied SSI because of income in excess of the SSI payment standard.*

.004. Medical Effective Date.

(b) *For individuals transferred from SSI assistance to MAO, the medical effective date may be the day following the effective date of denial under Type Program 13 assistance.* [To determine eligibility for retroactive medical coverage, see Rule 326.25.22.001.]

.005. Reporting Periods of Eligibility [the Medical Effective Date].

(a) The date upon which an applicant *attains Medicaid* [attained medical] eligibility must be reported on all applications processed by [the] medical eligibility staff. *The medical effective date is used to initiate all medical benefits to the client and payments to providers.* [The worker enters the effective date for medical assistance on all input documents. If the medical effective date is not entered or an invalid date (i.e., a date which was covered under a prior period of medical assistance eligibility) is entered, the input document is rejected.]

(b) For *payment* [reporting] purposes, *there are two types of Medicaid coverage* [the worker must also enter a medical effective indicator date. The medical effective indicator date is the application date used to determine the time period considered for three months prior medical eligibility. The medical effective indicator date will be]:

(1) *Regular coverage. The department pays a premium to cover the cost of services provided by physicians, hospitals, etc. Other services, such as drugs, are paid for directly by the department.* [The DPW application date, or]

(2) *Institutional coverage. The department pays the Department of Mental Health and Mental Retardation to provide all Medicaid services to eligible individuals in state schools and state chest hospitals. No premium is paid.* [The SSI application date.]

(3) *The type of coverage and cost are determined by the category, Medicare status of the individual, base plan, and institutional dates.* [For nursing home cases transferred from SSI Type Program 13 to DPW Type Program 14 with no break in coverage, enter the SSI application date.]

(c) *For processing and accounting purposes, eligibility is further divided into two types:* [The medical effective date cannot precede the month of the medical effective indicator date by more than three calendar months (three months prior eligibility always begins on the first of the month.)]

(1) *Prior eligibility. This indicates Medicaid coverage for a period of time prior to the date of application. Prior coverage always begins on the first day of a month and ends either on the date of death, if applicable, or the last day of the month prior to the month of application.*

(2) *Current eligibility. This indicates Medicaid coverage beginning on or after the first day of the month of application.*

(d) *An individual may qualify for prior eligibility only, for current eligibility only, or for a combination of the two. In addition, coverage may be regular, institutional, or a combination of the two.* [In situations in which the applicant is eligible for retroactive medical coverage but is not currently eligible, the last day he was eligible for medical assistance must be entered on the input document. Unless the applicant is deceased, this date is always the last day of the last month of eligibility.]

(e) When the applicant is deceased, there are two possible situations:

(1) An application has been filed but the individual dies before his case can be certified. This situation can involve coverage from the date of application to the date of death; or can involve three months prior coverage before the application date, as well as coverage from the application date to the date of death.

(2) A bona fide agent of a deceased person contacts the department and requests application services. In this type situation, the application is for prior medical coverage. The period covered is the three months period prior to the date application was made by the bona fide agent. The medical effective date will be the first day of the prior month in which all eligibility requirements were met. Coverage should end with the date of the client's death.

(f) In the case of a deceased applicant, the input document must contain the medical effective date, the medical effective indicator date, and the date of death.

(g) The input document is not used to report the medical effective date for SSI cash recipients. Medical eligibility dates are reported to the department by the Social Security Administration via the SDX system.

(h) If an SSI cash recipient applies for three

months prior coverage, the retroactive medical effective date is reported on the form, Prior Medical Eligibility Determination.]

.006. *Simultaneous Open [Opening] and Close [Closing].*

(a) *Some individuals are entitled to assistance for a prior period of time but are not eligible for ongoing assistance. To report this type of eligibility, the worker must open and close the case on the same input document. A simultaneous opening and closing is used to report eligibility for:*

(1) *An individual eligible for the three months prior program only.*

(2) *A deceased individual.*

(3) *An applicant for current assistance who is determined eligible but leaves the Title XIX facility before the application can be completed.*

(4) *An applicant who is determined eligible (during the appeal process) for a prior period of time but is not eligible at the time the input form is submitted.*

[If an applicant for medical assistance moves from a nursing home or state institution before the application is completed, the worker may certify the case for the period of time the client was determined to be eligible. This is accomplished by a simultaneous opening and closing of the case on the input document.]

Doc No 776932

Procedures for Applications for Medical Assistance 326.25.53.002-.003, .007, .011

The following amendments are proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

.002. *Manual Certification Procedure.*

(a) Some SSI recipients do not appear on the SDX tapes, and therefore are not shown as Medicaid eligibles on the *department's computer system* [PA Eligibility File]. These cases are provided Medicaid coverage by means of a manual certification procedure.

(b) Cases which are certified manually include:

(1) prior SSI recipients who are not currently eligible and who were never certified for Medicaid on the *department's computer system* [PA Eligibility File],

(3) SSI recipients shown on the Social Security master file, but not shown on the *department's computer system* [PA Eligibility File], and

(4) SSI recipients requiring emergency medical services who are not certified as Medicaid eligibles on the *department's computer system* [PA Eligibility File].

(c) The Social Security district offices are responsible for initiating the manual certification procedure. Where applicable, the Social Security district office completes a manual certification form and mails it to **DHR** [the DPW Data Control Section Financial Services Branch, State Office]. These cases are certified under Type Program 12 and are sent a Medical Care Identification card, etc., by the State Office. They remain under Type Program 12 until the individual's name appears on the SDX tape or until SSA submits a manual request to deny the case. Cases certified under Type Program 12 must be manually updated by the Social Security district office. When a manually certified case is closed, **DHR** [the DPW Data Control Section] sends a letter to the Social Security district office reflecting the denial.

(d) If an SSI recipient contacts a Social Security office requesting assistance in obtaining a Medicaid card, his *or her* current Medicaid status must be determined before a manual certification form is initiated. **DHR** [DPW] staff should furnish information regarding current Medicaid status to the Social Security representative. However, if Medicaid status cannot be determined locally, the Social Security representative will submit a manual certification form on the assumption that the SSI recipient is not certified for Medicaid. (If the SSI recipient is currently certified *as a medicaid eligible* on the SDX master file, the form will reject and be returned with an explanation to the Social Security office.)

(f) If the SSI recipient is certified for Medicaid and the worker is aware of a change in circumstances which may have caused the nonreceipt of the Medicaid card, the worker refers the recipient to the Social Security district office. If no change in circumstances is indicated, [the worker addresses a memorandum outlining the problem to the DPW Data Control Section in State Office. The] **DHR** [DPW Data Control Section] will attempt to resolve the problem [and will inform the worker by memorandum of the action taken]. Workers should notify the Social Security district office of any change in circumstances reported by SSI recipients.

.003. SSI Payment Placed in Suspense by SSA.

(c) When a worker is contacted by an SSI recipient who is in a suspense status, the worker instructs the individual to contact SSA so that the cause of the suspense action may be promptly resolved. The worker does not contact SSA to initiate a manual certification for the individual unless an emergency situation exists. **If SSA verifies that the individual has been denied SSI assistance due to entry into a Title XIX facility, the worker must take an application for medical assistance only.**

.007. RSDI Increase (Type Program 03) (SSI-Related MAO Recipient Added as an SSI Recipient).

(a) **Some individuals are entitled to have an RSDI increase excluded from income before eligibility is determined. Therefore, if an individual has too much income to qualify under another category of assistance (SSI or MAO) Type Program 02 or 14), eligibility under Type Program 03 should be explored.** [When an active MAO recipient is added through the SDX system as an active SSI recipient, a notice is sent to the appropriate regional director for financial services. The worker must determine the appropriateness of a denial of the MAO case. If a denial is indicated, the worker denies the case.]

(b) **To qualify, the individual must:**

(1) **have been a recipient of both public assistance and Social Security benefits in August, 1972, or**

(2) **have been denied SSI cash assistance solely because of a cost of living increase in Social Security benefits, and**

(3) **meet all current eligibility requirements except for income.**

(c) **Eligibility and budgeting for Type Program 03 cases are based on the SSI eligibility criteria. Eligibility for Type Program 03 is not based on any particular living arrangement. If the individual resides in a Title XIX facility, procedures for determining eligibility are the same as those outlined for Type Program 14 cases. If the individual resides in the community, nonvendor budgeting procedures are used.**

.011. SSI Applicants Who Apply for Retroactive Medicaid Coverage.

(c) When an individual contacts the local office to request application services for retroactive medical coverage, an applicant's statement form **and an attachment are** [is] supplied. **The individual is asked to complete the statement form based on current circumstances and the attachment based on circumstances during the three months prior to application for SSI.** When the completed, signed, and dated applicant's statement is received by the local office, the worker determines eligibility. Clearances and verifications documenting eligibility are recorded. Verification of unpaid, covered Title XIX medical expenses during the retroactive months and verification of the date of SSI application are mandatory. In addition, the worker must verify any other information which is unclear, incomplete, or inconsistent.

(f) The local **DHR** [DPW] office maintains a case record with documentation of the decision regarding retroactive medical coverage in case of program audit, etc. **In cases involving more than one three months**

prior application, a separate attachment form is required for each prior period.

Doc No 776933

Procedures for Application for Medical Assistance 326.25.53.013-.014

The following rules are proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

.013. MAO Applicants Who Appear to be SSI Recipients.

(a) Because of a time delay between denial of SSI eligibility and notification of the denial via the SDX system, some individuals apply for MAO before the SSI-related Medicaid coverage is closed on the department's computer system. When this situation occurs, the worker must verify that SSI eligibility has actually been denied. This may be done by viewing the SSI denial notification sent to the client by the Social Security Administration.

(b) If SSI eligibility has not been denied, but should be, the pending application is denied. The individual is asked to contact SSA and to reapply when the denial notification is received.

(c) If SSI eligibility has been denied, the worker may certify the MAO case. When the input form is processed, the SSI case record will be placed in suspense until notification of the SSI denial is received via the SDX system.

.014. MAO Recipients Who Appear to Be SSI Eligibles. When the department is notified via the SDX system that an individual certified for MAO is eligible for SSI, the worker must determine if the MAO case should be denied. If the worker determines the MAO case should not be denied, the SSI case record will remain in suspense until closed by SSA or until the MAO case is denied.

Doc No 776934

Vendor Payments in Title XIX Long-Term Care Facilities 326.25.55

The following amendment is proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

.011. Overpayment of Vendor When Fraud Is Indicated.

(b) If fraud is not indicated, clients should make restitution if overpayment exists. Should an overpayment exist, the worker will inform the client and/or the responsible relative of overpayment and of the restitution procedures. Checks or money orders should be made payable to the **Texas** [State] Department of

Human Resources [Public Welfare] and mailed to Fiscal Division, State Office.

Doc. No. 776934

Intra-State Requests for Assistance 326.25.56.001-.002, .007

The following amendments are proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

.001. Texas Resident Outside the State.

(a) If a resident of the State of Texas wishes to apply for medical assistance while he *or she* is outside the geographic confines of the state, he *or she* should contact the state welfare agency of the state in which he *or she* is located. If he *or she* contacts the **Texas** [State] Department of **Human Resources** [Public Welfare] directly, he *or she* should be advised to contact the state welfare agency of the state in which he *or she* is located. That agency should determine:

(1) if the individual's plans are to reside or visit in that state, and

(2) whether medical assistance benefits are available to the individual from that state.

(b) If an individual applicant is determined to be visiting in another state and continuing his *or her* residence in Texas and medical assistance benefits are not available from the other state, that state welfare agency shall contact the **Texas** [State] Department of **Human Resources** [Public Welfare] regarding the individual's application for medical assistance.

(c) If the applicant is found eligible for Title XIX benefits provided by the state from which he *or she* is applying and the benefits can be made available to him *or her* in that state, he *or she* is not eligible for Title XIX benefits from the **Texas** [State] Department of **Human Resources** [Public Welfare].

(d) If the individual is not eligible for Title XIX provided by the state from which he *or she* is applying, the **DHR** [DPW] worker forwards to the referring state welfare agency:

(1) a cover letter detailing basic requirements for eligibility for medical assistance under Title XIX in Texas, including any special information needed;

(2) the appropriate form necessary for establishing eligibility and instruction for completion; and

(3) a request, if not furnished in referral letter, that the state welfare agency furnish information regarding the individual's intent to continue his *or her* residence in Texas and whether or not any Title XIX (Medicaid) benefits are available to the individual from that state.

(e) When the completed forms are returned, the **DHR** [DPW] worker follows procedures for establishing

eligibility. [On the input document, the Texas address is entered as the applicant's permanent address and the out-of-state address as the mailing address.]

(f) When the *DHR* [DPW] worker has established eligibility and certified the applicant, the State Office forwards an identification card for medical assistance with notification of eligibility to the applicant. If, however, the applicant is determined ineligible, the State Office forwards to him *or her* notification of and reasons for the denial. A copy of the decision is forwarded to the referring state welfare agency.

(g) Eligibility for retroactive medical coverage for such applicants should be explored.

.002. *Vendor Payments for Texas Recipients Out-of-State.*

(a) If a Texas Medicaid recipient is residing in a long-term care facility in another state, vendor payments are initiated as follows:

(1) Notification that a Texas Medicaid recipient is residing in an out-of-state nursing facility must be made to the *Long-Term Care* [Nursing Home Services] Division in the State Office.

(2) Upon receipt of such notification, the *Long-Term Care* [Nursing Home Services] Division verifies the individual's current eligibility via computer terminal and then notifies the appropriate out-of-state welfare or Medicaid agency of eligibility, although no commitment regarding payment is made. An Information Regarding Out-of-State Nursing Homes form, and a medical nursing care evaluation and instructions are included with the correspondence. It is requested that these forms be completed and returned along with written verification by the nursing facility of the patient's date of entry and date of discharge, if applicable.

(3) When the above information and completed forms are received, the *Long-Term Care* [Nursing Home Services] Division processes a level of care for the patient and assigns an out-of-state vendor number to the facility if it meets Texas' minimum standards for participation in the vendor program.

(4) If payment can be made to the nursing facility, a purchase voucher is [prepared by Nursing Home services Division and] sent to the facility. [When the completed purchase voucher is returned to the Nursing Home Services Division, it is forwarded to the Fiscal Division in the State Office for payment.] Payment is based on the lower of the assigned levels of care the facility is determined to be providing or the level of care needed by the patient, the amount of applied income the patient must pay, and the current Texas vendor rate.

.007. *Procedures for Redetermining Medical Eligibility.*

(a) Medical eligibility workers are notified by a Work Planning and Delinquency Report that a redeter-

mination of eligibility is due for the recipient.

(b) The worker forwards an applicant's statement to the recipient requesting that it be completed and returned to the local *department* [DPW] office within a specified time period. When the worker receives a completed, signed, and dated applicant's statement, he proceeds with the redetermination of eligibility for medical assistance. If it is determined that the recipient is no longer eligible for medical assistance, the worker notifies the recipient of his *or her* denial with a notification letter. The notification letter informs the recipient that medical assistance is being continued for 10 days during which he *or she* may appeal the denial. If at the end of the 10-day period he *or she* has not indicated his *or her* desire to appeal, an input document is submitted to deny his *or her* medical assistance. If an appeal is filed during the 10-day period, medical assistance is continued pending the appeal decision.

(c) If the recipient fails to return the applicant's statement within the specified number of days, and the case record indicates the recipient is capable of completing the applicant's statement, the worker sends a notification letter informing the recipient of the intent to deny his assistance. *If no response is received within 10 days, it is considered that he or she is no longer interested in receiving benefits and the case is denied without further contact.*

(e) Type Program 02 recipients have their continuing eligibility determined on the basis of December, 1973, standards used by the department [of Public Welfare].

(f) Type Program 03 [04, Adult Type Program 11,] and Type Program 14 (SSI-related MAO) recipients have their eligibility redetermined on the basis of the standards used in the Federal Supplemental Security Income Program, except for income.

Doc No 776936

Intra-State Requests for Assistance 326.25.56.009-.010

The following rules are proposed under the authority of Texas Civil Statutes, Articles 695c and 695j-1.

.009. *Temporary Change of Address.*

(a) After a person establishes Texas residence, he or she does not lose it due to temporary absences from the state. Visits out of the state, with subsequent returns or expressions of intent to return, do not interrupt Texas residence.

(b) A recipient is responsible for requesting a temporary change of address due to his or her absence from the state. Likewise, he or she is responsible for giving information as to his or her purpose, plans, the

date of departure, and the date he or she plans to return.

(c) If the worker is not contacted by the recipient prior to his or her departure but learns from some other source of the recipient's absence, the worker will attempt to secure his or her out-of-state address.

(d) Upon receipt of the out-of-state address, the worker will arrange for contact with the recipient to determine whether or not his or her absence from the state is temporary in nature, its purpose, and date of plan to return.

(e) Request for out-of-state visiting cannot be authorized for more than a three month period at one time. The department places no limit on the length of time an out-of-state visit may continue. However, the client's situation is to be reviewed every three months to determine his or her intent of residence, and, if case action is indicated, the appropriate form is to be processed without delay.

(f) A recipient leaving the state with no declared intention to return, and the absence of any overt acts that would create a presumption of intent to return, shall be deemed to have moved from the state and his or her assistance is denied immediately. If, subsequently, the recipient returns to the state and declares his or her intention to remain in Texas, assistance may be re-granted if other eligibility requirements are met.

(g) If it is determined that the recipient's absence from the state is temporary and it becomes necessary to make a complete review, the following procedure will be followed. An application form is mailed directly to the recipient at the out-of-state address. If there is any doubt as to the nature of the visit, the worker will send an individual letter requesting that the recipient indicate the purposes of his or her absence from the state, if the purposes have been accomplished, and which state he or she considers his or her residence.

010 Cases Placed on Hold

(a) When a case is certified for Medicaid, situations may arise where, by policy, the case cannot be denied but continued receipt of assistance is in question. In these situations, the case may be placed on hold. When a case is placed on hold, the Medical Care Identification card is not mailed and no benefits are paid until the hold is released.

(b) Workers may initiate a hold when:

(1) The recipient cannot be located and it is determined that the client's address is unknown. If the recipient is not located in a reasonable length of time, the case is denied.

(2) A case is denied and the notification period ends after cut-off, but prior to the first of the next month.

(c) The Data Control Unit may initiate a hold when a Medical Care Identification card is returned as nondeliverable.

(d) Fiscal Division may initiate a hold when a warrant is returned.

(e) A medicaid eligibility letter may not be issued for cases on hold.

(f) SSI cases are placed on hold when a Medical Care Identification card is returned for one of the following reasons: moved, unclaimed, deceased. The case hold is automatically released when an SDX transaction reports a change of address, a denial, or death. Cases that remain on hold longer than one month will be reported to the Social Security Administration.

(g) If an SSI recipient, whose case is on hold, contacts the department, the worker determines if the individual's address has changed. If the address has changed, the individual is told to report the change to SSA. If there has been no change of address and no reason can be determined why the forms were returned by the post office, the worker will release the case hold.

(h) When an SSI case is on hold, the individual cannot be certified for SSI related MAO assistance and a medicaid eligibility letter may not be issued.

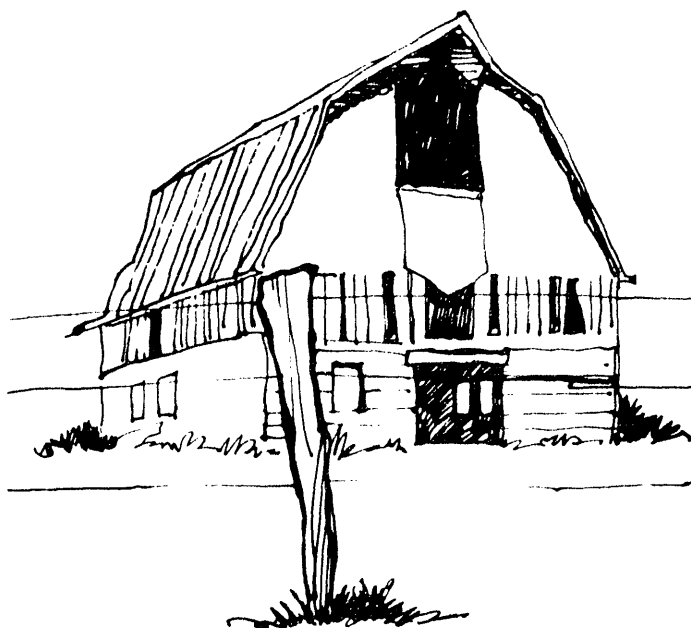
Issued in Austin, Texas, on December 9, 1977

Doc No 776937

Jerome Chapman
Commissioner
Texas Department of Human
Resources

Proposed Date of Adoption: January 20, 1978

For further information, please call (512) 475-4601



ADOPTED RULES

4978

An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, except where a federal statute or regulation requires implementation of a rule on shorter notice.

An agency, on request, shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling considerations urged against the agency's decision.

Numbering System-- Each rule is designated by a unique 10-digit number which is divided into four units by decimal points. The first unit (three digits) indicates the agency which promulgates the rule. The second unit (two digits) indicates the category of rules to which the rule belongs. The third unit (two digits) indicates the subcategory of rules, if any, within the category. The fourth unit (three digits) indicates the individual rule.

Texas Education Agency State Commissioner of Education

Adoptions by Reference: General 226.13.90

The Texas Education Agency has amended Rule 226.13.90.020, the permanent adoption by reference of *School District Data Submission to the Texas Education Agency*, Publication Number BUX40902 (which previously carried Bulletin Number 742). The change reflects revisions No. 10 (September, 1977) and No. 11 (November, 1977) to this publication.

Change 10 amends instructions for completing the Roster of Professional Personnel to stipulate that part-time regular program personnel must be reported by each employing district where there is more than one. Dates are changed to apply to the 1977-78 school year. Maximum days of employment for personnel reporting purposes have been changed to 185 for persons on a 10-month contract. A guide for coding for the personnel roster has been added (Section 2.053), as well as a guide for submitting the report with data processing equipment (Section 2.054). Change 11 includes five new reports as follows: (1) the Indian student count, required by the Department of Health, Education, and Welfare from those districts who wish to apply for Indian education funds (Part A, Title IV, Public Law 93-318); (2) the Application for State Funds for Instructional Television; (3) the Annual Evaluation of ITV Services; and (4) the Monthly Pupil Transportation Report, required by Section 16.206, Texas Education Code.

Change 11 also includes minor revisions in due dates for the report of handicapped children receiving special education services.

The rule is adopted with one change from the text proposed. The document is identified by its new publication number in the text. The number is deleted from the title.

This rule is promulgated under the authority of Section 11.52(d) of the Texas Education Code.

.020. School District Data Submission to the Texas Education Agency. The rules for data submission to the Texas Education Agency are described in the official Texas Education Agency Bulletin *School District Data Submission to the Texas Education Agency*, Publication Number BUX40902, as amended September and November, 1977, which is adopted by this reference as the agency's official rule. A copy is available for examination during regular office hours 8 a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Texas Education Agency Building (headquarters), 201 East 11th Street, Austin, Texas.

Issued in Austin, Texas, on December 14, 1977.

Doc No 777186 M. L. Brockette
Commissioner of Education

Effective Date January 6 1978

For further information please call (512) 475-7077

Texas Department of Health

Wastewater Technology and Surveillance

Construction Standards for Private Sewage Facilities 301.79.03

The Texas Department of Health has adopted standards governing the construction of private sewage facilities in Texas. The purpose of these standards is to establish minimum design criteria for constructing private sewage facilities, to inform the public as to what types of systems are acceptable to the Texas Department of Health, and to convey information concerning the proper operation and maintenance of private sewage facilities. These standards have been reviewed by the health department's regions, the local health departments, and river authorities. At the same time, input has been received from interested citizens who at-

tended a public hearing held in Austin or who submitted written comments. The following changes were made as a result of all the comments and guidance received:

(1) The largest general change has been a rearrangement of chapters and subchapters throughout the rules. The department considered this necessary because input received at the public hearing and subsequent to the hearing indicated that the rearrangement would simplify the reading of the rules and provide the general public with a technical document written in easy-to-understand language. However, even though numerous chapters and subchapters have been rearranged, the overall purpose, subject matter, and text of the rules remain as proposed.

(2) Specific major changes which have been made are:

(a) .001(c) was changed to more accurately define the Texas Department of Health's relationship with local health departments, the Texas Department of Water Resources, river authorities, cities, and counties.

(b) .002(b) was changed to more clearly define the Texas Department of Health's requirements for approval of new and innovative private sewage treatment systems.

(c) .002(b)(4), concerning minimum requirements for lot size for platted subdivisions, received the most citizen comments. The paragraph was rewritten to clarify the state's responsibility in this requirement, however, the minimum basic lot size was not changed.

(d) .002(f)(1) concerns the separation of absorption fields from subsurface ground water or impervious strata. Exceptions were made for coastal areas where the ground water is salt water.

(e) .002(f)(4), concerning the design of evapotranspiration beds, was not changed although comments were received which suggested that some changes in size be made. The technical bases for the requested changes could not be verified.

(f) .002(g), concerning the method of conducting a percolation test, was changed to clarify the process.

(g) .003(b), concerning injection wells, was changed to permit approval of modified designs under closely controlled conditions and with the submittal of adequate supportive geological information.

(h) A table of contents has been added for the purpose of providing easy location of specific chapters.

(3) Numerous other minor changes were made to the standards for the purpose of clarification, such as rewording and the addition and deletion of words.

These rules are adopted under the authority of Article 4477-1, Texas Civil Statutes.

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.001 General Procedural Rules

(a) General environmental requirements for septic tank disposal systems.

(1) Background. These construction standards are being adopted under authority of the Texas Sanitation and Health Protection Law, Article 4477-1, Section 23(b). The septic tank sewage disposal system was originally developed to serve rural residences. For this purpose, the properly installed septic tank performed well and permitted the remote rural resident to utilize the convenience of indoor plumbing and toilet disposal. During the past 25 years, the population distribution in the United States has shifted from rural to urban, thus creating rapid development in and on the fringes of urban areas. Many residential subdivisions have been located beyond the limits of organized water and sewerage facilities, and the residents must rely on individual resources available within the boundaries of small lots or tracts of land. Septic tank systems have been used frequently as the means of liquid waste disposal. Unfortunately, in many cases, subdivisions were located in areas with soil conditions unsuitable for septic tank system. Quite often, lot sizes are no larger than those found in subdivisions serviced by central water and sewerage systems. Residential areas with small lots served by septic tank systems on many occasions are subjected to undesirable conditions, such as widespread saturation of the soil, malfunction of the septic tank systems, sewage on the surface of the ground and in roadside ditches and strained relationships between neighbors. The standards presented

herein are based on the cumulative observations and experiences of the past and are intended to provide the citizens of this state with adequate public health protection and a minimum of environmental pollution.

(2) Locational and environmental standards. The developers of subdivisions which are remote from organized sewage collection systems should consider the method of sewage disposal in the determination of lot size and arrangement. The provision of a collection system and central treatment plant is generally the preferred method of sewage disposal. However, if soil conditions permit and other factors are favorable to the use of septic tank systems, the standards in Table 1 should be used with regard to the location of the components of the septic tank system.

(b) Authority of Texas Department of Health to regulate private sewage facilities. Article 4477-1, Section 23 (b), the Texas Sanitation and Health Protection Law, Texas Civil Statutes, covers the Department of Health's authority for promulgating construction rules and standards, and the Texas Water Code, Section 21.083, Texas Civil Statutes, directs the Texas Department of Water Resources to consult with the commissioner of health for recommendations concerning the impact of the use of septic tanks or other private sewage facilities on public health before entering an order regulating the installation or use of such facilities in a given area.

(c) Relations with other governmental entities.

(1) Texas Department of Water Resources. The state level responsibility for the management and control of septic tank practices is shared by the Texas Department of Water Resources and the Texas Department of Health. The Texas Water Code, Section 21.083, Subsection (b), defines the department's authority as primarily of an area or regional nature insofar as the control of pollution caused by septic tanks. When the problems of a particular area are likely to produce hazards to public health through area wide water pollution caused by septic tank disposal systems, the Texas Water Code gives the authority to limit the number and type of septic tanks, prohibit the installation and use of additional septic tanks, and provide for the gradual and systematic reduction of septic tanks in the area.

(2) Local health departments. The Texas Sanitation and Health Protection Law, Article 4477-1, Texas Civil Statutes, requires local health officials to abate nuisances, and Articles 4427 and 4430, Texas Civil Statutes, requires local health officials to aid the State Board of Health in the enforcement of its rules, regulations, requirements, and ordinances and in the enforcement of all sanitary laws within the jurisdiction of the local health officials. Local health agencies may be required by city ordinance or septic tank control order to enforce regulations which exceed the requirements of these standards, but local authorities should not permit their standards to fall below those recommended by the Texas Department of Health. Local regulations shall be reasonable and, if technical in nature, must be based on sound engineering principles.

(3) River authorities and water districts. River authorities or water districts may assist in water pollution control enforcement procedures through orders issued by the Texas Department of Water Resources to control or prohibit the use of septic tanks in an area. The Department of Water Resources may delegate them as the licensing authority to develop procedures concerning administration, inspection, issuance of licenses, and enforcement of a Texas Department of Water Resources order.

(4) County commissioners courts. Section 21.084 of the Texas Water Code empowers the commissioners court of any county to adopt a septic tank control order controlling or prohibiting the installation or use of septic tanks in any area of a county under its jurisdiction. Before the order becomes effective, approval of its order by the Texas Department of Water Resources must be obtained. The order includes construction standards promulgated by counties which may be adjusted to local conditions so long as they do not fall below the standards of the Texas Department of Health and also provided that the adjustments are reasonable and, if technical in nature, are based on sound engineering principles.

TABLE 1
STANDARDS FOR SEPTIC TANK SYSTEMS

From	Septic Tank	100' to 150' from	150' to 200' from	More than 200' from
1. Minimum lot area	1/2 acre	1/2 acre	1/2 acre	1/2 acre
2. Minimum lot depth	100 feet	100 feet	100 feet	100 feet
3. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
4. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
5. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
6. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
7. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
8. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
9. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
10. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
11. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
12. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
13. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
14. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
15. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
16. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
17. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
18. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
19. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
20. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
21. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
22. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
23. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
24. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
25. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
26. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
27. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
28. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
29. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
30. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
31. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
32. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
33. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
34. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
35. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
36. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
37. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
38. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
39. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
40. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
41. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
42. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
43. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
44. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
45. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
46. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
47. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
48. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
49. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet
50. Minimum distance to public water supply	100 feet	100 feet	100 feet	100 feet

Septic tanks or holding tanks will not be deemed to be constructed in accordance with these standards if they are not equipped with a float valve, a pump, a water valve, and a vent pipe. The vent pipe shall be constructed with a water-tight joint and shall be equipped with a rain cap. The vent pipe shall be constructed with a water-tight joint and shall be equipped with a rain cap.

(5) Municipal corporations. Cities, towns, and villages may by ordinance control or prohibit the use of septic tanks. The standards set forth in any such ordinance should not fall below those stated in this publication, but these entities may establish standards which will produce a higher quality of operation, provided the standards are reasonable and, if technical in nature, are based on sound engineering principles.

(6) Regional councils of government. These agencies are principally created to establish and execute the planning process in a region designated by the governor (Article 1011m, Vernon's Texas Civil Statutes). The regional councils may contribute to the effective and proper disposal of sewage by (a) guiding developers to the more favorable alternative of sewage collection systems and centralized sewage treatment facilities, (b) preparing soil maps showing favorable, intermediate, and unacceptable locations for sewage treatment systems dependent upon subsurface effluent disposal, and (c) assisting local governments in recognizing the need for regulatory devices for sewage disposal.

(d) Purpose of these construction standards. The primary purpose of this undertaking is to establish standards for constructing private sewage facilities. The construction standards will cover the aspects of sewage disposal which deal with on-site treatment facilities for use by individual homes, small businesses, establishments, recreational areas, institutions, and other activities that conform to Rule .002(a)(2) and do not have access to a central collection system. The various types of treatment processes covered by these standards do not have any open discharges to the surface of the ground. Any process which proposes surface discharge should be designed in accordance with the Department of Health-Department of Water Resources' "Design Criteria for Sewerage Systems," and must be operated under a waste control permit issued by the Texas Department of Water Resources.

.002 Design Standards for Septic Tank Systems.

(a) Definition of terms.

(1) Sewage. Any wastewater containing animal or vegetable matter in suspension or solution, including liquids containing chemicals in solution, domestic wastewater, and laundry wastes. (Used interchangeably with the term wastewater.)

(2) Private sewage facilities. Facilities provided to serve only an individual household, multiple unit residential structures, or commercial establishment within a designated area and whose operation and maintenance is the sole responsibility of the household or owner of the establishment's facilities. Such facilities provide for the disposal of treated wastewater by subsoil absorption, evaporation, or evapotranspiration and are not subject to the issuance of wastewater

discharge orders by the Texas Department of Water Resources.

(3) Septic tank. A watertight, covered receptacle designed and constructed to receive the discharge of sewage from a building sewer, separate solids from the liquid, digest organic matter under anaerobic conditions, and store digested solids through a period of detention, and allow the clarified liquids to be disposed of in an acceptable manner.

(4) Sludge. The accumulated settleable solids deposited from sewage and containing more or less water to form a semi-liquid mass.

(5) Scum. A mass of sewage matter which floats on the surface of sewage.

(6) Subsurface sewage disposal system. A system for the disposal of the effluent from a septic tank or other facilities providing for soil absorption, evaporation, or evapotranspiration.

(7) Cesspool. A covered structure having walls with open joints which receives the discharge of raw domestic sewage or other organic wastes and is designed to decompose to a limited degree the organic matter and solids, but permit the liquids to seep through the bottom and sides.

(8) Soil absorption system. Any system that utilizes the soil for subsequent absorption of the treated sewage, such as an absorption trench or absorption bed.

(9) Evapotranspiration system. A subsurface system which utilizes surface evaporation and plant transpiration to permit disposal of effluent from wastewater treatment facilities.

(10) Seepage pit. A covered excavation in the ground which receives septic tank effluent, and is so designed to permit the effluent receiving prior treatment to seep through the bottom and sides of the excavation.

(11) Holding tank. A tank used to receive and store sewage wastes in an anaerobic condition until its ultimate disposal to an approved treatment facility.

(12) Injection well. A hole drilled into permeable soil some distance below ground surface into which raw or treated sewage effluent is discharged.

(13) Bore hole. Same as an injection well.

(b) Design approval for private sewage facilities.

(1) Approval of conventional designs. The construction standards contained herein are promulgated under authority of the Texas Sanitation and Health Protection Law, Article 4477-1, Vernon's Texas Civil Statutes, Sections 23 (b), 24, and 25. In addition, Section 5a of this statute states that the disposal of human excreta in populous areas must be by methods approved by the Texas Department of Health and Section 5b states that effluent from septic tanks shall be disposed of through subsurface drainfields designed in accordance with good public health engineering practice. The following design standards constitute the minimum cri-

teria established and approved by the Texas Department of Health for methods of on-site sewage disposal which are consistent with good public health engineering practice.

(2) Approval of innovative designs. Agencies vested with the responsibility of enforcing septic tank regulations are encouraged to use feasible innovative designs which are not specifically covered in this construction standard. Texas is a large state with many different types of topographical, geological, and climatic conditions. New systems may be conceived in the future to meet requirements demanded by these conditions, and the systems may differ from the specific construction methods outlined in this publication. The use of innovative systems is encouraged, however, to both assist local regulatory agencies in determining the reliability of a new system and protect the public from improperly designed systems; the Texas Department of Health will review and evaluate new systems on an individual basis. Systems found to be designed in accordance with good engineering practice will be approved by the Texas Department of Health.

(3) Approval of proprietary systems. All new systems which deviate significantly from these construction standards should be reviewed and approved by the Texas Department of Health prior to their installation and use. Notice of disapproval by either the Texas Department of Health or the local regulatory authority should prevent such facilities from being installed. Categorical approval of proprietary systems will not be granted by the Texas Department of Health.

(4) Residential lot sizing

(A) General considerations. The failure of a septic tank system may be caused by a large number of circumstances, including inadequate soil percolation, improper construction, design, installation, and misuse. The single most important factor concerning public health problems resulting from these failures is the residential dwelling density which is strictly a function of lot size. The failure of a septic tank system in highly populated areas is the fundamental cause of public health hazards resulting from on-site sewage disposal. Surfacing sewage provides a medium for the transmission of disease and the fact that many people are in the vicinity cause concern over the spreading of disease. Septic tank systems using soil absorption for effluent disposal are more prone to malfunction in high population density situations because the soil available to absorb or evaporate the effluent is limited. The failure of an absorption system on a small lot can be financially disastrous to the owner because the lot may not contain sufficient room to construct a new absorption field in a new location.

(B) Platted subdivisions served by public water supply. Platted subdivisions of single family residences served by a public water supply but utilizing in-

dividual subsurface absorptive methods for sewage disposal should provide for individual lots having surface areas of at least 15,000 square feet.

(C) Platted subdivisions served by individual water systems. In platted subdivisions for single family residences where each lot maintains an individual water supply well and septic tank with a soil absorption system, the plat should show the approved well location and a sanitary zone around the well within a 100-foot radius in which no absorptive-type septic tank system may be constructed. The well should be constructed in accordance with recommendations of the Texas Department of Health guide for private water well construction. A watertight septic tank may be placed closer to the water well than 100 feet, provided the minimum separation stated in Table I is not violated. To minimize the possibility of the transmission of waterborne diseases due to the pollution of the water supplied for domestic use, each lot in a platted subdivision should not contain less area than 20,000 square feet.

(D) Mobile home sites. Mobile homes permanently located on individual lots and individually owned should comply with the recommendations stated in Rule .002(b)(4)(A). Mobile home parks which are owned by an individual and which rent or lease space to transient residences may utilize smaller lots than stated in Rule .002(b)(4)(A) provided an overall sewerage plan is submitted to the appropriate authority for approval, and water is supplied by a public water system. Parks of this type may connect more than one mobile home or trailer to a single septic tank system, provided the system is designed to treat the total anticipated sewage discharge from the connected homes and the sewage facility conforms to Rule .002(a)(2). Any other type of facility which combines more than one dwelling's sewage is not considered to be a private facility and a permit may be required by the Texas Department of Water Resources.

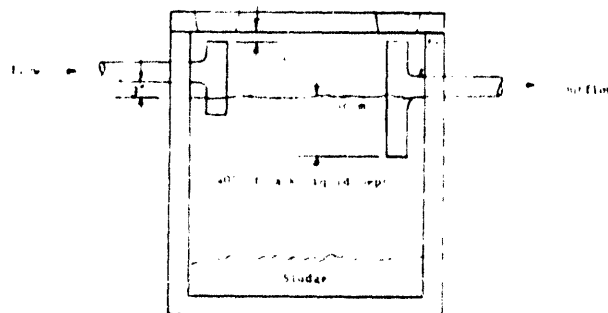
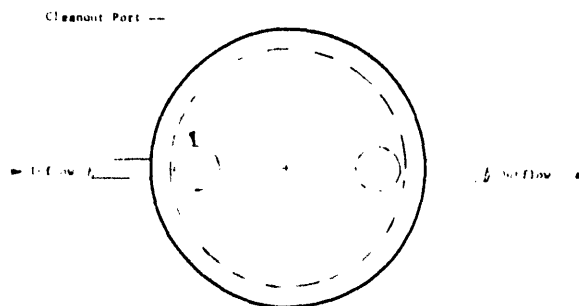
(c) Septic tank design standards—residential.

(1) House sewer. The sewer from the house plumbing system to the septic tank should be constructed of structurally sound pipe such as cast iron, or approved types of plastic pipe. Cast iron or higher strength pipe should always be used under driveways. The pipe from the house to the septic tank should have a minimum inside diameter of not less than three inches and be compatible with the house stub out pipe. The slope of the house sewer should be no less than 1/4 inch fall per foot of pipe. The stub out location should be at the highest possible elevation with respect to the house foundation to prevent deep septic tank systems. The line must be of watertight construction.

(2) Septic tank capacity based on sewage loading. A properly designed septic tank should be watertight and should be of a capacity equal to the flow of

sewage from the facilities being served for a two-day period. The settleable and suspended solids will undergo partial decomposition under anaerobic conditions. As a result of use, the septic tank will accumulate partially decomposed solids, which must be removed periodically. As additional sewage is introduced into the tank, partially clarified effluent is discharged into the subsurface absorption field. It is very important that the septic tank be made large enough to accommodate a two-day sewage loading. The best method of estimating a tank's sewage loading is based upon the number of bedrooms in the house and/or the type of establishment to be served. Table II should be used to determine the required minimum septic tank liquid capacity.

(3) Inlet and outlet devices. To assure rapid drainage of house plumbing, the flow line of the inlet pipe should be three inches higher than the operating tank liquid level which is determined by the flow line of the outlet pipe. Liquid penetration of the inlet device should be at least six inches, but never greater than that of the outlet device. Liquid penetration of the outlet device should be approximately 40 percent of the tank liquid depth. "T" branches are recommended for inlet and outlet devices because they provide a means for venting the gases produced by the decomposition process from the tank and absorption system through the house plumbing. Otherwise, gases may escape from around the lid of the tank and cause an odor nuisance in the vicinity of the septic tank. "T" branches also offer ready access for required maintenance. To prevent the escape of floating solids from the tank to the subsurface disposal field and the possibility of inlet stoppages, the open spaces between the tops of the inlet and outlet devices and the underside of the tank cover should not be greater than two inches. (See Figure 1) In order to provide a good watertight septic tank, the inlet and outlet "T" branches should be installed in a permanent manner at the time the septic tank is constructed. Factory built tanks should have the "T" branches grouted in place before delivery so that the only connections to the tank at the point of installation will be the influent and effluent lines.



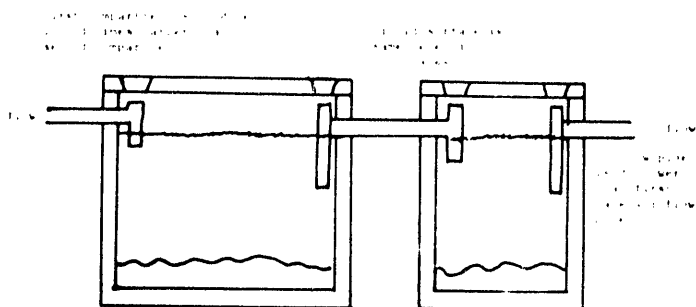
(4) Details of septic tank design. A properly designed single-compartment tank will give acceptable performance. Recent research studies indicate that two tanks in series or a two-compartment tank, with approximately 1/2 to 2/3 of the total volume in the first compartment, will provide an extra degree of solids removal, which is especially valuable under poor soil conditions. The second tank or compartment should have inlet and outlet devices designed the same as for a single-compartment tank, except that the elevation, or flow line, of both inlet and outlet devices in the second unit should be the same as the outlet device in the first unit. (See Figure 2) A port shall be provided to each compartment for inspection, cleaning, and maintenance. Both the inlet and outlet devices should be accessible for inspection and maintenance without having to enter the septic tank. For tanks not buried too deeply, the use of sectional slab covers will conveniently and safely provide the needed access. For tanks buried deeply, manholes with risers are recommended. The septic tank should be of sturdy watertight construction. Materials used may be reinforced concrete poured in place, precast concrete, fiberglass, or other materials approved by the regulatory authority. Metal septic tanks are not recommended because they are extremely subject to corrosion. The septic tank should be structurally designed to resist buckling from external hydraulic loading and exterior loadings caused by earth

Number of Bedrooms	Minimum Liquid Capacity (Gallons)
Two or less	0
Three	1,000
Four	1,250
For each additional	250

Note: The total depth of the tank should not be less than four feet.

Source: U.S. Environmental Protection Agency, Office of Research and Development, EPA-600/3-77-010, Sept. 1977.

fill, garden tractors, or other heavy vehicles. The tanks shall be tested by filling with water 24 hours prior to installation and checking at the time of installation for leaks and structural integrity. Tanks exhibiting obvious deflections or leaks should not be installed. Where concrete tanks are installed, sweating or seepage at construction joints is acceptable, provided the tank structure contains no open cracks or large voids.



(d) Septic tank design—institutions.

(1) General consideration of use of septic tank system. Septic tanks may be used as a means of sewage disposal for nonresidential activities. However, experience indicates that the usefulness of the septic tank system decreases as the size of the establishment served increases. When a septic tank is being considered for service to an activity that will produce more sewage than a single family residence, design guidance should be obtained from a local health department, regulatory agency, or a consultant who is professionally registered as an engineer or sanitarian in Texas.

(2) Sewage loading. The total quantity of sewage applied per day to the septic tank provides the basis for the determination of its size. Table IV, entitled "Individual Usage Rate," will be of assistance in estimating the daily sewage flow per capita for a variety of living and activity situations.

(3) Compartments to be provided. Although single-compartment tanks are acceptable for single-family residences, tanks with two or more compartments should be provided for large institutional systems. The compartments should be separated by walls with tees or ells to permit liquid flow. The flow line of this intermediate fitting should be at the same elevation of the flow line of the outlet fitting, i.e., three inches below the elevation of the flow line of the inlet fitting. The capacity of the first compartment should be least one or two times the capacity of the second compartment.

(4) Selection of septic tank capacity. The net volume or effective capacity below the flow line of a septic tank for flows up to 500 gallons per day should be at

least 750 gallons. For flows between 500 and 1,500 gallons per day, the capacity of the tank should be equal to approximately two days sewage flow. With flows greater than 1,500 gallons per day, the minimum effective tank capacity should equal 1.125 gallons plus 75 percent of the daily sewage flow, or V equals $1,125 + 0.75 Q$, where Q is the average daily flow in gallons per day and V is the tank volume in gallons. For daily flows over 5,000 gallons per day, consideration should be given to other types of treatment units. More technically advanced processes will probably be more economical than the septic tank for flows in excess of 5,000 gallons per day.

TABLE IV
INDIVIDUAL USAGE RATE

This table may be used for estimating gallons of daily sewage flow per person to determine minimum tank capacity requirements.

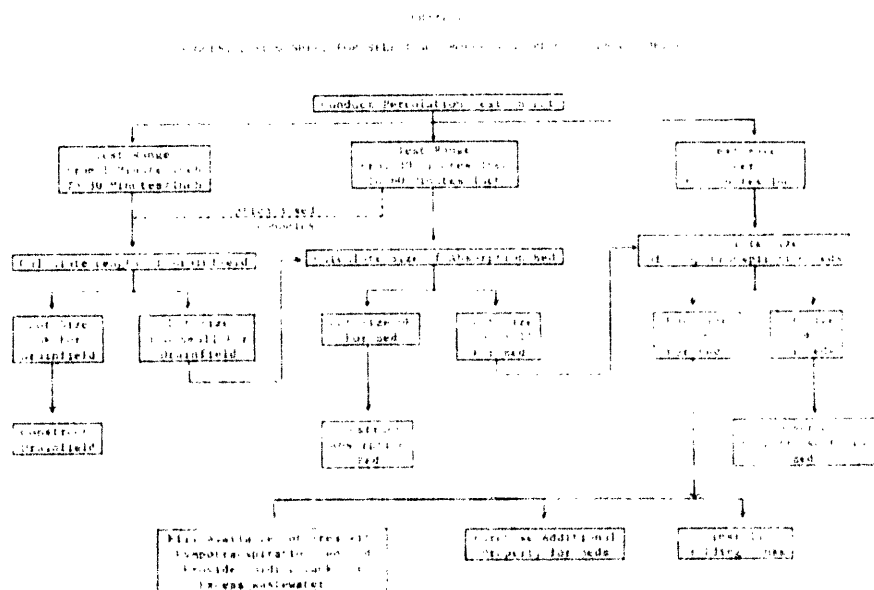
TYPE OF ESTABLISHMENT	GALLONS PER PERSON PER DAY
Apartment houses	75
Colleges (with clothes washers)	100
Hotels and motels	40
Restaurants	15
Driver and bus parks	50
Work or recreation camps (semi-permanent)	30
Youth camps (no meals served)	15
Schools without cafeterias, gymnasiums or showers	15
Schools with cafeterias, but no gymnasiums or showers	20
Schools with cafeterias, gymnasiums and showers	25
Boarding schools	100
Office buildings	25
Hospitals	200
Institutions other than hospitals	100
Factories (gallons per person per shift)	
- production of industrial wastes	20
- none	5
Bars without billiards	10
Bars with billiards	10
Swimming pools and bathhouses	10
Country clubs (per resident member)	100
Country clubs (per non-resident member present)	25
Driver theaters (per car space)	5
Movie theaters (per auditorium seat)	5
Depots (per passenger)	5
Self-service laundries (gallons per wash)	
- 10 per customer	50
Stores (total per day per washroom)	400
Service stations (per vehicle serviced)	10

(e) Selection of proper subsurface disposal method.

(1) In designing a septic tank system, several options concerning subsurface disposal are available. Chart I has been prepared to aid in the selection of the proper system based on lot size, percolation rate, and economic considerations. The chart includes the three systems recommended for subsurface disposal which are drainfields, absorption beds, and evapotranspiration beds. The purpose of the chart is to give the reader a general idea as to the most feasible type of system to construct, taking into consideration lot size, soil absorptive capacity, and volume of soil removed or relocated during construction.

(2) After sizing an appropriate septic tank, the installer should calculate what bottom area will be required for a trench system, an absorption bed system, and an evapotranspiration system. Generally, the system having the least number of square feet of bottom area will be the most economical. In most cases where adequate room is available, a trench system will be the least costly.

(3) In areas where soils have low permeability, it is possible to design a system which combines both soil absorption and evapotranspiration. Such systems are somewhat complicated and will not be discussed in this text; however, additional information is available at the Texas Department of Health Division of Wastewater Technology and Surveillance.



(f) Effluent disposal systems.

(1) Soil absorption system--general considerations. The effluent discharged from a septic tank requires further handling to render it safe from a public health standpoint. A well designed subsurface soil absorption system will allow these liquids to seep into the ground without creating a health hazard or nuisance. After the prospective builder has selected a suitable area and assured himself that safe distances from wells, lakes, etc., can be maintained, he should then determine whether soil formations in the selected area will allow a soil absorption system to work. The single factor of prime importance in the design of a soil absorption system is the percolation rate. The percolation rate determines the amount of drainfield that must be installed to dispose of the septic tank effluent. If the percolation rate falls below the accepted minimum level, another method of sewage disposal must be found. When soil absorption systems are used, there should be no interference from ground water, and the ground water table should be located at least four feet below the bottom of the trench. In the coastal areas of Texas, salt water may occur at depths less than four feet. If the soil above the salt water is shown to have good permeability, an absorption system may be installed and

the above separation requirement disregarded. The design standards for soil absorption systems set forth in this publication are based on the premise that impervious strata are at depths greater than four feet below the bottom of the absorption trench. Conventional soil absorption systems should not be used if either impervious strata or ground water exist at depths less than four feet from the trench or bed bottom.

(2) Absorption field, level terrain.

(A) Absorption field sizing. Where the topography or ground slope is not too steep, a flat or level system of gravel-filled trenches or percolation beds is recommended. The use of a looped trench system will avoid dead ends and assure maximum effective utilizations of all portions of the system. The capacity of any particular absorption system is fixed by the total area of trench or bed bottom built into the system. The amount of this required minimum area will depend upon the expected sewage load and the average soil percolation rate. The soil percolation rate may be determined by performing a percolation test as described in Rule .002(g) of this pamphlet. The trench dimensions may then be calculated from Table V.

TABLE V
 ABSORPTION TRENCH SIZING
 for
 SINGLE FAMILY RESIDENTIAL DWELLINGS

Average Percolation Rate (Minutes/Inch)	Sewage Application Rate, Ra (Gallons/Sq. Ft./Day)	Type of Soil (See Chart II)	Minimum Trench Bottom Area (Sq. Ft.) For 1 One or Two Bedroom House	Minimum Trench Bottom Area For Each Additional Bedroom (Sq. Ft./Bedroom)
< 1	Too Great For Consideration	Gravel	See Evapotranspiration Provisions Paragraph 8-4.1.4.	
1-5	2.0	Sand	750	125
6-15	1.3	Sand-Loam	300	200
16-30	1.0	Sandy Clay	500	250
31-45	0.8	Silty Clay	625	300
46-60	0.6	Clay-Loam	800	400
> 60	N.P.I.	Clay	Absorptive Systems Are Not Recommended	

Minimum trench bottom area is calculated to include capacity for washing machine wastewater, organic material from garbage grinders, and infiltration from average rainfall.

Recommended spacing between parallel trenches is 5 feet. Under no circumstances shall this distance be reduced to less than 4 feet.

When dwellings consist of a single living area relative to the number of designated bedrooms, the following guidelines should be used to approximate the trench area:

- Less than 1,500 sq. ft. - Use trench area for two bedroom house
- 500 sq. ft. to 1,900 sq. ft. - Use trench area for three bedroom house
- For each additional 400 sq. ft. - Add trench area equal to one bedroom

Clay - Smaller than 0.002 mm diameter
 Silt - 0.05 to 0.002 mm diameter
 Sand - 2.0 to 0.05 mm diameter

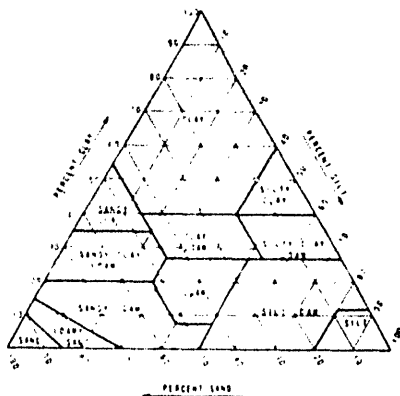
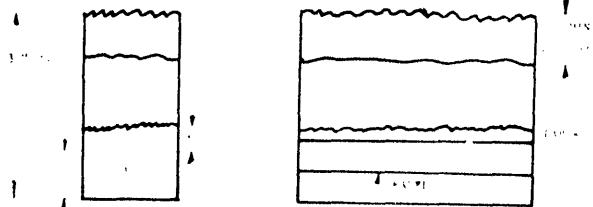


Chart II

Proportions of sand, silt and clay for different soil textures.
 U.S.D.A.

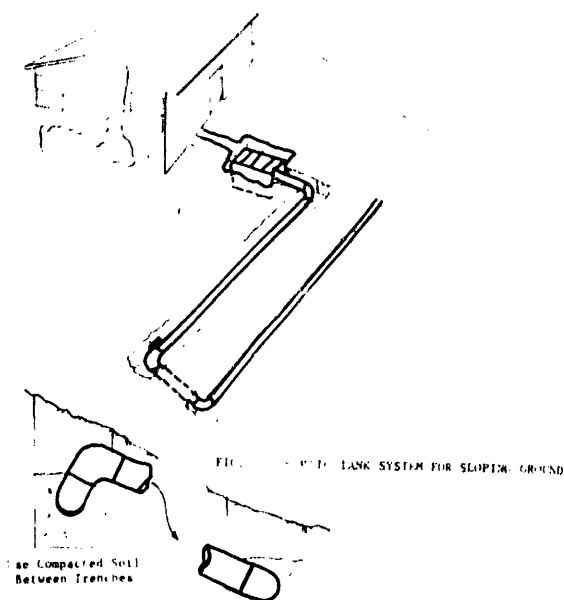
(B) Absorption field construction. All parts of the trench or bed bottom shall be at the same elevation. Trenches should be constructed as shallow as possible with a minimum depth of 18 inches and a maximum depth of 36 inches. For trench depths greater than 24 inches, sand should be used to fill the trench up to the topsoil cover as shown in Figure 4. The trench width should not exceed 30 inches and narrow trenches (12 to 18 inches) are recommended. Although trench length is based on bottom area only, sidewall area is important since much of the wastewater is absorbed through the sidewalls and is evapotranspirated. Minimum recommended spacing between adjacent edges of parallel trenches is approximately five feet. Liquid from the septic tank is conducted to the absorption system via a watertight line similar to the house sewer. The liquid is distributed uniformly through the gravel-filled trenches by the use of a perforated plastic pipe or equivalent materials. It is important that the distribution piping be laid level in the trenches, with a minimum of six inches gravel depth under the pipe and two-inch gravel cover. Thus, a total gravel depth of approximately 12 inches would be required. The trench media may be clean graded gravel, broken vitrified brick, washed rock, crushed stone, or similar aggregate, and may range in size from 1.5 inches to 2.5 inches. Oyster shell, other types of shell, and soft limestone are not recommended for trench media because cementitious properties of this type of material often result in early trench failure. The distribution pipe should consist of plastic perforated pipe or equivalent materials with an SDR ratio (ratio of pipe thickness of diameter) no greater than 41. Normally, four-inch diameter pipe is used for drainfield construction, however the diameter may range from three inches to six inches and yield satisfactory results. Jointed tile is not recommended for use because of the difficulty in maintaining joint spacing and keeping the line level. A covering of straw, butcher paper, or similar decomposable material over the top of the gravel is also recommended to prevent the soil or sand backfill from invading the gravel until the backfill becomes stabilized. Tar paper or other impervious material should not be used under any circumstances. The pipe selected for drainfield construction should have sufficient strength to resist crushing from external loadings, such as automobiles, yard tractors, and earth-moving equipment. In no case shall bituminous fiberboard or paper pipe (Orangeburg or similar designations) be used anywhere in the septic tank system. Poor construction practices will cause serious damage to the soil absorption system. It is extremely important that care be taken to avoid sealing the surface of the bottom and sides of the absorption trenches through smearing. Trenches or beds should not be excavated when the soil is sufficiently wet so as

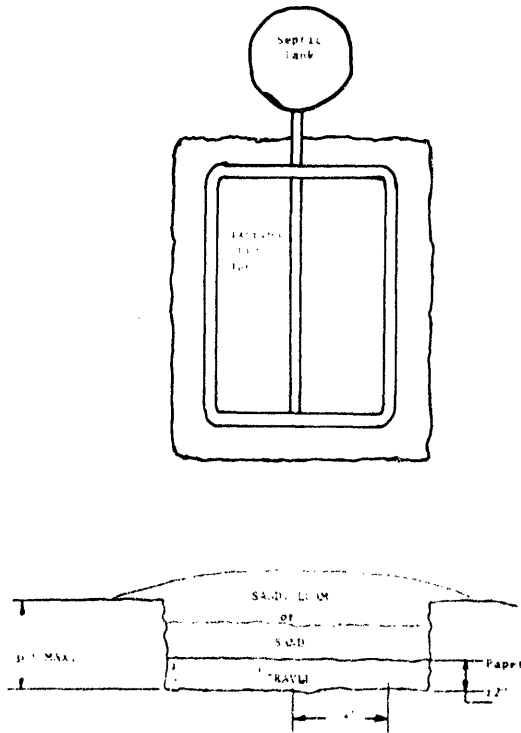
to smear or compact easily. All smeared or compacted surfaces occurring during construction should be raked to a depth of one inch and loose material removed just before the gravel or other media is placed.



(3) Absorption field, irregular terrain.

(A) Absorption trenches. Where the topography or ground slope is too steep for feasible construction of a closed-loop trench system, the following alternate layout may be used. A single, level trench, constructed like the closed-loop trench, is built along a contour, and the overflow from this line is conducted via a watertight line through undisturbed soil to the next lower level, where a second trench can be built along a contour similar to the upper trench. The pattern can be repeated until the required minimum trench bottom area has been provided. It is recommended that no individual trench exceed 100 feet in length. This technique is graphically illustrated in Figure 5. Other details of trench construction described in Rule .002(f)(1) and shown in Figure 4 should be followed.





(B) Soil absorption beds. In addition to the trench-type absorption field, an absorption bed, as detailed in Figure 6, may be used in areas where the combination of soil percolation and lot size precludes the use of a trench-type system with minimum spacing between trenches. While absorption beds require more bottom area than trenches, they tend to be most compact since five feet of spacing is required between trenches. The bed shall be constructed with a depth ranging from 18 inches to 36 inches. The bed should be kept as shallow as possible (18 minimum depth) to promote aerobic bacterial action in the soil, and the bottom of the bed should be level for uniform wastewater distribution. Six inches of 1.5 inch to 2.5-inch media (gravel, crushed stone, etc.) shall be placed on the bed bottom followed by two or more distribution pipes spaced three to four feet apart and three feet from the edge of the bed. The distributor pipe is then covered with additional gravel to a depth of approximately two inches. Since the pipe is approximately four inches in diameter, the total depth of gravel in the bed will be 12 inches. The gravel should be covered with a decomposable material, such as butcher paper, to prevent the final soil layer from invading the gravel and reducing porosity. The next soil layer should consist of sand, sandy loam, or a mixture of the two. If clay, rock, or other semi-impervious material is excavated from the bed, it

should be removed and under no circumstances be used to backfill the bed. Sand or sandy loam will provide a capillary medium to help eliminate some of the wastewater through evapotranspiration Rule .002(f)(4). The bed should be filled to within three inches from the top with sand or sandy loam and mounded with sandy loam so that the center of the bed is approximately four inches above normal ground elevation. This will provide drainage away from the absorption bed.

(C) Absorption bed sizing. When this system is used, the absorption bed area may be calculated using the following formula:

(i) For dwellings: A equals $300 (1 + B)$ divided by R_a , where A equals the total absorption bed area; B equals the total number of bedrooms in the dwelling; and R_a equals the sewage application rate for absorption trenches (gallon square feet/day) based on percolation rate. (See Table V)

(ii) For non-residential institutions: A equals $3Q$ divided by R_a , where Q equals the daily wastewater discharge from institution (gallon/day).

(4) Evapotranspiration beds.

(A) Use of evapotranspiration beds. Evapotranspiration bed systems may be used in locations where soil conditions are not suitable for any type of soil absorption system. The construction of an evapotranspiration bed is similar to an absorptive system except two beds are required with a control valve to divert wastewater from one bed to the other.

(B) Evapotranspiration bed construction features. Beds are constructed in impervious soil or soil with very high absorptive capacity. When the soil has a very high absorptive capacity (less than one minute/inch), liners must be constructed to guard against the possibility of wastewater discharging through the soil (fissured rock or gravel) and contaminating streams, lakes, or shallow ground water. Impervious liners may consist of concrete, hot, mopped asphaltic membrane, plastic reservoir liners, or other approved pit-lining materials. Liners are not required in impervious soils and should not be used since some of the wastewater may be absorbed in the soil and reduce the overall evapotranspiration load. An evapotranspiration system should be designed using the following parameters:

(i) Beds may be designed in any configuration (square, round, etc.), but the total number of square feet of bed area must be determined by the formula in Rule .002(f)(4)(C).

(ii) At least two beds must be constructed with valves arranged to allow the effluent from a septic tank to alternate between each bed. When one bed becomes saturated (top of bed remains moist), the valve is opened to allow effluent to flow into the alternate bed.

(iii) The beds should be constructed as shallow as possible with a depth ranging from 18 inches to a maximum of 24 inches. This is necessary to keep the beds aerobic and to prevent clogging.

(iv) Rock media is placed on the bed bottom to a depth of 12 inches (if a liner is used which is subject to puncture, sand should be placed on both sides of the liner).

(v) The distribution pipe is centered in the 12-inch rock media and adequate pipe must be provided for uniform distribution of effluent (four feet separation between pipes maximum and no less than three feet separation between bed walls and the pipe). The bed bottoms and the pipe must be level.

(vi) A decomposable barrier (butcher paper or other nontreated paper) is then placed over the rock, and sand is added to fill the bed to within two inches from the top.

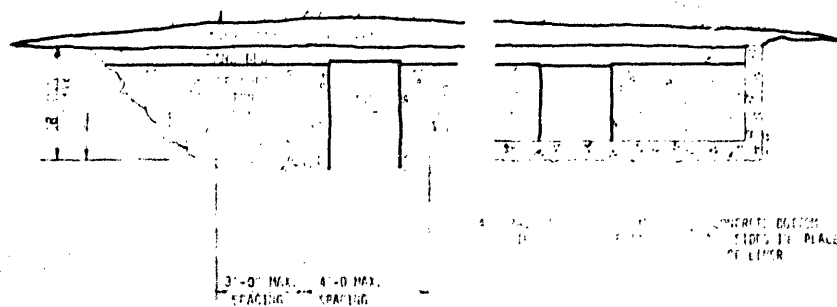
(vii) In order to provide continuous capillary action in the sand, "wicks" should be incorporated in the rock media. Wicks are simply sand structures which penetrate through the rock media to the bottom of the bed (See Figure 7). The total wick area should be

10 to 15 percent of the bed area and should be uniformly spaced throughout the bed. Wicks may also be constructed by simply grading furrows in the rock media in between the distribution pipe. In areas of the state where rock media is expensive or difficult to obtain, the total amount of rock may be reduced by filling the initial 12 inches of the bed with coarse sand (2.0 mm) and placing rock media only around the top and bottom of the distribution pipe to form a 12- to 18-inch enclosure.

(viii) After the sand is in place, the final two inches of bed volume is filled with topsoil and mounded so that the center of the bed is at least eight inches higher than the edge.

(ix) Final bed construction consists of covering the surface of the bed with grasses having good transpiration properties.

(C) Bed sizing. The bed area may be calculated by using the following formula: A equals 31,000 (1 plus B) divided by Ea, where A equals the total area of both beds (To find one bed area, divide A by two); B equals the total number of bedrooms (B equals two for minimum residence); and Ea equals the local pan evaporation rate in inches/year.



- NOTES:
1. Where a liner is used over rock or other material that may damage plants, the liner shall be laid on a 4\" protection sand cushion, and covered by a similar cushion.
 2. The crushed stone or gravel bed should be 12\" of 1-1/2\" - 2-1/2\" size bed stone.
 3. Sand columns, formed by a porous barrier, should extend completely through the crushed stone or gravel bed. Total wick area should be 10 to 15% of the bed area.
 4. The surface should be mounded or slanted to drain storm water.

FIG. 7. TYPICAL EVAPORATION BED, CROSS SECTION

For non-residential institutions: A equals 310Q divided by Ea, where Q equals the average daily flow into the system (gallons/day). See Table IV.

Evaporation data for various sections of the state are listed in Table VI. Additional data may be found in Report 192, published by the Texas Department of Water Resources.

(D) Plants and grasses for transpiration. The bed surface should be covered with perennial grasses to take advantage of transpiration. Also, evergreen bushes can be planted in the bed to assist in water uptake. If grasses are used which have dormant periods, steps should be taken to provide some type of vegetation on the beds during these periods. Overseed-

ing with winter grasses is commonly used to provide year-round transpiration.

(E) Geographical location of installation considering rainfall data. Some areas of the state with high annual rainfall are not well suited for the installation of evapotranspiration systems. Counties in the eastern part of the state in which the annual rainfall exceeds the annual evapotranspiration should only utilize this type of system as a last resort and with extreme caution. For the system to be expected to perform in the desired manner, the evapotranspiration beds must be mounded and compacted to exclude as much rainfall as possible. Also, shrubs, bushes, and trees with broad rain-deflecting leaves should be planted over the beds, and good drainage away from the beds must be provided, and in some areas where high water tables exist, the beds should be lined to exclude ground water.

Soil Group	Moisture	
	1	2
Very Dry	1	2
Dry	1	2
Moist	1	2
Very Moist	1	2
Saturated	1	2

(g) Percolation test procedures.

(1) Location and number of tests. A minimum of two test holes will be required with the holes uniformly spaced over the proposed absorption field site. The actual number of holes required for an individual soil evaluation should be determined experimentally in accordance with the following procedures.

(A) If the percolation rate results of both test holes fall in the same group as shown in Column One in Table V, no additional holes will be necessary and the absorption field may be designed on the average of the results.

(B) If the percolation rate results fall in adjacent groups, the absorption field may be designed using the test results from the hole with the lowest percolation rate or one additional hole may be dug, tested, and all three results averaged.

(C) If the percolation rate results fall in non-adjacent groups, the absorption field may be designed using the test results from the hole with the lowest percolation rate or two additional holes may be dug, tested, and all four results averaged.

(D) In lieu of the above procedure, four holes may be dug and tested and the results averaged at the same time to reduce the amount of time required to conduct the test.

(2) Type of test hole. Dig or bore a hole with horizontal dimensions of from 12 to 15 inches and vertical sides to the depth of the proposed absorption trench. Smaller diameter holes will not yield accurate results.

(3) Preparation of test holes. Carefully scratch the bottom and sides of the hole with a knife blade or sharp-pointed instrument in order to remove any smeared soil surfaces and to provide a natural soil interface into which water may percolate. Remove all loose material from the hole and carefully place approximately one inch of coarse sand or gravel in the bottom of the hole to protect the bottom from scouring.

(4) Saturation and swelling of the soil. It is important to distinguish between saturation and swelling. Saturation means that the void spaces between soil particles are full of water. This can be accomplished in a short period of time. Swelling is caused by intrusion of water into the individual soil particles. This is a slow process, especially in clay-type soil, and is the reason for requiring a prolonged soaking period.

(5) Filling of test holes. In the conduct of the test, carefully fill the hole with clear water to a minimum depth of 12 inches. In most soils, it is necessary to refill the hole by supplying a surplus reservoir of water manually or by means of an automatic siphon, to keep water in the hole until saturation occurs (approximately 24 hours). Determine the percolation rate 24 hours after water is first added to the hole. This procedure is to insure that the soil is given ample opportunity to swell and to approach the condition it will be in during the wettest season of the year. Thus, the test will give comparable results in the same soil, whether made in a dry or wet season. In sandy soils containing little or no clay, the swelling procedure is not essential, and the test may be made as described under Rule .002(g)(7) after the water from one filling of the hole has completely seeped away.

(6) Percolation rate measurement. With the exception of sandy soils, percolation rate measurements shall be made on the day following the procedure described under Rule .002(g)(5) above. If water remains in the test hole after the overnight swelling period, adjust the depth to approximately 12 inches from the bottom. From a fixed reference point, measure the drop in water level over a 30-minute period. This drop is used to calculate the percolation rate. If no water remains in the hole after the over-

night swelling period, add clear water to bring the depth of water in the hole to approximately 12 inches from the bottom, wait 30 minutes, refill the hole to a 12-inch depth and measure the drop in water level over an additional 30-minute interval to determine the percolation rate.

(7) Percolation rate measurement (sandy soils). In sandy soils (or other soils in which the first six inches of water seeps away in less than 30 minutes, after the overnight swelling period), the hole should be filled to a depth of six inches and that depth maintained by adding water for 30 minutes. After 30 minutes, the drop in water level should be measured over an additional 10-minute period and the percolation rate calculated from this measurement.

(h) Septic tank maintenance

(1) A septic tank system should not be treated as if it were a city sewer. Economy in the use of water helps prevent overloading of a septic tank system that could shorten its life and necessitate expensive repairs. Leaky faucets and running commodes should be carefully guarded against, and relatively little indigestible waste or garbage should be placed in a septic tank system. Use of a garbage grinder can cause a rapid buildup of sludge or scum, which means more frequent cleaning and possible system failure.

(2) A septic tank system can serve a home satisfactorily only if it is properly designed, installed, and adequately maintained. When a septic tank system is improperly designed or maintained, liquid wastes may overflow onto the ground surface or the plumbing in the home may become stopped up. These overflows not only create offensive odors, but are also a health hazard. Sewage may contain dysentery, infectious hepatitis, typhoid, and paratyphoid or other infectious disease organisms. Pounded sewage creates breeding places for mosquitoes and some other insects.

(3) The purpose of a septic tank is to condition household wastes, including body waste, discarded food scraps, and in some cases, laundry and bath wastes so that it may be more readily percolated into the subsoil. The normal use of bleaches, detergents, soaps, and drain cleaners does not harm or interfere with the operation of the system.

(4) The partially treated sewage effluent flowing from the tank still contains large numbers of harmful bacteria and organic matter in a finely divided state or in solution. Foul odors, unsightly conditions, and health hazards will develop if this effluent is ponded on the surface of the ground or carried away in open ditches. Final disposal of the effluent in a subsurface soil absorption system is necessary to avoid these problems.

(5) The bacteria present in a tank are able to thrive in the absence of oxygen. Such decomposition in the absence of air is called "septic," which led to the

naming of the tank. Solids and scum are digested and reduced to a smaller volume by the bacteria in the tank. However, a residue of inert solid material remains which must be stored during the interval between tank cleanings.

(6) The frequency of cleaning depends on the size of the septic tank and the number of people it serves. When a garbage grinder is used, more frequent cleaning will be required. With ordinary use and care, a septic tank may require cleaning every two or three years. In many cases, septic tanks can be satisfactorily operated even longer. The homeowner can make measurements and decide for himself when his tank needs cleaning. An annual check is the best procedure. When the bottom of the scum is within three inches of the bottom of the outlet device or the top of the sludge is within 12 inches of the outlet bottom, the tank should be cleaned. The accumulated solids are ordinarily pumped out by commercial septic tank cleaner companies. The solids removed should be disposed of in a manner approved by the Texas Department of Health to avoid obnoxious odors and health hazards.

(1) On-site aerobic sewage treatment plants for individual residences. In recent years, a number of home aerobic wastewater disposal systems have been designed and marketed for the on-site treatment of sewage. The following information is a joint Texas Department of Water Resources - Texas Department of Health statement concerning the installation and use of on-site sewage treatment plants for individual dwellings.

(1) The installation and use of individual wastewater disposal units other than septic systems is most opposed by the Texas Department of Health or the Texas Department of Water Resources.

(2) Subject to the requirements of the local government or local health department, and with their permission, a home owner may select to use an aerobic individual home wastewater disposal system.

(3) The effluent from an individual home aerobic wastewater disposal unit must be discharged into a properly designed and constructed soil absorption or evapotranspiration system. No discharges to the ground surface or into the waters of the state are authorized.

(4) As a practical matter, companies distributing aerobic individual home waste disposal systems should provide an inspection and repair service since the homeowner, in most instances, will not be in a position to judge whether the device is working as designed. Local governments, in determining whether to approve any type of individual home waste disposal system, may wish to give consideration to the ability of the distributor to service the installation.

(5) The principle structure or containing vessel of an individual home wastewater disposal unit should

be designed to provide treatment to incoming sewage in the event of failure of mechanical and electrical devices. Since anaerobic conditions will prevail when aeration equipment is inoperable, the unit should be designed to function in a septic-tank like manner during periods when the aerating device is not functioning.

(6) There are numerous manufacturers of individual home wastewater treatment systems with varying design and construction details. To the extent of available information, inquiries on individual systems from local governments or individuals will be answered by the Texas Department of Health. Local governments interested in authorizing individual home aerobic wastewater disposal systems are advised of the testing and approval program of the National Sanitation Foundation. The N.S.F. seal on a particular unit indicates its ability to meet the requirements of the foundation's Standard 40 relating to "Individual Aerobic Wastewater Treatment Plants."

003. Common Unsatisfactory On-Site Disposal Systems. The construction and use of these systems constitutes a violation of the Texas Sanitation and Health Protection Law, Article 4477-1, Vernon's Texas Civil Statutes, Sections 23(b), 24, and 25. The department considers the following on-site sewage disposal systems unsatisfactory because they tend to create nuisances and other conditions prejudicial to the public health:

(a) Cesspools. Cesspools were once commonly used in rural areas for disposal of domestic wastes. Cesspool design consisted of constructing a pit into permeable soil and curbing the sides of the pit with open jointed material to the bottom of the pit. Raw sewage was discharged directly into the cesspool and the organic matter anaerobically decomposed while the partially treated wastewater was absorbed by the adjacent permeable soil. Since the threat of injury of public health is greater when raw or partially treated wastewater is in direct contact with the absorptive soil, this method can no longer be considered as an approved means of sewage disposal.

(b) Bore holes and injection wells.

(1) Bore holes and injection wells used for disposal of domestic wastes generally consist of a drilled hole greater than four feet in depth and varying in diameter from eight inches to 36 inches or larger. Usually, the holes are filled with crushed stone and are dug to a depth which intercepts a permeable soil layer. Raw sewage is discharged into these holes directly or after detention in a septic tank.

(2) The use of bore holes or injection wells for domestic sewage disposal is not an approved disposal method because of the possibility of contamination of underground water. Injection wells approved and permitted by the Texas Department of Water Resources are acceptable to the Texas Department of Health. In-

jection wells used for private sewage disposal as defined in Rule .002(a)(12) are not subject to regulation by the Texas Department of Water Resources or the Federal Safe Drinking Water Act, however, their use will not generally be subject to approval by the Texas Department of Health. Variations of bore hole design such as soil substitution methods may be approved as stated in Rule .002(b)(29) of these standards.

(c) Seepage pits.

(1) Seepage pits are rock-filled or lined pits dug to a depth in excess of four feet and located at the end of a septic tank absorption field system. The pits are generally used to dispose of wastewater which would normally not be absorbed in the absorption field and would otherwise surface.

(2) Seepage pits are not an approved method of wastewater disposal for the same reasons that apply to bore holes and injection wells. Subsurface water contamination may occur with these systems and the anaerobic bacteria present in the wastewater may eventually cause plugging problems in the seepage pit.

Issued in Austin, Texas, on December 12, 1977.

Doc No 777167 Raymond T. Moore, M.D.
Deputy Commissioner
Texas Department of Health

Effective Date January 7, 1978

For further information please call (512) 458-7293

Texas Department of Human Resources

Child Welfare Services

Foster Care Placement Services 326.50.74

These rules have been approved by the Texas Board of Human Resources and are adopted under the authority of Texas Civil Statutes, Articles 695a and 695c.

.005. Foster Care Placement Services. The department must find appropriate foster care placement for children who cannot be provided adequate care in their own homes and for whom the department has the legal right to provide care. Foster care is 24-hour care provided for a child outside his home in a foster family home, foster group home, or child-caring institution while the child's parents are unable to care for him.

.006. Certification of DHR as a Child-Placing Agency (24-Hour Care and Adoption). The Texas Department of Human Resources' protective services program, as a state agency operating a child placement program, must be certified as a 24-hour care and adoption child-

placing agency by the Licensing Division. Each region must also be certified as a 24-hour care and adoption child-placing agency. Certification as a child-placing agency is valid for two years from the date of issuance.

007. Choosing the Foster Care Facility.

(a) Selection of a facility should be based on:

(1) The child's individual needs as determined in the foster care intake study

(2) Foster care service plan.

(3) Location of the facility. Children should be placed in foster care facilities as close to the placing unit and the child's own family as possible unless there is a clear and compelling reason that they should be placed at a distance from their own families. When indicated, children may be placed outside the county of conservatorship and out of state

(b) The following types of facilities may be used for DHR foster care placements:

(1) DHR foster family homes.

(2) DHR foster group homes

(3) Foster family or group homes certified by a child-placing agency which is licensed by the Licensing Division, approved for participation in the department's child-placing program, and on the approved department list.

(4) Independent foster family or foster group homes which are licensed by the Licensing Division, approved for participation in the department's child-placing program, and on the approved department list.

(5) Private, nonprofit child care institutions licensed by the Licensing Division and approved for participation in the department's child-placing program.

(6) Public child-care institutions certified by the Licensing Division

(7) State hospitals or institutions for the care of children who are physically, mentally, or emotionally handicapped.

(8) Private nursing care facilities which are licensed by the Texas Department of Health as intermediate care facilities for the mentally retarded.

(9) Judicially connected emergency or group facilities which are exempted from licensure by law.

(c) The supervisor must approve the choice of the foster care facility for the child. If the supervisor does not have a master's degree in social work and two years child-placing experience, a staff member with these qualifications must review the placement plan. Except in emergency placements, the review must be completed before the child is placed.

008. Court-Ordered Placements in Unlicensed Facilities

(a) To comply with the region's child-placing agency license requirements, the department must approve or select the facility for a child's placement. DHR cannot accept a child for placement in a particular

home or institution which the department cannot approve, unless the department is ordered by the court to make the placement and failure to comply would constitute contempt of court. When courts request or order the department to place a child in a facility the department cannot approve, the region must inform the court in writing of its objections to the placement, its licensing limitations, and recommend alternatives

(b) If the court persists in its order, the region should place the child and immediately notify the Licensing Division and the assistant commissioner for Social Services of the situation.

009. Procedures for Certification of DHR Foster Family Homes

(a) Prospective foster parents must complete an Application to Provide DHR Foster Care. Applications are processed through means of a home study

(b) The home study consists of at least three interviews during which the applicants and worker share information. The interviews must include at least one home visit and any other combination of home and office contacts, individual or group. Everyone living in the home must participate in the study and or be given the opportunity to say how they feel about having foster children in the home. The study must be recorded in narrative form. It may be summarized, but must include documentation that all Minimum Standards for Agency Foster Family Homes are met.

(c) Content of study-evaluation. The study includes, but is not limited to, discussion of the following subject areas:

(1) Minimum standards for agency foster family homes. A copy of the standards must be given to the applicants. Applicants must understand their responsibility to maintain all standards throughout the period the home is certified. Copies of reports required by the Minimum Standards for Child-Placing Agencies must be included in the foster home record as part of the home study

(2) Goals, objectives, and special characteristics of foster family services

(3) Foster parenting abilities.

(4) General health information on all family members. A complete medical examination should be requested if there is indication of any family member having health problems which would interfere with the care of a foster child. A tuberculosis test is required for all family members and employees.

(5) Pictures of family members, the home, and any family pets may be obtained for the case record.

(d) References. At least three nonrelative references must be obtained for the foster family and any employee involved in child care. An employee of DHR may not be used as a personal reference. The foster home record must contain narrative statements of reference or letters of reference.

(e) Required reports:

- (1) fire inspection;
- (2) health inspection;
- (3) food handlers' care.

(f) Special considerations in foster home studies:

(1) AFDC recipients may be certified as foster parents if they meet all licensing requirements and can otherwise meet the needs of a foster child.

(2) Families living in mobile homes or apartments may be certified if the home passes health and fire inspections and meets other minimum standards.

(3) Couples living in common-law relationship may be accepted as foster parent applicants if the common-law marriage has been recorded by civil registration.

(4) Single persons may be accepted as foster parent applicants if they have suitable child care arrangements and can meet the needs of the type child they are requesting.

(5) DHR employees may not be certified as foster parents because of the possibility of conflict of interest. However, an exception may be made if:

(A) there is a need for foster parents in the employee's community, and

(B) there is a shortage of homes for the type child the employee is requesting, and

(C) the employee is not working in child welfare services, i.e., protective services, foster care services, adoption, or licensing.

(6) Request for records. Criminal records may be requested from the Department of Public Safety and in some cases are available from local sheriffs' offices or police departments. The request should specify that it is needed in connection with a foster home study.

(7) When a foster family moves. Approval of DHR foster family home applies only to the location at the time of the application and study. If the family moves, the supervisor may give temporary approval of the home at the new location. This approval must be documented in the foster home record and is only valid for six months after the date it is given. The home must meet all licensing standards at the new location within six months, or be closed. Temporary certification is applicable only to those families who have children in care when they move. When temporary approval is granted an agency home, the Agency Home Confirmation form must reflect an expiration date not to exceed six months from the date of issuance.

(g) Before certification, home studies must be reviewed by the supervisor who has been designated to approve foster homes. Where staff is available, home studies should be reviewed before certification by a staff member with an MSW degree and two years child-placing experience.

.010. Rejection of Applications and Right to Appeal. Compliance with minimum licensing standards does

not ensure certification of a home or placement of a child. Certification and placement are based on the worker and supervisor's assessment that the applicant can offer adequate care to a child the department is responsible for placing. The decision must be discussed with the applicant. The licensing does not provide the right to appeal these decisions. However, applicants may request clarification or reconsideration. Such requests must be reviewed by the program director or his designee and a final decision and explanation must be given in writing. When appropriate, applicants may be referred to other child-placing agencies. The same procedure applies when the decision is made to discontinue use of a foster home.

.011. Recertification. Before recertification, the staff person must prepare a re-evaluation summary for the foster home record. This must contain documentation that all minimum standards are met, a summary of the agency's use of the home and the current situation in the home, any community complaints, and recommendation for future use of the home.

.012. Preplacement Services to the Foster Parents.

(a) Before the placement, staff must discuss with the foster parents pertinent information about the child to enable them to decide whether this is a child they can serve. This information includes:

(1) a description of the child's personality, his physical, mental, and emotional functioning, and his current routine and habits;

(2) social, medical, psychological, and school history that relate to the child's needs and plans for care;

(3) what the child will bring with him, such as clothing, toys, personal items, and their meaning to him;

(4) negatives and positives of the child's situation as they pertain to the proposed placement;

(5) information about what legal action has been taken or is pending;

(6) any income or financial assistance for which the child is eligible;

(7) reasons for placement;

(8) anticipated parental involvement;

(9) any medical benefits to which the child is entitled and the procedure for getting necessary medical and dental care.

(b) Information about the family which will not have a bearing on the placement should not be discussed with the foster parents. The case record must never be given to the foster parents to read.

(c) The worker must plan with the foster parents for the child to make a preplacement visit to the home if it appears this would be a suitable placement.

.013. On-Going Services to Foster Families.

(a) The protective services unit which certifies a foster home is responsible for supervision and providing support services to the foster family. To meet licensing standards, this must include a minimum of one home visit every three months. The quarterly home visit and other information on the family must be recorded in the narrative of the foster home record. Each placement and removal of a child in a foster home must be recorded and must be filed in the foster home record. Information in the foster home record is used to evaluate the care given to foster children to decide whether to continue using the home.

(b) The following principles and standards apply to work with foster parents:

(1) The foster family is responsible for daily care and nurture of the child.

(2) The worker must share social, medical, psychological, and school history information about the child's needs for care and management with foster parents.

(3) The foster family has a responsibility to keep the worker informed about how the child is adjusting in the home, school, and community and of any health problems or other problems that arise. Department consent must be obtained for specific activities involving foster children as required by licensing standards. Accidents or serious occurrences involving the foster child must be reported immediately to the department and documented in the child's record. Foster care workers will report accidents or serious occurrences to the Licensing Division.

(4) During placement, the department must help the foster family cope with problems presented by the child which are affecting relationships within the foster home.

(5) The department is responsible for evaluating if the child's physical and emotional needs are being met, for getting or making it easy to use necessary resources, and for future planning for the child.

(6) The foster child and foster family must be adequately prepared before each placement.

(7) When the department decides to remove a child from the foster home, the foster child and foster parents must be given:

(A) the reasons for removal and future plans for the child;

(B) as much time as possible to prepare for the move;

(C) adequate preparation for the child's leaving;

(D) the department must discuss with the family plans for future use of their home.

(8) When the foster family requests removal of a child, the family must give a minimum of two weeks' notice to allow the department time for making other

plans for the child. The foster family must help prepare the child for the move.

(9) The department is responsible for decisions about who can visit, telephone, or write the child. The worker and foster parents must mutually decide whether parents and/or relatives can visit the child in the foster home. This decision will be made on what will be in the best interest of the child, and if the parent (and/or relative) and foster parent can make the visit a positive experience for the child.

(10) Reports of abuse or neglect by foster parents are to be investigated.

(11) Each foster parent is required to have 15 hours training annually. The department will assist foster parents in obtaining training. Training must be documented in the foster home record.

(12) Foster children may be adopted by foster parents when it is in the best interest of the child.

(13) Children's workers must regularly contact the foster parents to carry out the department's legal and professional responsibility for the foster children.

.014. Civil Liability of Foster Parents. Under certain conditions, a suit may be brought against the foster parents, and the court may find that the foster parents are liable for damages to person or property.

(a) Injury to or death of a foster child. If a foster child is injured due to negligence by foster parents, suit for damages may be brought on behalf of the child by an adult appointed by the court to represent the child as "next friend." This may be any adult, including the biological parent (whether or not parental rights have been terminated). Any damage that may be awarded by the court for the injuries to the child would be awarded to the child, not the "next friend." If the foster child dies because of the negligence of the foster parents, a wrongful death action could be brought only by the child's biological parents. If parental rights have been terminated, no wrongful death action can be brought. In both these instances, negligence on the part of foster parents must be established before the court could award damages.

(b) Damage to property or injury to another person caused by a foster child. Minors who damage property or injure another are personally liable for these acts. However, if the acts were expressly authorized by the foster parents, the foster parents could also be held liable.

.015. Foster Group Home Care.

(a) A foster child under five years of age must not be cared for in a foster group home unless necessary for the child's own needs, such as keeping siblings together.

(b) The following types of group homes may be used for DHR placements:

(1) Private families who are certified as DHR foster group homes.

(2) Independent foster group homes.

(3) Group homes owned or sponsored by private corporations who enter into a contract with the department to operate the home

(4) Group homes operated by other child-placing agencies or by child caring institutions.

.016 Procedure for Licensing Agency Foster Group Homes Each DHR foster group home must be studied by social services and a certificate issued by the Licensing Division before children are placed in the home. This process is different from agency foster family homes in that home studies must be reviewed and approved by the Licensing Division before the group home is certified. The certificate is issued by the Licensing Division, not the child-placing agency. The procedure for studying and licensing the home is as follows:

(a) An Application to Provide DHR Foster Care is submitted by group home parents and is used as a face sheet in the group home record.

(b) Home study. The purpose, method, and content of the home study is similar to the home study for foster family homes. Discussion may be directed toward meeting the needs of the kinds of children being requested and the special abilities required of foster group home parents. Compliance with Part I, Minimum Standards for Foster Group Homes, shall be documented in the home study. An agreement form must be completed with the group home foster parents or administrator or representative of a group responsible for the home.

(c) Required reports. Checklists for fire and health inspections may not be used for foster group homes.

(1) Fire inspections must be obtained at the time of initial licensing and annually thereafter.

(2) A health and sanitation inspection must be obtained annually.

(3) All gas pipes must have a pressure test annually.

(4) A Railroad Commission inspection is required for LP gas.

(5) Food handlers' card is required by state law for all persons who handle food for the public. A health certificate must be signed by a licensed physician within the previous 12 month period. This law applies to group foster parents and staff of foster group homes.

(d) The social services worker's written study of the home must be approved by the designated supervisor where staff is available. It should be reviewed by a staff member with an MSW degree and two years child-placing experience. After approval and review, it is submitted to the institutional licensing representative officed in that region.

(e) The institutional licensing representative reviews the social services home study and makes an on-site visit to the foster group home. If all standards

are met, the institutional licensing representative forwards the necessary information and a recommendation about issuance of a license, to the Licensing Division, State Office, to be acted upon as any other licensing study. If approved, the group home receives a license from the Licensing Division. After approval, a Foster Family Placement Register must be completed. The institutional licensing representative makes at least one follow up visit per year after licensing.

(f) Recertification. Foster group homes must be recertified at least once every two years. The social services worker prepares a current study and submits it with the appropriate forms to the institutional licensing representative.

(g) Closure. Involuntary. Social services staff has responsibility for notifying a DHR foster group home that the agency will no longer be able to use the home and the reason. The institutional licensing representative must be notified of any action taken to involuntarily close or discontinue use of the facility. When the group home is officially closed, a Child Welfare Foster Home and Homemaker Service report must be prepared and processed by social services staff as stated for voluntary withdrawals.

.017 Services to Foster Group Homes

(a) Preplacement services to the foster group home must be given.

(b) On going services to the foster group home must be given.

(c) The civil liability of agency foster group home parents is the same as that for other agency foster parents.

.018 Foster Group Homes for Adolescents.

(a) A foster group home for adolescents is a non-emergency community-based placement facility providing care for seven to 12 adolescents, ages 10 through 17. Foster group homes for adolescents should not be used as emergency shelter or for transient placements, because such placements are not consistent with the rehabilitative and therapeutic goals and group process which characterizes foster group homes for adolescents. Group homes should be accessible to schools, recreational activities, public transportation, churches, and sources of full- or part-time employment.

(b) The special demands placed on group home foster parents who provide specialized services to adolescents may require payment of fees over and above the regular reimbursement for maintenance for foster children. These fees may be for retaining a space or for specialized services. These fees may be paid with Title IV-B funds. Title IV-B funds may not diminish or replace foster care assistance funds for maintenance of the child. However, when foster care assistance funds are not available to all children placed in the facility, this may be considered in negotiating the amount to be

paid for service or retainer fees. The amount of the fees must remain the same for each child in the facility.

(1) **Retainer fee.** A set monthly fee per space whether the child is in the space or not. Retainer fees are used to ensure the availability of spaces for group home placement of adolescent children.

(2) **Service fee.** A daily (or monthly) fee per child when the child is in the space. Service fees are for payment of the special services required of a facility providing group care for adolescents.

(3) **Foster care assistance.** A set daily rate per child when the child is in the space. Foster care assistance is provided through AFDC foster care (including exceptional care), county funds, Medicaid, SSI, child support, OASDI, or other income accruing to the child. Foster care assistance funds are for a child's regular care and maintenance, such as room and board, clothing, covered medical expenses, and miscellaneous living expenses.

(c) Before delivery of services, DHR must have an approved signed agreement with each group home provider. A Vendor Identification Number form must be completed if the provider does not have a comptroller's identification number. The agreement must include, but is not limited to:

(1) name and location of facility and foster group home license number;

(2) the number of spaces available for DHR children;

(3) amount of retainer fee per space and/or amount of service fee per child;

(4) indication of the approximate amount and source of funds if any, such as county funds, AFDC foster care, SSI, child support, etc., that are being used in conjunction with Title IV-B funds to maintain the children in the facility;

(5) stipulation that the capacity of the home is for seven to 12 children from 10 through 17 years of age.

.018. Independent Foster Group Homes

(a) Policies covering institutional care apply to independent group homes. Homes must have signed an agreement between Texas Department of Human Resources and 24-hour child care facility for participation in the department's child-placing program before AFDC-FC payments can be made.

(b) When group homes are operated by other child-placing agencies or licensed institutions, the policies covering institutional care apply to the agency or institution operating the facility.

.019. Institutional Care

(a) A child-caring institution is a child care facility which provides care for 13 or more children for 24 hours a day.

(b) Institutional care is appropriate in the following situations:

(1) When the child is handicapped physically, mentally, or emotionally and needs custodial or remedial care and specialized services in a structured, sheltered setting.

(2) When a child's relationship to his parents (positive or negative), family situation, and social and emotional development prevent his being integrated into another family.

(3) When parents of the child cannot allow the child to relate to other parent figures and would seriously disrupt a foster home placement.

(4) When a child cannot live in a family home without danger to himself or others.

(5) For adolescents who can benefit from the group living experience, peer relationships, and the team approach without close parental relationships.

(6) In certain short-term, clearly defined placements in which an institutional setting allows siblings to be kept together.

(c) Only state licensed child-caring institutions or institutions exempted from licensure by law can be used for the placement of DHR children. In addition, institutions must be approved for participation in the department's child-placing program.

(d) Each region is responsible for approving institutions in the region which participate in the department's child-placing program.

(e) If the facility can offer appropriate placement for the child, a written referral summary must be submitted to the facility along with any additional materials or information the institution requires for admission. The referral summary must be submitted prior to placement or in emergency placements, within 30 days after placement.

(f) The child's service plan and six-month review must be developed jointly with the institution. The service plan must be individualized and must identify the respective responsibilities of institutional staff and DHR staff to the child. The child's worker (from the unit holding conservatorship) must visit the child in the facility or when the child is visiting in his home region at least once every six months, unless other arrangements have been made for supervision of the placement. Progress notes on the child and the family's situation should be exchanged regularly between the child's worker and the institution as appropriate between six-month reviews. The institutional coordinator may share with the institution or the child's worker any information about the child which comes to his attention. The conservatorship unit retains primary responsibility for the well-being of the child and for placement planning.

.020. AFDC Foster Care

(a) AFDC-FC reimbursement rates for institutions participating in the department's child-placing program cover food, clothing, education, school sup-

plies, child care services, necessary personal and incidental expenses for the child, recreation, travel and transportation, and administrative expenses.

(b) For exceptional care facilities, this rate also covers medical, psychiatric, psychological, and any other therapeutic or social services provided to the child as part of the facility's program. Exceptional care rates vary according to the actual cost of care, as determined by annual audit by the department, subject to a maximum daily rate. Exceptional care facilities are those facilities licensed in the following categories: residential treatment centers, therapeutic camps, and institutions exclusively serving the mentally retarded.

(c) Counties may make additional payments for expenses for individual children if they wish.

021. *Removal of Children from Institutions.*

(a) When a child no longer needs or benefits from an institution's program, other plans should be made for him. Except in emergencies, institutions must be given 10 days' notice before children are removed. Removal and replacement must follow an orderly process in accordance with usual standards for placement.

(b) No child can remain in a facility in which the license has been revoked.

022. *Emergency Foster Care.*

(a) Emergency foster care is protective placement for neglected or abused children who are without supervision or who are in immediate danger, or would be without the emergency shelter. It is also for youth who, without emergency shelter, would become the responsibility of the department for protection.

(b) Emergency foster care services may be provided only in licensed or certified emergency shelters, foster family homes, foster group homes, or basic child-caring institutions, or in court-related or other facilities exempted from licensure by law.

(c) Emergency foster care must be available on a 24-hour per day, seven day-a-week basis. DHR must place or authorize placement of any children in emergency foster care spaces provided, retained, or contracted by the department.

(d) When possible, emergency or unplanned removal of a child from his own home should be avoided because of the effects of such an experience on children. Children should not be placed in emergency facilities unless it is not possible or is inappropriate to place them with relatives or to provide them with protective day care or emergency homemaker services. Protective services staff must be immediately available for follow-up to the child, parent, facility, staff, court, etc., after an emergency placement. Follow-up should begin the next working day after placement.

(e) The worker must document the need for the emergency placement in the narrative of the child's record before or immediately after the child has been

placed in emergency shelter. A foster care intake study must be started within five days after placement and completed within 30 days regardless of the length of the emergency placement.

(f) Children needing emergency placement should not be placed with children in on going foster care, and children in on going foster care should not be placed in an emergency foster care facility when a more appropriate placement is available. Emergency shelter should not be used if a long-term plan can be made at the time of removal, because of the trauma children experience with each successive placement.

(g) Group or institutional emergency shelter care services are generally inappropriate for children age five and under. Emergency placement of children of these ages should be in foster homes. A child under five years old can remain in an emergency shelter for not more than five working days unless the child has a sibling over five years old in the shelter. Infants under 12 months old can remain in an emergency shelter no longer than 96 hours. Each emergency placement should be kept to 14 days, but should not exceed 30 days. Any time these time frames cannot be met, the unusual circumstances requiring extension of the placement and plans for other placement or discharge must be documented in the case record.

(h) The child must have a physical examination within 48 hours after placement in an emergency shelter and within seven days after placement in a foster family or group home. Medical treatment must be provided as recommended by the physician, including emergency medical care. Authorization for medical care must be obtained from the court, parent, or managing conservator.

023. *Title IV-B Emergency Foster Care.*

(a) Title IV B funds are used to purchase emergency foster care from individual providers. The department must approve, beforehand, the placement of the child. A child may not stay in Title IV-B emergency foster care for longer than 30 days during any one placement without program director approval.

(b) Foster care assistance funds will not be available for some children placed in the facility. This may be considered in negotiating the amount to be paid for service and/or retainer fee. The amount of the fees must remain the same for each child in the facility. Retainer and service fee amounts should be based on local conditions. Consultation is available from the Protective Services for Children Division, State Office.

(c) Before delivery of services, DHR must have an approved signed agreement with each emergency foster care provider. A Vendor Identification Number form must be completed if the provider does not have a comptroller's identification number. The agreement must include, but is not limited to:

- (1) name and location of the facility;

(2) certification or license number and type of standards being met;

(3) number of spaces available for DHR children;

(4) amount of retainer fee and/or amount of service fee for each child;

(5) if it is a group or institutional facility, a stipulation that no child under five will be placed there unless the child has a brother or sister there. No child under five can stay in the facility longer than five days;

(6) indication that the facility will take children 24 hours a day, seven days a week;

(7) indication that no child will stay in the facility longer than 30 days during any one placement without DHR program director approval;

(8) indication that the facility will not mix children in emergency short-term placement with children in on-going substitute care;

(9) indication that protective services staff must place or approve placement of a child in spaces available for DHR children;

(10) statement that a physical examination of the child will be obtained within 48 hours or seven days, as required by the type of license;

(11) indication that arrangements have been made with legal, medical, law enforcement, and social agencies for developing orderly procedures for the emergency placement of children;

(12) approximate sources and amounts of non-IV-B funds, to be used in conjunction with IV-B funds to keep the children in the facility. If no non-IV-B funds are to be used, this must be stated in the agreement.

.024. Title XX Emergency Shelter.

(a) Title XX funds are used to develop purchase of service contracts with public or nonprofit private agencies for emergency shelter. Children can be placed in care only if department staff authorize it. Emergency care in a purchase of service contract agency cannot be given for more than 30 days in any six-month period. The 30 days may be consecutive or cumulative, but must not exceed a total of 30 days in any six-month period.

(b) As a part of a contract, there should be a plan of operation for meeting special needs of children placed in emergency care. The plan contains but is not limited to:

(1) the size and qualification of staff;

(2) what special care will be given to children;

(3) how the facility staff will help department staff assess the needs of children placed;

(4) how the facility will handle emergencies.

(c) Title XX contract services providers are paid on a cost reimbursement basis.

.025. Intrastate Placement Outside the County Holding Conservatorship.

(a) A child in the managing conservatorship of the department may be placed for foster care, adoption, institutional care, relative care, or with any other individual where the unit holding conservatorship does not supervise the placement. When this happens, the following procedures must be observed:

(1) Department staff or another licensed child-placing agency must do a home study before actual placement of the child.

(2) The conservatorship unit must notify the regional director for social services for the region in which the child is to be placed. This must be done even if the placement is within the same region unless the conservatorship unit supervises the placement.

(3) If the conservatorship unit is not going to supervise the placement, arrangements must be made to have the placement supervised by child protective services staff in the area of the placement, or by the child-placing agency responsible for the home. The supervising unit or agency must make periodic reports on the quality of the placement to the unit holding conservatorship.

(4) Time frames must be set for the above.

(b) The conservatorship unit keeps primary responsibility for ensuring the well-being of the child and planning for the child until conservatorship is terminated, dismissed, or transferred. If an intrastate placement becomes an interstate placement, the department rules about out-of-state placement of children in the managing conservatorship of the department must be followed.

(c) When a child in DHR conservatorship is placed for care and the unit holding conservatorship does not supervise the placement, complete information on the child must be sent to the DHR unit supervising the placement. Information kept by the conservatorship unit must minimally contain:

(1) copies of the court documents needed for reviewing, altering, or changing the court orders;

(2) copies of any case information needed to give the court or any other appropriate persons an explanation, review, or evaluation of the placement plan;

(3) monthly reports or notations from the supervising unit about the child's well-being and adjustment;

(4) continuing correspondence about the case;

(5) other information needed by the conservatorship unit to show that it continues to be responsible for the child and to account for its planning for the child's care.

(d) If the child is returned to the supervision of the conservatorship unit or placed where another DHR unit supervises the placement, the information held by the supervising unit is transferred to the DHR unit doing

the supervision. The conservatorship unit continues to be responsible for the child's placement planning. If the court transfers conservatorship from the original conservatorship unit to the supervising unit, the original conservatorship unit closes its case and files the information it has on the child in its closed files.

(e) When conservatorship is terminated, the information held by each unit is placed in their respective closed files. If the child is adopted, the information on the child kept by the supervising unit is filed with the adoptive family's case folder. The case information closed and filed in the conservatorship unit will clearly identify the location of the child's adoptive family's case folder.

.026. *Non-DHR Supervision of the Placement.*

(a) When a child in the conservatorship of the department is placed for care and neither the unit holding conservatorship nor any other DHR unit supervises the placement, the conservatorship unit must make a request for supervision to the appropriate agency in the area of the placement.

(b) The case folder must be kept by the conservatorship unit. The agency supervising the child's placement must be given all information needed to:

- (1) explain and justify the placement;
- (2) understand current adjustment problems and to be able to evaluate any potential adjustment problems;
- (3) help the child's caretakers understand the child's needs and behavior;
- (4) supervise and evaluate the placement's progress and potential.

(c) The supervising agency must be asked to send the conservatorship unit a monthly report about the child's well-being and adjustment. Using these reports, the conservatorship unit will do appropriate planning, legal work, recording, and the required DHR reporting. When DHR conservatorship is terminated, the conservatorship unit closes its case folder.

.027. *Out-of-State Placement of Children in DHR's Managing Conservatorship*

(a) Children for whom the department holds managing conservatorship should be placed in care within the State of Texas if at all possible. This is based on the premise that a child should be kept in surroundings he knows when possible, unless the benefits of the new situation are in the child's best interests.

- (b) Children should be placed out-of-state only if:
- (1) a parent, caretaker, or relative outside of Texas is willing and able to care for and support the child;
 - (2) the child needs a specialized treatment institution or foster family not available in Texas;
 - (3) the child is placed with a nonrelative who already has a relationship with the child;

(4) the child is placed for adoption out-of-state when no otherwise suitable adoptive family can be found for him in Texas.

(c) Placements of children in the department's conservatorship outside the state must have prior approval of the social services program director and the court holding jurisdiction. The approval or order of the court must be in writing.

(d) Children who otherwise might be eligible for AFDC foster care and/or Medicaid are no longer eligible for either of these programs if placed outside the state. Medicaid coverage for children eligible for SSI is available in some states but not others. County funds may be used to pay for foster care outside the state if the individual counties approve and only if the individual counties fully understand that these payments are being made for a child placed out-of-state.

.028. *Out-of-State Travel for the Placement and Return of Children in DHR's Managing Conservatorship.*

The regional administrator must approve out-of-state travel of staff accompanying children who are in the department's managing conservatorship. The child's travel expenses can be paid as follows:

- (a) by relatives, adoptive parents, foster parents, the child's own funds, etc.
- (b) by the county child welfare board, if the child has no funds.
- (c) when no other funds are available, the state will pay for the child's travel.

.029. *Services to the Child Throughout Placement.*

Services must be provided to ensure placement appropriate to the needs of each child and that the child receives proper care in placement. Through regular reviews, continued need for and the appropriateness of placement must be determined. Services must also include efforts directed toward improving conditions in the home from which the child was removed so that he may be returned to his own home or other plans must be made for care appropriate to his needs.

.030. *Development of Plans of Service.*

(a) A plan of service must be developed within 30 days after the child's placement. The purpose of the service plan is to ensure purposeful planning toward mutually agreed upon goals for the placement within a predictable length of time. The service plan must individualize the child's needs in relation to his family situation and the foster care placement.

(b) When the court grants or continues managing conservatorship with the department but does not terminate parental rights, or the removal was an emergency, the service plan must be in accordance with the specific conditions and stipulations set forth in the court order. When the parent-child relationship has been terminated, the worker should help the family and child understand that the department will not be work-

ing with them toward a reconciliation. When the child is voluntarily placed in temporary protective foster care, the service plan is to be in accordance with the placement agreement.

(c) The child's service plan must be recorded in the child's case record and must state:

(1) the child's special needs and how these needs will be met;

(2) which needs the department can meet, which it cannot meet, and which can be met through community resources;

(3) the objectives of placement and the estimated length of stay;

(4) the specific services which will be provided or obtained for the child and who will be responsible for this.

(d) Services obtained to meet the child's special needs must be documented in the child's case record.

(e) The child's service plan must be reviewed and changed as needed, but at least every six months. The reviews should include updated information about the child, his family, any other persons directly involved in plans for the child, the worker's activity in putting into effect permanent plans for the child, progress toward achieving the child's placement objectives and the family's rehabilitation objectives, and changes in these objectives. The worker, supervisor, foster parents, child, and child's parents must be included in the review process. If any of these persons are not included, the reasons must be stated. The review must be documented in the child's case record. It also must be initiated by the supervisor to show that he has reviewed the plan.

.031. Social Services to the Child.

(a) Throughout placements the worker should have regular contacts, at least monthly, with the child, the parent or possessory conservator, and the foster parents. With documented supervisory approval, the contacts may be less frequent if monthly contacts are no longer deemed necessary.

(b) The worker must talk with the child about the following, as appropriate to the child's age and understanding:

(1) the reasons for his being in foster care;

(2) the worker's planning with the child's family and the court;

(3) future plans for the child;

(4) the child's understanding of and feelings about being in foster care;

(5) the child's relationship with the foster care personnel, including problems and behavior which are affecting the placement.

(c) Visits, mail, and telephone calls between the child and his parents, siblings, and significant relatives must be allowed while the child is in foster care, unless there are reasons for limiting these contacts. Restric-

tions on visitation must meet the requirements. The child and his family must have a part in setting these restrictions. The worker should help the child understand the restrictions on contacts. The worker must evaluate the restrictions monthly. The worker must state the restrictions and the re-evaluation of the restrictions monthly.

.032. Travel by Foster Children.

(a) The department policy about trips away from the foster care facility by the foster child is as follows:

(1) Written approval from the child's foster care worker must be obtained for a child to visit away from the foster care facility for more than 72 consecutive hours (three days). This does not apply to visits with the child's own family, which are arranged by the child's worker.

(2) Written approval from the child's foster care worker must be obtained before taking a child out of the county for more than 72 consecutive hours (three days).

(3) Written permission from the child's foster care worker must be obtained before taking a foster child out-of-state or across the border to another country.

(4) Whenever a child in the department's managing conservatorship is to travel out-of-state, the court must be informed and approve the travel plans. This approval must be documented in the child's case record.

(b) Written permission must be related to the individual child and a copy must be filed in the child's record. When appropriate, blanket permission for a particular child may be given at the time of placement. In this case, written permission is not required for each trip or visit the child makes. Blanket permission from the department may not be issued to foster parents or institutional administrators for all children in their care.

(c) Travel policies of the department must be shared with natural parents as part of the intake process. Parents must also be informed and involved, when appropriate, in any plans for extensive travel by their children. Decisions must be made on an individual basis at the time of placement as to whether to obtain blanket written approval of natural parents or other conservator for children to travel when conservatorship is not held by DHR.

.033. Clothing for Foster Children.

(a) Foster children must be provided with personal clothing which is suitable to the child's age and size. The clothing must be comparable with clothing of other children in the community. In most cases, the selection of clothing is delegated to foster parents or institutional child care staff. Older children must participate in the selection of clothing. The monthly board rate for AFDC foster care is intended to cover the cost of an adequate basic wardrobe.

(b) Basic wardrobe requirements of institutions will apply to children in institutional placements.

.034. Money Earned by a Foster Child.

(a) Money earned by a child or received as a gift or allowance must be his or her personal property. A child's money must not become part of the funds of the department, the county child welfare board, or the foster care facility. A child's money may be deposited in his or her trust fund or a separate savings or checking account may be established.

(b) Money earned by foster children must not be used to reimburse the department, the county child welfare board, or the foster care facility for room and board unless it is a part of the treatment plan approved by the program director and the child's parents, if the department does not have conservatorship.

.035. Discipline in Foster Care. Discipline of children under the responsibility of a child-placing agency must meet the Minimum Standards for a Child-Placing Agency (24-Hour Care and Adoption). The region as a child-placing agency must establish written policies for discipline of children in foster care. If physical discipline is allowed by the region, it must be reasonable and moderate as follows:

(a) "Reasonable" means ordinary and usual; rational; equitable; suitable, tolerable.

(b) The discipline must be done without malice.

(c) Discipline should be individualized and related to the misbehavior, the child's age, the child's previous experiences, the child's previous reactions to discipline, etc.

(d) Discipline of foster children may differ from discipline of the foster parents' biological children, just as the discipline of each biological child may differ, in order to individualize the discipline.

(e) Foster parents who use instruments to punish foster children are placing themselves in a precarious position and open to accusations of child abuse.

(f) Foster parents' discipline of children must not result in bruises, welts, burns, fractures, sprains, exposure, or poisoning; nor may it consist of withholding of food, shelter, supervision, or medical or educational care; or violate any of the specific prohibitions in the minimum standards.

.036. Death of a Foster Child. Anytime a child dies while in foster care, the child's worker must notify the parents and the court. Parents or foster parents may be involved as appropriate in planning the funeral.

.037. Medical Services for Children in Foster Care.

(a) The child in foster care must have medical, emotional, and dental health care and treatment on a regular, preventive, and emergency basis. The staff must notify the court and the parents when parental rights are not terminated of any serious medical problems of the child.

(b) Preventive health care must be obtained as follows:

(1) All children must have a physical examination annually. For Medicaid-eligible children, EPSDT screening will meet this requirement if signed by a licensed physician.

(2) All children three years and older must have an annual dental examination. EPSDT examinations will meet this requirement.

(3) Immunizations and tuberculosis tests for children must be kept current.

(c) Any medical diagnostic or treatment services recommended by a physician or dentist must be provided for the foster child. If funds and resources are not available, workers must document this in the child's record and request a waiver of the licensing standards. When prior planning is possible, major medical procedures should be arranged and authorized by the child's worker. Major medical treatment is considered to be surgery, any life-endangering or disfiguring procedures, any procedures which required general anesthesia, and any other medical treatment which a physician or past medical history indicates might be dangerous to a particular child.

(d) The local unit should make arrangements for emergency health services to ensure children 24 hour, seven day per week coverage by hospitals, physicians, and dentists.

(e) In medical emergencies when the caseworker or other DHR representative cannot be contacted, the foster parent or institutional director, upon the advice of a physician, may consent to medical care.

.038. Consent for Medical Care for Children in Foster Care. A medical consent form shall be provided to the foster parents or institutional director at the time of the child's placement. Copies of the signed medical consent form shall be filed in the child's record.

.039. Medical Records

(a) Current medical and dental records must be kept for each child in foster care. When a child needs treatment, a plan for providing it must be documented in the child's record. If workers cannot get the recommended treatment for the child, an explanation must be included in the record.

(b) The following items must be included in each child's record:

(1) the court order designating DHR as managing conservator of the child and therefore authorized to give medical consent, the written placement agreement signed by legal parents giving DHR authorization to get medical care for the child, or the affidavit of relinquishment of parental rights;

(2) the child's medical history;

(3) a record of each medical and dental examination, including testing and recommended treatment;

(4) a record of medications and treatment received by the child.

(5) the child's immunizations and tuberculosis test with dates.

(c) When a child is placed in a regulated child-caring institution, the institution is responsible for maintaining current medical and dental records for the child in care. Medical and dental services for these children can be included and updated in the plan of service and reviews of plans of service.

040 *Planning for Permanent Placement of the Child*

(a) If the efforts to return the child to his own home or the home of a relative fail, the worker and supervisor are responsible for developing a permanent plan for the child. Types of permanent placement include:

(1) adoption, if the court terminates the parent-child relationship.

(2) permanent foster care.

(3) for the older child, help toward independent living arrangements and self-support.

(b) When substitute care is about to be ended, the worker should make all the necessary arrangements, including

(1) preparing the child, his family or managing conservator, and the foster care personnel for the change;

(2) getting the child a medical examination, when it is feasible and seems necessary;

(3) case planning and appropriate conservatorship.

041 *Return of the Child from Foster Care to Own Home*

(a) When returning the child to his own family or to the caretaker from whom he was removed, the worker must get supervisory approval, and when the department has managing conservatorship of the child, court approval before the return. Court approval must be documented in the family's case record by

(1) a court order permitting the return of the child; or

(2) a written authorization from the judge to return the child; or

(3) a letter from the staff to the judge confirming his verbal approval.

(b) The worker must study the home before the child is returned there. For the child to be returned, the home study must determine and document that conditions in the home which originally led to removal have been corrected and that present conditions will not harm the child. The family must agree to work with the department after the child is returned home. A written agreement can be made with the parents that outlines the plan for continued service to the family.

(c) The worker should give the family medical, immunization, psychological, educational, etc., information or reports on the child while he was in foster care. If possible, the child should have a medical examination immediately before leaving foster care.

(d) When the child is to be returned to his family, the worker must mutually determine a case plan with the family to provide supervision, supportive services, and community resources, as appropriate, to help the family care for the child adequately. If the child is placed with a relative, the case plan should include a decision about whether the relatives should have guardianship or conservatorship and about the child's parents' continued involvement with him in the relative's home.

(e) If the child has been in AFDC foster care, the parents or relative may be eligible for AFDC or food stamps when the child is placed with them. If the parents or relative want to apply for AFDC or food stamps, they should be referred to financial services.

(f) The worker should arrange for money held in trust for the child to be transferred to the family.

(g) If the complainant who brought the child to the department's attention was a medical, educational, military, or social agency, the complainant should be told that the child has been returned to a family member so that they can follow up with the family, if needed.

(h) If a child in the managing conservatorship of the department is harmed or threatened with harm after return to his own home or relative's home, the court must be told of these circumstances and the department's plans to protect the child. The court's approval of departmental plans, or orders contrary to them, must be documented in the case record by

(1) court order;

(2) written instructions from the judge;

(3) letter from staff to the judge confirming his verbal comments.

(i) Services should be continued to the family and child, when he is returned to family members, until the worker and supervisor decide that the child is safe from abuse or neglect. The case must remain open, a case plan must be mutually determined with the family, and at least monthly contact with the family must be made until the department no longer has conservatorship of the child and the supervisor has approved discontinuing services to the family. The plan for closing the case must be based on a review of the plan for services and include the circumstances of the child and family at the time of case closure. No case may be closed while the department has conservatorship of the child.

(j) Discharge plans must be documented in the child's case record including:

(1) the circumstances surrounding the discharge;

(2) any court action and change of conservatorship.

(3) the name, address, and relationship to the child of the person to whom the child is discharged;

(4) any plans for continued services to the child and his family.

042 Permanent Foster Care

(a) Permanent foster care is a planned service for the child who must be permanently separated from his biological family, but who cannot be adopted because:

(1) the child is not legally free for adoption.

(2) no adoptive resource is available because of the child's age, emotional, or physical handicaps.

(3) the child has strong emotional ties to parents or relatives or an older child doesn't want to be adopted.

(4) the child has medical needs or financial needs which adoptive families are unwilling or unable to assume;

(5) the child has lived with the foster family for a number of years, has established strong emotional ties through which the foster parents have become the child's psychological parents, and the foster family wants the child to remain in their home on a permanent basis other than adoption.

(b) In permanent foster care placements, the department keeps managing conservatorship of the child. The worker's continued involvement with the foster family is to:

(1) discuss problems that arise with the foster family and/or foster child.

(2) give consent to medical treatment, marriage of the foster child, military service, etc.

(3) visit the foster home every three months.

(4) review eligibility for AFDC, FC, and Medicaid every six months.

(5) review service plan every six months;

(6) revalidate the home as a foster home every two years.

(7) submit annual reports about the child to the court with continuing jurisdiction.

(c) The worker must discuss plans for permanent foster care with the foster child and the foster family. If both accept the plans and the family agrees to keep the child until age 18, a permanent foster care agreement must be signed by the foster parents, the child over age 12, and the supervisor of the protective services unit holding conservatorship.

(d) The worker must get the approval of the court with continuing jurisdiction for the permanent foster care plans and agreement. The department will continue to make foster care payments to the foster family. The payments will be at the standard rates set for normal care or exceptional care. The foster family will keep the child's Medicaid card and have written con-

sent from the department or get medical care for the child.

043 Adoption by Foster Parents

(a) In some foster care placements, adoption of the child by the foster parents is in the best interest of the child. The best interests of the child are usually served when either:

(1) there is a positive parent-child relationship established of sufficient duration that the foster parents have become the psychological parents of the child;

(2) removal from the foster home would cause further emotional damage to the child.

(3) a special plan was made at the time of the child's foster care placement foreseeing possible future adoption.

(4) the child has handicaps such that no other permanency can reasonably be assured.

(5) the risk of failure in any other adoptive placement is too great and the foster parents are willing and able to adopt the child.

(6) The adoption is a sound permanent plan which serves the best interests of the child by stabilizing him with one family.

(b) Adoption of a child by his foster parents must be approved by the program director. The program director's consent to adopt the child must be given to the foster parents in writing. With the court's permission, the petition to adopt may be filed immediately if the child has been in the home over six months.

(c) In most cases, foster care payments are discontinued when the petition to adopt is filed. Payments may be continued until consummation or an adoption subsidy may be requested, if the situation warrants such.

(d) The foster parents may continue to serve as foster parents to other children if this is mutually agreed upon by the foster parents and the department.

044 Foster Care Case Records

(a) While a child is in foster care, recordings must be made regularly in the child's case record regarding his adjustment and well being.

(b) The recording must be made monthly unless the supervisor has approved contact less frequently than monthly, in which case recording must document each contact.

045 Social Services to Parents of Foster Children During Placement

(a) It is the protective services worker's responsibility to establish and maintain regular contact with the parents of children in foster care, unless parental rights have been legally terminated. In some instances, this may require actively seeking out the parents, initially and repeatedly.

(b) The family's service plan must be developed within 30 days after placement. It must be mutually determined by the worker and the family and recorded in the family's case record. The service plan must include:

- (1) mutual determination of changes that must take place before the department can recommend that the court return conservatorship to the family;
- (2) the role of the worker in helping to bring the changes about;
- (3) the role of the parents in achieving the changes;
- (4) a tentative time limit for achieving the changes;
- (5) a plan for the parent's visiting, telephoning, and writing letters to the child;
- (6) a plan for financial child support by the family;
- (7) any specific conditions or stipulations set forth in the court order;
- (8) possible consequences if changes are not achieved.

(c) If a service plan is not established with the family, the reasons must be stated in the case record. The service plan must be reviewed and changed as needed, but at least every six months.

(d) Supportive family and community resources should be used when possible and appropriate to encourage parental rehabilitation so that the child may be returned home. When the family receives AFDC or SSI, they must be provided the DHR social, medical, food stamp, and financial services which they request, and for which they are eligible, if they are able to take part in the service and if the service is available in the community.

(e) A child's parents should be kept informed of their child's growth and development and specifically of any serious illness, change of plan, or the development of any unusual behavior in the child. When the department has petitioned for termination because of the family's lack of progress while the child has been in foster care, the department must continue certain contacts with the parents until termination is granted. The purpose of these contacts is to keep the parents informed of DHR plans for the child and of the parents' rights. Rehabilitation of the family is no longer a goal once the decision has been made to petition for termination unless the parent has other children in foster care or in need of protection.

046 Planning of Visits

(a) The parent retains the right of reasonable access to his or her child unless the parent-child relationship has been legally terminated or visitation has been restricted by the court. Visitation should be allowed at least once per month unless the supervisor or program director approves less frequent visitation. However,

frequency of visits should be determined by the child's welfare.

(b) Place of visits should also be determined by the child's welfare. The parents' and foster parents' wishes about this must be considered, but the decisions are the responsibility of DHR. Some alternatives are:

- (1) the foster home;
- (2) the child's own home;
- (3) agency office;
- (4) other designated place.

(c) As a general rule, visiting should be allowed in private. The parent cannot remove the child from a designated visiting spot without permission.

047 Working with Absent Parents of Children in the Department's Managing Conservatorship

(a) All efforts should be made to find and work with absent parents of children in the department's managing conservatorship. If the parents cannot be found, the staff person's efforts to find the parents must be documented in the child's case record. When the absent parent can be found, the staff person must establish a plan of service with them if they are involved in planning for the child. If information is needed on the absent parent, the staff person should make an out-of-town inquiry.

(b) If parents are in a jail, prison, or hospital outside the county where the department is working with the children, the worker must write them regularly about the department's involvement with and planning for the children. The parents may be reached through the prison warden or hospital administrator, the protective services unit located in the area of the prison or hospital, or if out of state, through a state agency equivalent to the department.

(c) Children in foster care should be allowed to write, send pictures to, visit, or make telephone calls to parents in prisons or hospitals or the reasons for limitations on contacts must be documented in the child's case record. The foster care worker should explain the parent's situation to the children in terms they can understand. Before a child visits a parent in a prison or hospital, the worker should prepare the child for the prison or hospital environment.

(d) The worker and supervisor should assess before the parent is released from a prison or hospital, whether placement of the children with the parents after discharge will be considered. They should consider the length of time until discharge, the child's age and need for permanent placement, the parents' possible ability to care for the child after discharge, and how much prior healthy involvement the child had with the absent parent. All available services should be used to try to reunite the family and to help the parent come back into society and the family.

048. *On-Going Work with the Court.* The department must cooperate with the court in procedures to

systematically review the status and progress of all children in foster care under the jurisdiction of the court. More specifically:

(a) When the parent-child relationship has not been terminated, the department must cooperate with the court in continuing to assess the legal basis for separation of the child from his family. The department's recommendations should be based on the child's need for protection and the parents' or relatives' ability to care for the child.

(b) The court at any time may request that the department make a report to the court on a child and may say specifically what is expected in the report.

(c) Circumstances harmful to a child, such as severe or life-endangering illness, repeated placement failures, abuse or neglect in a foster care facility, or the department's losing contact with a child due to his running away or being kidnapped by a parent or relative, should be reported to the court immediately.

(d) A managing conservator must each 12 months after his appointment file with the court a report of facts about the child's welfare, including his whereabouts and physical condition.

(e) When a child in the managing conservatorship of the department is to travel out-of-state, the worker must get the court's approval and document it in the child's case record.

(f) In certain instances, the court must be involved in the placement of children in the department's managing conservatorship. The worker must get the court's written acknowledgment of the placement or have case record documentation made that the court understands and approves the placement. These certain instances are:

(1) when a child is returned to his family or caretaker;

(2) when a child is placed out-of-state.

(g) The department may recommend termination of the parent-child relationship.

049 Foster Care Maintenance Resources

(a) The department must seek financial resources for the care and maintenance of a child in foster care from the following sources:

(1) AFDC Foster Care (Type Program 08) or Non-AFDC Foster Care, Medical Assistance Only (Type Program 09). Workers must screen every child who goes into foster, group, or institutional care for AFDC foster care and/or Medicaid eligibility.

(2) Child support. Workers must explore child support for every child in foster, group, or institutional care through court order or temporary voluntary placement.

(3) Supplemental Security Income (SSI). Workers must refer every child in foster, group, or institutional care who is blind or disabled to the Social Security Administration to determine the child's

eligibility for SSI, unless AFDC foster care is more beneficial to the child.

(4) Food stamps.

(5) OASDI, VA Benefits, Railroad Retirement, Teacher's Retirement, etc. Workers must explore the situation of every child in foster, group, or institutional care whose legal parents are deceased or disabled to see whether the child should be referred to these sources for dependent's benefits.

(6) County funds. When none of the above are available, or cannot meet the foster care child's needs, the worker must seek foster care assistance funds from the county.

(b) Title XX funds may be used through a purchase of service contract to pay for emergency shelter for children. Title IV-B funds may be used for children in emergency foster care, foster group homes for adolescents, and therapeutic camps. These funds may be used in addition to, but cannot replace the use of, the foster care assistance funds noted in (1) through (6) above.

(c) The protective services worker must explain to the foster parent or institutional caretaker the financial and/or medical benefits for which the child is eligible.

050 Foster Care Payment Rates

(a) The daily rates for foster care are intended to cover the basic minimum needs of the child for maintenance. The rate covers room, food, clothing, education, school supplies, child care services, necessary personal and incidental expenses for the child, recreation, travel, and transportation.

(b) DHR establishes AFDC foster care payment rates. These payment rates are also to be used for non-AFDC foster care children.

(c) Child welfare contract counties are required in their contract to pay at least the minimum daily rate for foster care. The actual rate paid by the county is established by the county. No payment made to a foster care facility may be less for an AFDC foster care child than the specified rate set by the county. Thus, if a county is paying a higher rate for non-AFDC foster care than the department's rates, the county must supplement the AFDC foster care payment with local funds. If insufficient funds make it impossible for the county to pay the department's rate while serving all the children needing court-ordered foster care, the county's first priority should be to serve all children, and secondly to pay the department's foster care rate. Continuing efforts must be made to obtain a budget which will serve all the children at the department's foster care rate.

(d) In non-child welfare contract counties, the unit responsible for the child must pay at least the minimum daily foster care rate. If funds aren't available to pay the minimum rate, the unit must use all

available funds for the child's foster care placement or seek free care for the child.

(e) Rates for AFDC foster care are set according to:

(1) the type of care the child requires (normal or exceptional);

(2) the type of facility the child is in (foster family/group home, basic child-caring institution, institution exclusively serving mentally retarded or physically handicapped children, or institution exclusively serving emotionally disturbed children);

(3) the child's age, when receiving normal care in a foster family group home.

(f) AFDC foster care rates for exceptional care in child-caring institutions vary with each institution and with the type of child's problems the institution exclusively serves. Rates are individually determined and based on an annual cost study of the institution's actual or planned expenditures. Rates may not exceed the maximum. Included in the expenditures are administrative expenses (salaries, buildings, equipment, transportation), child-caring expenses (staff, food, clothing, health, education, recreation), and other expenses as authorized by federal regulations.

051. *Criteria for Exceptional Care Determination*

(a) Social services program directors are responsible for deciding, on a case-by-case basis, whether an AFDC foster care child needs exceptional care. The social services program director's approval of a child for exceptional care must be supported by information in the child's case record. The social services program director must sign the Foster Care Application and Review Form, confirming the exceptional care determination.

(b) For non-AFDC foster children, the child welfare board or program director (in non board counties) must determine that a child needs and must approve exceptional care payment rates.

(c) For a mentally retarded or emotionally disturbed AFDC foster care child, the child's case record must contain a written report dated within the past six months and signed by a psychologist or psychiatrist. This report must include:

(1) a description of the condition and behavior of the child;

(2) the findings of a psychological or psychiatric evaluation of the child's mental or emotional problems;

(3) a recommendation about what kind of special care and supervision the child needs.

(d) For a physically handicapped AFDC foster care child, the child's case record must contain a written report dated within the past six months and signed by a licensed physician. This report must include:

(1) a description of the child's physical handicap.

(2) a medical diagnosis and prognosis about the physical handicap, and plan of treatment;

(3) a recommendation about the kind of special care the child needs.

(e) When the psychologist, psychiatrist, or physician finds that the child is permanently disabled and needs exceptional care as long as he is in foster care, this medical opinion will be considered final and six-month repeat determinations will not be needed.

(f) The regional director for social services in each region must keep a list of AFDC foster care children currently approved for exceptional care. The list must contain names of the children, the facilities in which the children live, and the current daily rates of payments.

052. *Application Procedure for AFDC-FC Type Program 08 and Non-AFDC-FC, MAO Type Program 09*

(a) Social services staff apply for, determine, and certify eligibility for AFDC foster care financial benefits and for Medicaid for foster care children. Eligibility must be certified before the child receives AFDC foster care or Medicaid benefits.

(b) The social services worker must file an application for the child immediately after placement. Verification of all eligibility information must be obtained by the worker and documented. A completed, signed, and dated Foster Care Application and Review form must be kept in the eligibility and services case records, when both exist, for all children for whom application for Type Program 08 or 09 is made.

(c) The application date for foster care financial assistance must be the file date submitted on the Notice of Application (NOA) and should be the same date the child is placed in approved foster care. For emergency placements, the worker may back date the form up to 10 days prior to the date it is signed or to the date of placement. It cannot be back-dated beyond the date of actual placement in an approved facility.

(d) Social services staff determines eligibility for AFDC foster care and/or Medicaid from the Foster Care Application and Review form. If the child is not eligible for either Type Program 08 or 09, the worker must record the reason.

(e) If the child is eligible for AFDC foster care, the worker must immediately complete a Parent Profile Questionnaire, a Child Support Referral form, and an Assignment of Support Rights form. These forms and a court order must be sent to the local child support unit within two working days of receiving the child's AFDC foster care case number. If parental rights have been terminated or eligibility is based on incapacity or deprivation due to a parent's death, these forms are not sent to the child support unit, but rather, are filed in the eligibility case folder, if it separately exists. A copy of these forms must be filed in the eligibility case record, when it exists separately.

(f) For children eligible for Type Programs 08 and 09, the worker arranges for monthly payment authorization and documents any changes in the child's eligibility status as they occur. The worker must explain to the foster parent or institutional caretaker the financial and or medical benefits for which the child is eligible.

053 AFDC Foster Care (Type Program 08)

(a) The following are eligibility requirements for a child to receive AFDC foster care benefits:

(1) A child is potentially eligible for AFDC foster care if one of the following applies:

(A) The child was receiving AFDC (money payment and medical assistance) in his own home or in the home of a qualified relative who was responsible for his care in or for the month in which court proceedings, resulting in the child's removal from the home, were initiated (initiation of court proceedings refers to filing of petition). See item (9) for a list of qualified relatives.

(B) The child would have received AFDC in or for the month in which court proceedings that resulted in removal from the home were initiated, if application for AFDC had been made.

(C) If not living with a qualified relative in the month in which the petition was filed, the child must have lived in the home of a qualified relative at some time during the six months prior to the month in which court proceedings were initiated, and while living with the relative would have been eligible for AFDC had application been made for the child.

(2) The child must have been deprived of parental support by death, continued absence from the home, or by physical or mental incapacity of a parent (according to AFDC eligibility requirements) during the month in which court action was initiated which resulted in the child's removal from his home. If incapacity is given as the reason for deprivation, the worker is responsible for obtaining medical information on the incapacitated parent and for submitting it to Medical Services Division. Medical Services Division determines eligibility based on incapacity. If the parent or designated relative refuses to cooperate by signing a release for the doctor or hospital to furnish medical information, then information obtained by observation, or from any source, may be used by the worker to document incapacity. If a parent receives SSI or OASDI benefits due to physical or mental disability or blindness, the child is considered to be deprived of parental support.

(3) Need must be established and documented on the appropriate form by determining if the child's family was living at subsistence level based on the best information available about the number of family members and amount of income available to the family according to the current AFDC single figure needs.

(4) The child must not have real or personal

property with a market value in excess of \$1800. Resources and personal property must be verified by the worker.

(5) The child's managing conservator must assign to the department's Child Support Enforcement Branch, State Office, any rights to child support for the child. Therefore, an Assignment of Support Rights, must be completed by the worker for each child found eligible for AFDC foster care.

(6) The child must be a citizen of the United States or a lawfully admitted alien.

(7) The child must be a resident of the State of Texas.

(8) The child must have been placed in foster care after April 30, 1961.

(9) The child must meet age and relationship criteria. The child must be under age 18, or under age 21 if a student regularly attending a college, university, school or course of vocational or technical training designed for gainful employment. Relatives within the required degree of relationship are:

(A) father or mother,

(B) grandfather or grandmother (extended to all degrees of "great" relationships),

(C) brother or sister,

(D) uncle or aunt (extended to all degrees of "great" relationship),

(E) first cousin,

(F) nephew or niece (extended to great-niece, etc.),

(G) stepfather or stepmother,

(H) stepbrother or stepsister,

(I) natural father or paternal grandparents of an illegitimate child.

Except for the spouses of the stepbrother, stepsister, stepfather, and stepmother, all relatives listed above are qualified relatives if the child lives with the blood relative and spouse as a family unit prior to their separation due to death, divorce, or desertion.

The worker must verify the child's age and relationship, using the child's birth certificate, if possible. If this is unavailable, a baptismal or hospital certificate is acceptable. If none of these can be found, the worker should make an evaluative conclusion after examining available records. The court order may be used only when no other birth proof can be found.

A student 18-21 years old may continue to receive AFDC foster care if it was begun before his 18th birthday, if he is regularly attending school under the criteria established for school attendance in the AFDC Handbook, and if other eligibility criteria are met. The AFDC foster care payment cannot exceed the maximum rate for normal child care. Efforts must be made to obtain other funding for the student's education through scholarships and educational grants.

When a student eligible for AFDC foster care is temporarily residing in a dormitory while attending school away from home, his permanent home is considered to be the licensed foster care facility. The foster home or institution must retain a licensed capacity space for the student and function as the parent while the student is in school. Continuing managing conservatorship is not necessary so long as the department had a written court order giving responsibility for placement and care of the child to the department before the student's 18th birthday. The student must remain in AFDC foster care continuously after his 18th birthday. If the student's education is discontinued or interrupted, except for semester breaks and summer vacation, eligibility is discontinued and the student cannot be reinstated in AFDC foster care.

On AFDC foster care eligibility forms, the student's address is listed as the foster care facility. Payment forms are completed by the foster care facility and must reflect the number of days the student is eligible for AFDC foster care under this policy. Payment is made to the foster care facility and must be used for the student's maintenance and expenses while attending school. Financial arrangements must be recorded in the case record and be available for audit.

(10) The removal of the eligible child from the home in which he was receiving, or was eligible to receive, AFDC must be the result of a decision made by a court of competent jurisdiction under the general laws of the state. That decision must be based upon a judicial finding that continuance in the home of the relative would be contrary to his welfare for any reason.

(11) There must be a written court order giving responsibility for the placement and care of the child to the Texas Department of Human Resources. A copy of the court order and a copy of the original petition initiating court action, including the filing date stamped by the court, must be filed in the child's eligibility and services case records, when both exist. Any time there is a change in the court order, a copy of the new court order must be filed in the child's eligibility and services case records, when both exist.

(12) The child must have a Social Security number. If the child does not have a Social Security number, or the number is not known, the worker must apply for one on behalf of the child. The foster child, if old enough, may complete the form with the worker's help. The address should be the address of the foster care facility where the child is currently residing. If the child is unable to sign the form, the worker signs the child's name followed by the worker's initials. If the child is receiving an OASDI benefit, he will have a Social Security claim number.

(13) AFDC foster care funds cannot be used for payment for care of children in public, tax-supported, or

commercial foster care facilities. The child must reside in a:

(A) foster home certified and supervised by the Texas Department of Human Resources;

(B) foster home certified by a licensed child placing agency which is on the approved list of child-placing agencies;

(C) private, non-profit foster home which is currently licensed and on the approved list of foster homes;

(D) private, non profit child-caring institution which is currently licensed and on the approved list of child caring institutions.

(14) In WIN project areas only, 16 and 17 year old AFDC foster care children must register for WIN unless they have a valid exemption. Valid exemptions are given for full time school attendance, illness, incapacity, or remoteness from a WIN project. Any certified 16-17 year old AFDC foster care child exempt from WIN registration is entitled to volunteer for it. The worker should explain the program to the child. Children not in a WIN project area are automatically exempt due to remoteness from the WIN project area. The WIN status of the eligible child is based upon whether the child has a valid exemption as follows:

(A) Fulltime school attendance. Sixteen and 17 years of age and attending school full time.

(B) Illness or incapacity. Illness or incapacity (temporary or permanent) must be verified by physical examination. If the child is determined to be ill or incapacitated, the eligibility worker must tell the child placing worker of the valid exemption due to illness or incapacity, if these workers are different. A child exempt from WIN due to illness or incapacity must be referred to the Texas Rehabilitation Commission (TRC) through the VR program.

(C) Remoteness from a WIN project. Geographic areas for each WIN project county, where exemption for remoteness may be given, are established by the regional director for social services, regional director for financial services, and a representative from the Texas Employment Commission. Remoteness is to be considered in county of residence, rather than the county holding conservatorship. If the worker determines the 16 or 17 year old child has no valid exemptions, the worker explores the child's willingness to register for WIN, explains the program, and the reason it is important for the child to register. The child must sign a completed WIN Registration and Grant Status and a form letter. The worker must accompany the child to TEC WIN for registration.

(b) If the child refuses to register for WIN and has no valid exemption, the worker must record this and the child's eligibility for AFDC foster care must be denied. The worker then notifies the court with jurisdiction over the child that the child is no longer eligible for AFDC foster care because of the child's refusal to

register for WIN and that his foster care will have to be paid from county funds.

(c) When an AFDC foster care child is participating in WIN, the child placing worker remains the child's primary worker. The WIN separate administrative unit (SAU) worker is responsible for ensuring smooth flow through the "client process" for all WIN forms and keeping the primary worker periodically apprised of the child's progress.

054. *Methods of Payments for AFDC Foster Care*

(a) Payments for AFDC foster care are based upon the standard daily rate per child, less any income available to the child. Rates vary depending on the type of care for which the child is certified.

(b) Payment is handled by the following methods:

(1) Child welfare contract counties. In a county which has a child welfare board and a child welfare contract with the department, the county or board pays the foster care facility directly and the department issues one warrant to the board for reimbursement for the care and maintenance of all eligible AFDC foster care children.

(2) Non child welfare contract counties. In a county which does not have a child welfare board and a child welfare contract with the department, the department issues a warrant directly to the foster care facility for the care and maintenance of eligible AFDC foster care children.

055. *Effective Dates for AFDC Foster Care Payments*

(a) The effective date for beginning payments for AFDC foster care is:

(1) the first of the month in which application was made for the child if the child was in the certified or licensed facility on the first day of the month and was otherwise eligible; or

(2) the date of entry into the certified or licensed facility, if entrance or eligibility is subsequent to the first of the month in which the child is certified.

(b) Foster care payments may never precede the date of placement in the foster care facility or the date established by the court order as the beginning of the department's responsibility for placement and care of the child. However, if the child was hospitalized before he was physically placed in foster care and a specific plan was made to place the child in a specific foster home or institution, the child is considered to be placed in foster care the date the plan was made.

(c) A written court order giving the department managing conservatorship must be in effect for AFDC foster care payments to be made. When this court order is issued, payments may be authorized back to the date a verbal court order or the date the petition was filed which subsequently resulted in the court order removing the child from his home. A verbal order of the court

is acceptable only if the order and the date the order was effective were subsequently confirmed in writing by the court.

056. *Determination of Income Available to Child*

Any income received by the child is deducted from the AFDC foster care payment with the following exceptions:

(a) Earnings of a child when the child is either:

(1) under 14 years of age;

(2) a fulltime student;

(3) a part-time student and not a fulltime employee.

(b) A loan or grant such as a scholarship, which is received by an AFDC foster care child, when it is used: under conditions which prevent its use for current living expenses, or as a resource for educational purposes and is made or insured under any program administered by the State Commissioner of Education.

(c) Unearned income such as an OASDI benefit or Veteran's Administration benefit received by an 18-21 year old AFDC foster care child.

057. *Redetermination of Eligibility for AFDC Foster Care*

(a) The social services worker must redetermine eligibility for an AFDC foster care child at least every six months and any time circumstances affecting eligibility change. However, the worker does not have to redetermine eligibility each time the child's facility changes unless it affects eligibility.

(b) The six month redetermination of eligibility is made on the basis of deprivation of parental support, need, and age. A child will continue to be considered deprived of parental support if the court order is still in effect giving the department responsibility for the child's placement and care. Redetermination of need is based on the appropriate rate established for the child's maintenance and care in relation to any income that can be applied toward meeting this need.

058. *Medical Effective Date*

(a) All children certified for AFDC foster care are entitled to medical benefits provided through Title XIX, Medicaid. The medical effective date is the date the determination is made that a foster care child is eligible for AFDC foster care.

(b) The child is considered to be in foster care while he is in a medical facility stay if all of the following conditions exist:

(1) In the opinion of the attending physician, the child needs medical care.

(2) Foster care planning has been completed to the point of selecting a specified foster care facility for the child.

(3) The plan is later confirmed by placing the child in the facility. Exception to confirmation of the plan by placement of the child in the specified foster

home may be made if unforeseen circumstances arise precluding such placement

.059. Three Months Prior Medical Coverage In determining eligibility for Medicaid benefits for the three months prior to application for AFDC foster care, it is interpreted that AFDC foster care children are in foster care during medical facility stays if they meet the criteria outlined in department rules

.060 Four Months Title XIX Coverage Following Denial Due to Increased Earnings Eligibility for Title XIX coverage for Type Program 08 children continues for four calendar months after the effective date of denial for a child receiving AFDC foster care, if the following conditions are met

(a) The denial was due to the employment earnings of the foster child.

(b) The AFDC Foster Care payment was received in at least three of the six months immediately preceding the month in which the denial occurred.

(c) The foster child continues his employment during the four month period.

.061 Non AFDC Foster Care, Medical Assistance Only (Type Program 09)

(a) For a child to be eligible for medical benefits under Title XIX:

(1) There must be a court order giving the department responsibility for the child's placement and care.

(2) The child must be receiving care in one of the following:

(A) a foster home certified and supervised by the department.

(B) a foster home certified by a licensed child-placing agency which is on the approved list of child-placing agencies.

(C) a private, non-profit, foster home which is currently licensed and on the list of foster homes approved for AFDC foster care;

(D) a private, non-profit, child-caring institution which is currently licensed and on the list of child-caring institutions approved for AFDC foster care.

(3) The child's current monthly income must be less than the department's standard rate of payment for the type of care the child is receiving

(4) The child must be a citizen of the United States, a lawfully admitted alien, or an alien permanently residing in the U.S. under color of law. A child of unknown parentage found in the U.S. while under the age of five years shall be a citizen of the U.S. unless it is shown, before the child attains the age of 21, that he was not born in the U.S.

(5) The child must be a resident of the State of Texas.

(6) The child must not have real or personal property with a market value in excess of \$1800.

(7) The child must meet the department's AFDC age requirements

(8) The department must be financially responsible in whole or in part for the child's care. Financial responsibility means expenditures of funds for foster care or for clothing and incidentals not included in the foster care payment

(b) County child welfare boards with child welfare contracts with the department are considered extensions of the department, therefore, when the child's needs are met in whole or in part by the board, the department is considered responsible in whole or in part for the child's maintenance and care

(c) A child in a child-caring institution whose total expenses are being paid by the institution, another state, an out-of-state agency, or his parents is not eligible for Type Program 09 because the department is not responsible in whole or in part for the child's maintenance and care

.062 Redetermination of Eligibility for Non AFDC Foster Care, Medical Assistance Only Redetermination of eligibility for non AFDC foster care with medical coverage must be made at least every six months. However, at any time the department becomes aware of a change in circumstances affecting eligibility a redetermination of eligibility must be made. The worker is responsible for reporting any time the child's circumstances change. If the child is found ineligible, the eligibility worker must notify the child placing worker, if different

.063 Medical Effective Date (Type Program 09)

(a) If a child meets Type Program 09 eligibility requirements, the medical effective date is:

(1) the date the child enters the foster care facility, or

(2) the date the determination was made that the child was eligible for medical benefits if the child is already residing in an approved facility

(b) The child is considered to be in foster care during a medical facility stay if all of the following conditions exist:

(1) In the opinion of the attending physician the child needs medical care

(2) Plans have been made to place the child in foster care and a facility has been selected for him

(3) The plan is later confirmed by placing the child in the home

(c) Exception to confirmation of the plan by subsequent placement of the child in the specified foster home may be made if unforeseen circumstances arise precluding such placement, such as a change in court order or death of the child while in the medical facility

.064 Child Support for Children in Foster Care

(a) Parents have responsibility for the care and support of their children. Court ordered or voluntary

placement of the child in foster, group, or institutional care does not relieve the parents of their continuing responsibility for support of the child. A parent is divested of the legal right and duty to provide financially for a child only when a court decree terminates the parent-child relationship.

(b) The following guidelines for requesting child support apply to all children placed in foster care by the department under court order:

(1) If the parent-child relationships have been terminated, no child support will be requested or accepted from the parents, unless the court has ordered continuing child support payments.

(2) If parental rights have not been terminated, the change in court order or death of the child while in the medical facility:

worker will ask the court through the county or district attorney to order either or both parents to make payments to the department for the support of the child if DHR is appointed managing conservatorship be placed with the department must:

(A) inform the court of any existing child support orders or payments.

(B) ask the court to order a reasonable amount of child support to be paid to the department. The petition may include recommendations to the court as to the amount of child support.

(c) The worker must discuss with the parents (if available) the court order and the terms for paying child support. If no support is ordered by the court from either parent, the worker will explain this to the parents and take no further action about child support. If the court elects not to order support, the worker must request this stipulation be included in the court order. If the court orders child support, the worker will discuss the court order with the parents, clarify any questions they may have as to amount and frequency of the payments, and emphasize their responsibility to comply fully with the court order.

(d) For children eligible for AFDC foster care (Type Program 08) or non AFDC foster care, Medical Assistance Only (Type Program 09), the social services worker must document any court ordered child support or change in the court ordered child support.

(e) When the department is managing conservator of a foster care child, child support for the child must be paid to and collected by the department. The protective services worker is responsible for monitoring the child support payments. If the parents fail to make court ordered payments, the protective services worker must discuss with the parents their obligation to comply with the court order regarding child support and reasons why they are not doing so.

(f) The worker must report to the court the parents' failure to comply with the court ordered child support and any reasons the parents have given for not

meeting the court's requirements. At its discretion, the court may amend the order. If the parents still continue to default on court ordered child support payments, the worker must report this to the court and take any action ordered by the court.

.065. Supplemental Security Income (SSI) for Foster Care Children.

(a) Social services staff must apply for Supplemental Security Income (SSI) for all foster children who are physically or mentally handicapped (including deafness) or have visual impairment. Eligibility is based on need and disability. It is not necessary that the department hold managing conservatorship of the child.

(b) The SSI payment must be used for room and board at the foster care payment rate appropriate to the care needed by the child, and for clothing and other personal needs items for the child. Excess funds, if any, must be held in trust for the child.

(c) If the child has income such as OASDI, VA, or child support, \$20 per month of the income is exempt and the balance is deducted from the SSI payments. County payments from the child's foster care are not considered income to the child and may continue without affecting the amount of SSI received by the child.

(d) If an AFDC foster care child is determined eligible for SSI, the worker must make a decision as to which would provide greater benefit for the child, since the child cannot receive both AFDC foster care and SSI.

(e) When a child receiving SSI in Texas is placed out of state, Medicaid will continue only if the receiving state provides for this coverage since not all states make Medicaid available for SSI recipients, and the State of Texas does not provide Medicaid coverage for children placed out of state.

.066. Absence of Child from Foster Care Facility

(a) If the foster child enters a hospital or maternity home and the plan continues to be in effect for the child to return to the foster care facility, the AFDC foster care or medical benefits may be continued for up to two weeks while the child is in the medical facility. In order to continue the foster care payments or medical benefits beyond two weeks, written approval must be obtained from the regional director for social services. This approval must be filed in the eligibility case folder, if it exists separately.

(b) Apart from hospital care, if the child is absent from the foster care facility for a period not to exceed two weeks and the plan for the child is to return to the foster care facility, the AFDC foster care payments or medical benefits will be continued while he is absent. If a child is out of the foster care facility for more than two weeks, eligibility for foster care must be discontinued. The worker must discontinue AFDC foster care eligibility or medical benefits effective the day the two-week limitation was exceeded.

(c) If the child is returned to his own family for a visit and during the visit a decision is made to leave him with his family, AFDC foster care or medical benefits must be immediately discontinued, effective the date the decision is made.

067 Foster Care Assistance for Child Born in Hospital or Maternity Home

(a) A child born in a hospital or maternity home is eligible for AFDC foster care if all eligibility factors are met including:

(1) The child would have received AFDC in or for the month in which court proceedings were initiated that resulted in removal from his home. The child born in the hospital or maternity home is considered to have been removed from his home if:

(A) the mother relinquishes her parental rights and a court order giving the department responsibility for the care and placement of the child is initiated while the baby is in the hospital or maternity home, or

(B) the department obtains a court order removing the child from the mother and vesting the responsibility for the care and placement of the child with the department, while the baby is in the hospital or maternity home.

(2) the hospital or maternity home is approved as a Title XIX hospital;

(3) a plan must have been made for the child to be placed in a specific licensed or certified foster home or institution from the hospital and the child is actually placed in the facility unless unforeseen circumstances arise precluding placement, such as change in court order or death of the child while in the medical facility.

(b) A child born in a hospital or maternity home is eligible for non-AFDC foster care with medical coverage (Type Program 09) if all eligibility factors are met to include:

(1) the hospital or maternity home is approved as a Title XIX hospital;

(2) a plan must have been made for the child to be placed in a specific licensed or certified foster home or institution from the hospital and the child must actually be placed in the facility unless unforeseen circumstances arise and preclude placement, such as change in court order or death of the child while in the medical facility.

068 Effective Date of Foster Care Assistance for Child Born in Hospital or Maternity Home

(a) The child is eligible for AFDC foster care or medical benefits effective the date of the child's birth if application was made before the child was born. If application was made after the child's birth, the effective date is the date the specific plan was made to place the child in a specific foster care facility.

(b) If the child's mother was certified as an AFDC foster care child (Type Program 08) or a non-AFDC foster care child with medical coverage (Type Program 09), the mother continues to be eligible for AFDC foster care or non-AFDC foster care with medical coverage, if:

(1) she meets the criteria for temporary absence from the foster care facility, and

(2) the hospital or maternity home is approved as a Title XIX hospital.

Doc No. 776-932



Adoption Services 326 50 75

These rules have been approved by the Texas Board of Human Resources and are adopted under the authority of Texas Civil Statutes, Articles 695a and 695c.

041 Overview of Adoption Services The department is responsible for the following services involving the adoption of children:

(a) DHR provides adoption services to children in its managing conservatorship who need adoptive planning regardless of age or handicaps of the child, after the parent-child relationship has been terminated. DHR recruits and studies adoptive homes for these children, places them in approved homes, and supervises the placements until legal consummation of the adoption or the placement ends with removal of the child. DHR gives post-consummation adoption counseling to families who adopted through DHR, when they request it.

(b) The department may be appointed by a court to investigate adoption petitions when they are filed with the district court. When the department makes the adoptive placement, it must submit to the court a social study of the circumstances of the placement.

(c) The Licensing Branch licenses child-placing agencies, including the social services program, and has responsibility to tell any unlicensed agency or individual known to be placing children of the licensing requirements

042 Study of the Child for Adoptive Placement In studying a child for adoptive placement, workers must make every attempt to get full background information on the child and his biological family

043 Information on the Biological Family As much of the following information as possible about the biological family of a child to be placed should be recorded in the case record.

(a) Family composition (number of people in the family and each person's relationship to the child). Workers should verify marriages and divorces of the child's parents to be sure all parents who have legal rights to the child are known

(b) Dates and places of birth of parents and siblings or at least their ages at the time the child came into care

(c) Ethnic and racial background of family and whether this has special meaning for the family and child.

(d) Physical description of parents and siblings.

(e) Personality description of parents and siblings.

(f) Life style and socio-economic status of family.

(g) Educational levels reached by other family members (including vocational training).

(h) Usual occupations and work histories of parents

(i) Medical history of biological family.

(j) Circumstances of the parents' decision to relinquish a child for adoption or removal.

(k) Special interests and talents in the family.

(l) Significant developmental history of siblings.

(m) Military record of parents

(n) Social security numbers of parents

(o) Whether siblings were also removed from biological family, if so, how they adjusted to substitute care

(p) Whether siblings should be placed with this child and if not, why

(q) What arrangements are being made for siblings to keep in contact with each other, if they are not placed together

(r) Religious preference and practices of family.

044 Information on the Child to Be Adopted.

(a) The worker should find out and record as much as possible of the following information about the child.

(1) Birth information (including prenatal and postnatal care.) A copy of the birth certificate is required in the case record

(2) Developmental history of the child.

(3) Physical description of the child with pictures.

(4) Behavioral description of the personality and temperament of the child

(5) Health history, including current medical examinations and immunizations. A medical examination report by a licensed physician must be made within one month before placement of children under two years of age and within three months before placement of children two years of age or older

(6) Adjustment in own home and in foster care including number and kinds of previous placements, reasons for changes of placement, and child's reaction to and understanding of changes

(7) Any special problems, interests, and talents.

(8) Legal status of the child. The worker must have copies of legal documents in the record.

(9) Intellectual development and school adjustment, including any psychological testing. A psychological study is required for any child with questionable developmental or mental conditions

(10) Standard of living and life style the child has known

(11) Description of any neglect or abuse of the child and how it has affected him

(12) Significant relationships of the child, including biological and foster families, composition of the foster family, and how the child gets along with particular people in the foster family

(13) Child's way of relating to others

(14) Description of how child handled separation from, and loss of biological family

(15) Attitude of child toward adoption, including the child's thoughts and feelings about his parents' inability to rear him and about relating to new parents

(16) An evaluation of the child's psychological readiness for adoption

(17) An evaluation of the kind of family the child needs and the kind of family that could best accept him.

(b) A child is considered adoptable when he is or can be made legally free for adoption and has the capacity to benefit from the formation of new family relationships. The supervisor must approve the child's readiness for adoption. A child may not be approved for placement unless an Adoption Readiness Summary has been completed or updated within three months of the actual adoptive placement. The supervisor may sign or initial the form to show approval of the child's readiness for adoption. When the supervisor gives the approval, the worker should record the reason for the decision, reservations about the child's adjustment to adoption, anticipated problems, and a description of the type of family most appropriate for the child

(c) If there is not an adoptive home in the region for the child when he is ready for adoptive placement, the worker must immediately complete a Texas Adoption Resource Exchange Child Information Sheet, and send it to the Adoption Resource Exchange, Social Services Branch, State Office. For children for whom there are no suitable families in Texas, the worker may also register the child with the Adoption Resource Exchange of North America.

045 *Legal Determination of Adoptability*

(a) The department must not pressure biological parents to relinquish a child for adoption. Before a child is legally free for adoptive placement, there must be:

(1) a signed and dated court order filed in the child's record terminating the parent-child relationship and giving DHR managing conservatorship which includes the right to make permanent plans for the child. If a district judge elects not to hold court hearings on children relinquished through affidavits of relinquishment of parental rights, the worker must not seek them.

(2) protection of the rights of the biological or legal parents, including the biological father, through either:

(A) appearance of biological and legal parents at the court hearing terminating the parent-child relationship.

(B) citation of legal parents, including the biological father, to appear at the court hearing terminating the parent-child relationship.

(C) notarized signature by the legal parents of a waiver to appear at the hearing and to consent to adoptive placement by DHR or an affidavit of relinquishment of parental rights.

(D) if unable to locate the parents to cite, public notice of the hearing.

(b) A child born out of wedlock can be placed for adoption with only the parental rights of the mother terminated as long as the alleged biological father, whose paternity has not been legally established, has been properly cited so he will have an opportunity to legally establish his parental rights and to challenge the termination. If the mother was married at the time the child was born or conceived, the parental rights of the father have to be terminated before adoption.

046 *Recruitment and Study of Adoptive Homes*

(a) Recruitment of adoptive homes by the department focuses on finding homes for children who need to be adopted and are under DHR conservatorship.

(b) Pictures of children may be used in recruiting but only with extreme caution. Pictures of children may be used only if the parent-child relationship has been terminated and the managing conservator gives written permission. Pictures of school-age children

should not be used without the child's written permission. Workers should discuss plans for the use of the child's picture with the foster parents. Pictures, reports, or identification that humiliate, exploit, or invade the privacy of a child and his or her parents or managing conservator must not be made public. The worker must file all written consents to the use of pictures in the child's case record. Workers should decide to share pictures with other groups, units, or local newspapers on an individual basis and based on whether it is appropriate and helpful to the child. These guidelines also apply when workers are writing material to go with the pictures.

047 *Screening Applicants Regarding Adoption*

(a) People who inquire about adoption will be invited to see a representative of the department to get an explanation of DHR's adoption services. This representative will usually be an adoption worker or an adoption supervisor. Other staff or volunteers could be used in this information-giving role under the supervision of adoption home finding staff. People inquiring about adoption may be seen in small groups or individually. The differences between adoption and foster care should be clarified very early in the contact.

(b) When an actual adoption application will be accepted and a home study with a family will be done depends on the needs of the children in DHR conservatorship who need adoptive planning. An adoption application and home study should be started for any family who wants to adopt a black child, older Mexican-American, school-age, handicapped, or retarded child, or an older sibling group unless it appears that the family obviously should not be considered for adoptive placement of a child. The adoption applications of couples who want to adopt hard to place children or the children waiting for homes will be processed first, regardless of the dates of other applications.

(c) Other factors to be considered in screening adoptive applicants include:

(1) Age. The parents selected for a child should be within the usual age range for natural parents of a child of that age. Exceptions will be made to meet the needs of a specific child.

(2) Marriage. The department will not place a child with a couple for adoption unless their marriage has been recorded by civil registration.

(3) Length of marriage. Generally a couple must have been married at least two years before an adoption application and home study is initiated. Couples who have had previous marriages and divorces must be screened individually after their present marriage has lasted three years. Exceptions to these guidelines must be agreed upon by the adoption worker and adoption supervisor who may make the exception only to meet the needs of a specific child.

(4) **Single parent placements**—Single persons will be considered if the department cannot secure two parents. The adoption worker must evaluate the applicant's ability to meet the needs of a child without the assistance of a spouse.

(5) **Fertility**—Fertility studies will be required only when the adoption worker and supervisor believe the couple should know about their fertility before they adopt a child.

(6) **Handicaps**—A handicapped person must not be denied the opportunity to adopt solely because of his handicap. Workers must decide on a case-by-case basis whether to study the handicapped person. Workers should consider the person's adjustment to the handicap, its possible effect on a child, and the limits the handicap imposes on the applicant's ability to care for a child.

(7) **Residence**—Workers generally should not begin adoptive home studies if the worker believes the family will not stay in the community long enough for the worker to complete a study and make a placement. Exceptions can be made in unusual situations which involve a hard-to-place child if the worker can plan with a reputable agency in the new community to complete the adoption services.

(8) **Working adoptive parents**—Where both parents work or are involved in activities which would require that someone else regularly care for the child, the worker must decide whether the family's child care plan would meet the needs of the child they want to adopt.

(9) **Adoption by foster families**—Foster families requesting to adopt a foster child in their home must be considered when it is in the best interest of the child. Adoption by foster parents, who have developed a long-term, tested, and proven love relationship with the child, is preferable to adoption by strangers.

(10) **Interracial placements**—These placements are considered when in the best interest of the child. The child's best interests and rights are usually best served when he is placed in the racial or ethnic environment most similar to his own heritage. Interracial placements will be considered in view of meeting the needs of the child. Community attitudes must be realistically considered in addition to those of the adoptive family and those with whom they are involved.

(11) **Financial**—There are no specific financial requirements for adoptive families. The family's economic circumstances must be such that the family can be expected to support a child until the child is grown or self-supporting. The worker must evaluate the family's income and financial history for stability. A financial statement is required of the adoptive applicant.

(12) **Religion**—There is no religious requirement for adoptive parents. Child Welfare League of America standards for adoption services state a belief

that "the family selected for a child should be one in which the child will have an opportunity for religious or spiritual and ethical development, but religious background alone should not be the basis for the selection or rejection of a family for a child." If the adoptive applicants' religious beliefs prohibit certain medical treatment, the worker must evaluate them on the basis of the health protection they will give a child. The applicants should be told when they ask about adoption that DHR has responsibility for the total welfare of a child under its care. This gives the department the responsibility to decide, with medical advice, what the specific needs of a child may be.

(d) The department never selects or rejects applicants on the basis of one factor alone. The decision to accept or reject any adoptive applicant must be based on an evaluation of the family's total situation, the family's flexibility in all areas of life, their sensitivity and understanding of the child's needs, and their ability to meet these needs.

048 *Procedures for Application and Study*

(a) If a family making an adoption inquiry seems to be able to accept the kinds of children in DHR's conservatorship, the worker will give them an Application to Adopt a Child. The worker should offer to help them complete this form.

(b) When a completed application is returned to DHR, the worker begins the adoption study. This study should be completed within 30 to 90 days, so that within that length of time a couple will know whether DHR hopes to place a child with them.

(c) Normally, in an adoptive home study, the worker must

(1) review the Application to Adopt a Child which has been completed by the family.

(2) have two or more interviews with the family, either jointly or in a small group, excluding initial orientation groups. At least one individual interview must be held with each applicant.

(3) interview any school-age child in the family and any other person living with the family.

(4) make at least one visit to the home when all members of the household are present.

(5) interview three character references given by the applicants. Where feasible, the interview is by personal contact. Recommended references are:

(A) relatives who live near the family.

(B) the employers of husband and wife (the person to whom the applicant is responsible on his or her job).

(C) the family physician if the family has one who knows them well.

(D) the family's minister if he knows them well;

(E) two or three personal friends who know them well and know of their interest in children and in

adopting and who can give some impressions of the applicants' ability to be parents, particularly adoptive parents;

(F) the school teacher of children already a part of the family, to get an evaluation of the personal security of the children already in the home.

(6) get a current medical evaluation on the applicants and any children or other persons living in the home. Each evaluation must include a signed statement by a doctor that the person is free from communicable disease.

(7) verify the family's income and the extent of insurance coverage, if any.

(8) verify the present marriage or any previous marriages and divorces of each adoptive applicant, including deaths of spouses.

(d) When the worker requests collateral information about criminal records from the Department of Public Safety, he/she should justify the request by stating whichever of the following is more appropriate: that the information is needed in connection with an adoption home study under the Licensing Law or that the information is needed to complete a social study ordered by the court under the Texas Family Code and that the court's criteria for the study includes the study of possible criminal history.

049 Areas Covered in Adoptive Home Studies

(a) The worker should interview adoptive applicants in their home. One interview or intake meeting is usually held in the office to acquaint the applicants with DHR.

(b) The worker should explore and evaluate the following areas during the adoptive home study:

(1) family's motivation for adoption.

(2) readiness of each spouse to adopt.

(3) parents' feelings about their inability to have children, if this is a factor.

(4) family's comfort with adoption (this includes extended family).

(5) family's feelings about biological parents of adopted children.

(6) family's feelings about helping a child understand adoption.

(7) family's expectations for the child they adopt.

(8) educational standards and expectation of the adoptive family.

(9) family's feelings about children.

(10) family's feelings about family roles, including changing patterns in today's families.

(11) family's feelings about child rearing, including discipline. This includes their experience with children and how this has contributed to their approach to adoptive parenthood.

(12) parents' feelings about their own parents and childhoods.

(13) quality of marital relationships.

(14) personalities of parent figures and others in the home.

(15) emotional maturity of parent figures.

(16) extended family's relationship to the adopting family.

(17) family's financial stability, including income and how money is used.

(18) health factors of all members of the prospective adoptive household. Whether they are free from communicable disease and the adoptive parents are in sufficiently good health to care for a child until he or she reaches adulthood.

(19) religious affiliation of family and attitudes toward religion.

(20) evaluation of the ways the family handle stressful situations.

(21) family's child care plans, if both parents plan to work. If a non relative cares for the child away from the adoptive family's home, the facility must be licensed or certified.

(22) appropriateness of physical surroundings for good child care.

(23) any other significant information pertinent to this family adopting a child.

050 Approval or Denial of Adoption Home Study

(a) Adoptive home studies are usually done by adoption workers. The adoption supervisor must approve the completed adoptive home study. In addition, if the worker or supervisor does not have a master's of social work degree and two years experience in child placing, a staff member with these qualifications must review the study. The review should be finished before a child is placed.

(b) In an interview with the couple, the worker must tell them whether they have been approved or denied for adoptive placement of a child. If a denied applicant wishes to see the adoption supervisor and social services program director, he may do so.

(c) If there is no child in the region available for adoption when the family is approved for adoptive placement of a hard to place child, the family's worker should send an Adoptive Family Information Sheet to the Texas Adoption Resource Exchange, State Office. The family may also be registered with ARENA.

051 Placement of a Child

(a) The case workers who know the child and the adoptive family and their respective supervisors should share the responsibility for the selection of a family for a particular child on the basis of their combined knowledge. Selection of a specific adoptive home shall be made with the written approval of the worker serving the child and the worker serving the adoptive family and the immediate supervisors of both. Unless one of the supervisors has a master's of social work

degree and two years child-placing experience, the placement must be reviewed by a staff person with these qualifications. The review should be completed before placement.

(b) When a child is to be placed for adoption outside the county of conservatorship, certain procedures must be followed to ensure adequate supervision and responsibility for the child.

052 Selection of Adoptive Home for a Child When selecting an adoptive home, the worker and supervisor should consider:

(a) personality and temperament of the child and the members of the adoptive family;

(b) the child's ability to meet the intellectual and scholastic expectations of the adoptive family and the adoptive family's ability to develop the child's natural capacities. The worker should assess the child's potential to meet the expectations of an adoptive family. The child's potential should be assessed according to his own developmental progress, not the background of his biological family;

(c) people who belong to a faith which does not use medical care are evaluated in terms of the health protection they will provide the child;

(d) physical appearance is matched only if this is important to the adoptive family and the child's needs.

053 Information Given the Adoptive Parent About the Child

(a) Before placing a child in a home, the worker must discuss with the adoptive parents information about the child and his biological parents. Written information must be given to the adoptive parents to include:

1. complete medical data;
2. any known hereditary conditions;
3. pertinent information excluding identity on the biological parents;
4. any handicaps and their implications.

(b) The worker and supervisor may decide that the adoptive family should talk directly with the child's physician or therapists. If possible, the worker should be present so that all parties concerned have a mutual understanding of the implications of the child's condition. The worker should see that medical information is transferred from the child's physician to the family's physician.

(c) The worker must record in the case record what information is shared and what information is withheld and the reasons for withholding it. The information may be needed if the family returns at a later date to get help with problems in the adoption.

(d) The worker must give the adoptive parents in writing information on the birth, developmental, educational, and medical background on the child. The worker must also give them written information on the

child's regular schedule, diet, fears, etc. A copy of these must be kept in the adoptive family's case record. The worker should give the adoptive parents any pictures of the child when he was younger and any personal documents or memorabilia that might help the child establish a healthy identity.

(e) When the child is placed, the social services unit holding conservatorship of the child must give the adoptive parents written consent to secure medical services for the child. A copy of the signed medical consent form must be filed in the child's record or the adoptive home record.

(f) The worker and the adoptive family must sign an adoption placement agreement. The adoption placement agreement must specify:

(1) that the adoptive parents and DHR agree to complete the adoption by a specified time;

(2) that the adoptive parents agree to participate in DHR's supervision of the child's placement in their home before the adoption is legally consummated;

(3) that the adoptive parents agree not to remove the child from Texas before the adoption is legally consummated without DHR's permission;

(4) that the adoptive parents and DHR agree that the child can be removed and returned to DHR at the discretion of either the adoptive parents or DHR before adoption is legally consummated;

(5) an agreement for subsidized adoption, if any;

(6) the amount and due date of the adoption reimbursement fee, if any.

(g) The worker must give a copy of this agreement to the adoptive parents and keep a copy in the case record.

054 Procedure for Presentation and Placement

(a) The worker describes a child to the adoptive couple with the above information and pictures.

(b) If from the verbal presentation the couple believes this is an appropriate child for them, their worker and the child's worker arrange for them to meet with and talk to the child.

(c) If, after meeting the child, the couple and DHR want to proceed with the placement, the couple needs to spend time with the child so they can get to know each other. All children placed in adoption must have at least one visit with the family before placement. An infant will usually go home with the couple the second time they are with him. All other children must have as many visits with the adoptive family before placement as are indicated for that individual child. The child's worker must record these visits in the child's case record.

(d) The child's worker must have prepared the child for the adoptive placement and the adoptive family chosen for him. The child's worker must help him resolve his feelings about his need to be adopted.

The family's worker must explain the placement process and the specific child's needs to the adoptive family. It is important that both the child and the adoptive family deal with their thoughts and feelings about the child's biological family, the biological family's inability to rear him, and his separation from them. The worker should help them bring any conflicts to as positive a resolution as possible before placement is made.

(e) In the preplacement planning stages, the child's unit is responsible for ensuring that the adoption unit or agency working with the family understands what help the child and adoptive family must receive after placement to ensure the success of the placement. The child's unit is responsible for clarifying in writing with the adoption unit or agency the child's unit's expectations about the frequency and nature of contacts with the adoptive home, and the frequency and nature of written reports about the child's adjustment and well being. The family's worker should explain the use of an adoption subsidy and adoption reimbursement fees to the family before placement of the child.

055 *Out of State Adoption Placement*

(a) When the worker has explored all possible adoption resources within Texas and a suitable adoptive home cannot be found for the child, the worker may seek out of state placements through the Adoption Research Exchange of North America (ARENA), public welfare agencies, and authorized child placing agencies.

(b) To avoid placement failures, when an out of state adoptive home is being screened, the adoptive home study completed by the other agency and the department study of the child should both reflect in depth knowledge of the people involved. The home study may be completed exclusively through individual interviews with the family or through the group study method, a self study, or any combination of these methods. The adoption agency chooses its method of evaluating potential adoptive families, but the unit holding conservatorship of the child must judge the depth of the agency's knowledge and evaluation of the family.

(c) A social services program director must approve an out of state adoptive placement before it is made. The court having jurisdiction of the child must also approve the placement plan in writing, or the court's verbal approval must be documented by a letter from the worker acknowledging the verbal approach.

(d) Social services units holding managing conservatorship of a child placed out of Texas through ARENA or through an authorized child placing agency will not normally require an adoption reimbursement fee. If the out of state agency is being paid a fee, the two agencies involved must agree on the amount of the fee and how much of the fee goes to each agency. This

agreement must be made before the child is presented to the family.

(e) The unit holding conservatorship of the child registered with ARENA, or the licensed child placing agency, should pay for the transportation expenses for the presentation and placement of the child, unless the adoptive parents choose to do so. When possible, the adoptive family should come to Texas for the presentation and placement. If this is not possible, the worker must go with the child when he travels to the prospective home, regardless of the child's age.

056 *Supervision and Post Placement Service*

(a) The department is responsible for the child until legal consummation of the adoption. Therefore, after the child is placed, DHR must supervise the child's placement with the adoptive family. Supervision during this early adjustment period is usually the final service in the adoption. The family's worker usually gives this service to the adoptive family, but in some cases the child's worker may do so.

(b) When the child is placed for adoption where the unit holding conservatorship does not supervise the placement, the conservatorship unit still has primary responsibility for the well being and planning for the child until the adoption is consummated.

(c) Six months of supervision of the adoptive placement is required unless a longer period is needed in individual cases. Families who adopt hard to place children will often need casework services longer than the usual six months.

(d) The number of visits and contacts with the child and family will depend upon the age of the child and medical or other problems which may be present. The worker must make a minimum of five contacts with the family within the first six months of placement. The worker must make a home visit within one month after placement in all instances. With older children, subsequent visits are to be made each month thereafter, or more frequently if needed. With problem free infant placements, fewer home visits may be appropriate, but the worker must still have monthly contact with the family. The worker may use group work method in post placement supervision but still must make no less than one home visit with the child and the parents.

(e) After the first six months of placement unless a longer supervisory period is indicated in individual cases, the worker should make every reasonable effort to see that the adoption is consummated. The worker must continue to make quarterly contacts with the family until the adoption is consummated. If the adoption has not been consummated because of financial reasons, the worker should screen the adoptive child for adoption subsidy eligibility. If the placement is not satisfactory, the worker and supervisor may either extend the supervisory period if a constructive plan is

being worked out or remove the child. The worker must record all evidence leading to such a decision. If an adoption placement breaks down before legal consummation, the adoption staff must help the family to return the child. The unit holding conservatorship, if different from the supervisory unit, should be notified to make plans for the child's removal and subsequent care.

(f) Workers must record supervisory visits and contacts chronologically and a final evaluation of the placement at the end of the adoption in the family's case record. The worker must share reports on all supervisory visits or contacts with the social services unit holding managing conservatorship, if different from the supervisory unit.

(g) If the family asks for the child's removal after consummation, the adoption staff must work with the family. If neglect or abuse is reported after consummation, protective services staff must investigate the report and involve the adoption staff as needed to protect the child and help the family.

057. Legal Consummation of Adoption

(a) After a child has been in his adoptive home for a period of six months, the adoption may be legally consummated if there are no problems or unresolved questions around the adoptive placement. The adoptive family employs its own attorney who files a petition to adopt a minor child on behalf of the family in "the county in which the child resides, the petitioner's residence, or if the child is placed for adoption by an authorized agency, in the county where the authorized agency is located."

(b) The department must submit to the court a confidential social study on the child and his placement in his adoptive home. The judge of the court which terminated the parent-child relationship must give consent to the adoption. The family's worker should help the family's attorney get the judge's consent, since it is required by law, and the court of continuing jurisdiction should have knowledge of the final plans carried out for the child.

(c) The family's worker gives the adoptive family's attorney the necessary birth certificate information so that the attorney can complete the application to amend the child's birth certificate to carry his adoptive name and the names of his adoptive parents.

(d) Legal consummation of the adoption ends the department's responsibility for the child and gives the child the same legal status in the adoptive home, including inheritance rights, as if he has been born to the family. Workers can give post-adoption casework services to the adoptive family, if needed, to help them and the child adjust to their adoption or to re-plan for the child if the adoption does not work out.

(e) When the adoption is consummated and a new birth certificate has been issued, the adoptive family

may apply for a new social security number for the child in his adoptive name.

058. *Subsequent Adoptive Placements* Before another child can be placed in the adoptive home, the adoptive home study must be brought up to date. The adoptive home study for a subsequent placement must be documented in the adoptive home record and must include:

(a) one or more interviews with all members of the adoptive family;

(b) at least one visit to the home when all household members are present;

(c) current medical examination reports for all household members;

(d) observation of the adjustment of all the family members.

059. *Adoption Reimbursement Fees*

(a) Adoption reimbursement fees are funds received from adoptive parents to fully or partially repay counties or child welfare units for the costs incurred by the county on behalf of the child they are adopting. These costs include such expenses as foster care, maintenance, medical care, and fees associated with legally freeing the child for adoption. No fee requested of a family can include reimbursement for maternal and child care costs of the mother or child which were financed in part or in whole by state or federal funds. Therefore, no reimbursement is allowed for:

(1) foster care or medical care for children or mothers receiving AFDC Foster Care, Type Program 08;

(2) medical care for children or mothers receiving Medical Assistance Only, Type Program 09;

(3) medical care for mothers receiving Title XIX benefits.

Only those costs paid in full by DHR local funds may be considered in the reimbursement fee to be requested of the family. The child's caseload must contain verification that the costs considered in the reimbursement requested of the adoptive family were met in full by local funds.

(b) A county child welfare board must establish policies and fee scales for adoption reimbursement fees for children placed by DHR in that county. In counties which participate in financing maternal and child care costs where there is no board, the adoption reimbursement policies and fee scales of the social services unit placing children must have the approval of the county commissioners' court. The policies and fee scales can not be in conflict with any DHR policy.

(c) Adoption reimbursement policies and fee scales which have been approved by the county child welfare board (or the county commissioners' court where there is no board) must be sent to the state office for

review and approval. No fees may be charged until such policies and fee scales have been approved in writing by the Social Services Branch.

(d) Adoption reimbursement fees must be based on the family's income and must in no way determine approval or disapproval of a family for placement. All policies on fees must provide for lowering or waiving adoption reimbursement fees. Reimbursement fees must be lowered or waived to get a permanent family for a child who would not have one otherwise, prevent placing a financial hardship on a family when they enter adoptive parenthood with one or more of DHR's children, or help a family with unusual extra expenses incurred because of the child they are adopting.

(e) No fee is requested of a family unless a child is placed with them. The family's worker and the child's worker must reach an agreement about the appropriateness of a fee and the actual amount of the fee. Adoption reimbursement fees are waived for families who receive an adoption subsidy. Reimbursement fees collected from adoptive families are returned to the family if the placement fails and the child has to be removed before the adoption is legally consummated.

(f) Workers should explain to people inquiring about adoption reimbursement fees and to adoptive applicants that the reimbursement fee is based on the cost of the care of the child by DHR before adoption placement, and the ability of the adoptive family to pay the fee.

(g) The adoptive family may pay the reimbursement fee in either a lump sum at the time the child is placed or in installments between the time of placement and the legal consummation.

(h) When the child and family are from two different agencies or DHR units, the unit or agency must agree about which agency will receive the fee, and, if the fee is to be split between the two agencies, the method for accomplishing this. These agreements must be made before the child is presented to the adoptive family.

060 Subsidized Adoptions

(a) The primary function of adoption is to provide permanent homes for children whose parent-child relationship has been legally terminated and who can benefit from adoption. DHR can use its resources to develop placements for hard-to-place children. The adoption subsidy program is one such resource. Adoption subsidies are meant to help develop sound adoptive placements for children with special needs.

(b) DHR makes the subsidy payment according to a mutually agreed upon plan between DHR and the adoptive family for meeting the extraordinary needs of the child during the year. A subsidy can only be contracted for the current fiscal year. The subsidy contract can be renewed, if the need still exists. The worker must not give any assurances of receiving a sub-

sidy to the family, until the subsidy is approved by the State Adoption Subsidy Committee.

(c) The adoption subsidy program is also meant to facilitate adoption of a child by his foster family when:

(1) there is a positive parent-child relationship established of sufficient duration that the foster parents have become the psychological parents of the child;

(2) the adoption is a sound permanent plan which serves the best interests of the child by stabilizing him with one family;

(3) the family cannot assume complete financial responsibility for a child with special needs.

(d) Adoption subsidies are available only for children who are

(1) hard to place;

(2) in DHR's managing conservatorship;

(3) in AFDC foster care when they are placed in adoption.

(e) A hard to place child is one for whom adoptive parents cannot be found without the subsidy. Before requesting a subsidy, the child's worker must

(1) explore all possible resources for paying the extraordinary costs of the care needed by the child;

(2) register the child on the Texas Adoption Resource Exchange. If the child is to be adopted by his foster parents, he does not have to be registered on the ARE;

(3) document in the child's record why the cost of the child's care is extraordinary, the worker's efforts to find a family who can afford the cost of the child's care; that there are no other resources to pay for the child's care; and the ARE registration, Texas Adoption Resources Exchange Child Information Sheet, in the record.

(f) Adoption subsidy funds must be sought from counties for non-AFDC, hard-to-place children.

061 Determination of Need and Amount of Subsidy

(a) Subsidies may be considered for such expenses as

(1) legal fees related to the adoption;

(2) long term medical problems that are still present;

(3) special medical attention and or equipment;

(4) special education needs;

(5) initial placement expenses;

(6) counseling or therapy;

(7) extraordinary expenses for the child's upkeep.

(b) To decide if a family needs a subsidy for the child, and if so, how much the subsidy should be, the worker measures the cost of the child's needs against the resources and ability of the family to meet those needs. The annual amount of subsidy a child receives may not be more than what the state would have paid

for AFDC foster care for the child during the fiscal year if the placement had not been made.

(c) Workers may not use institutional care rates for exceptional care to decide on the maximum annual amount.

062. *Method of Payment*

(a) Subsidies for one time only expenses or non-recurring costs are paid in a lump sum amount agreed to by the family and the department. The department pays monthly subsidies for on-going or recurring costs of the child that the family cannot meet totally.

(b) The department can contract with the family for a subsidy only for the current fiscal year. The contract may be renegotiated at the end of each fiscal year, if the need still exists. The family may request that the subsidy continue as long as the child is below age 18, or age 21, if he is still in school.

063. *Adoption Subsidy Approval Process.* When the workers and supervisors decide that placing a child with a family needing a subsidy is in the best interest of the child, and that the child is eligible, the adoption worker completes an Adoption Subsidy Request. Separate forms are completed for each child. The child's worker will help with documenting the child's needs and expenses when necessary. The form must document the child's financial needs, the family's financial status, and the resources explored to meet these needs totally or partially. The Adoption Subsidy Request must be submitted before the adoption is consummated.

064. *Regional Adoption Subsidy Committee*

(a) The regional adoption subsidy committee reviews all requests for a subsidy to decide whether it is appropriate to subsidize the placement, to verify the child's eligibility, and to recommend the amount and terms of the subsidy. If the regional committee recommends subsidizing the placement, the chairperson must sign an Adoption Subsidy Request and send it to the State Adoption Subsidy Committee.

(b) The regional adoption subsidy committee includes the child's worker, the managing conservatorship worker, if these are different, the family's worker and the supervisors for each worker. The region may appoint a representative from the licensed private adoption sector to serve on the regional committee.

(c) The designated chairperson monitors all subsidy requests submitted from the region, serves as an advisory source to the regional committee, and is the liaison person to the state committee.

(d) When the department places a child from one region with a family in another region, the subsidy request is submitted from the region where the family resides. The worker holding managing conservatorship must concur with the need for subsidy before the request can be approved.

065. *State Adoption Subsidy Committee.*

(a) The State Adoption Subsidy Committee must review all adoption subsidy requests submitted by regional adoption subsidy committees.

(b) The state committee consists of the chairperson and the following members:

(1) Program Specialist for Foster Care (Social Services Branch, State Office)

(2) Social services field management specialists for the regions submitting requests during the month.

(3) Program director or supervisor of the Austin adoption unit for the purpose of field representation on the state committee. When the state committee considers requests from the Austin region, this committee member will not vote.

(4) Private licensed adoption agency representative.

(c) The State Adoption Subsidy Committee meets at least monthly to consider all requests received.

066. *Adoption Subsidy Agreement, Initiation and Termination of Payment*

(a) When the adoption worker receives authorization for a subsidy, he must discuss and clarify the terms and limitations of the adoption subsidy with the adoptive family. The worker and family should have a personal meeting to discuss and sign the subsidy agreement. When this is not possible because the worker and family are far away from each other, the worker may mail the forms to the family for their signatures. The subsidy agreement is an official contract between the family and DHR. The family should be fully aware of the terms and limitations of the agreement.

(b) The unit supervising the placement is responsible for monitoring the subsidy service and initiating payments. While casework services usually end upon consummation of the adoption, the case remains open for subsidy purposes as long as payments are being made, since the payment of a subsidy is a service to the child.

(c) When adoptive parents request renewal of a subsidy for the new fiscal year or a change in the terms of the agreement, the adoption worker must review the situation with them and update the information on the Adoption Subsidy Request form. The request must show the continued or different need for the subsidy. The same process is used as with new applications to reach a decision on the request. If the subsidy is authorized, the worker follows the procedures to renew payments to the adoptive family.

067. *Other Subsidized Adoption for DHR Children Placed with Other Agencies*

(a) A subsidy may be paid for a child placed in an adoptive home which has been studied and approved by

a licensed child-placing agency other than the department. It is not necessary for a family to be Texas residents to receive a subsidy for a child.

(b) Subsidy requests for department children placed through other agencies must be submitted through and monitored by the department staff holding managing conservatorship of the child. This staff is responsible for discussing the subsidy with the family and the family's agency for getting information for the Adoption Subsidy Request and for submitting the form to the regional adoption subsidy committee.

(c) The regional adoption subsidy committee, in these instances, will consist of

- (1) a department adoption supervisor,
- (2) the child's worker and supervisor,
- (3) the family's worker and supervisor,
- (4) a representative from the private licensed adoption sector, if the region wishes.

(d) The chairperson of the regional committee must be a DHR adoption supervisor unless the regional director for social services designates otherwise.

(e) When the chairperson of the regional committee receives the state committee's decision on the subsidy, he must notify the child's worker of the decision. This worker is responsible for seeing that the family and staff of the other agency are told of the decision and the terms and limitations of the subsidy. When distance precludes the worker from doing this in person, a statement of the terms and limitations along with the forms must be sent to the family's worker. The family's worker will be asked to get the parents' signatures and return the forms to the worker.

(f) The same process used for a DHR adoptive family is followed for renegotiations and renewals except that the child's worker works with the family through the family's worker.

068 *Adoption by Department Employees*

(a) If a department employee wants to adopt a child, the employee must apply to a licensed adoption agency other than DHR for the completion of an adoption home study, the approval or denial of the home for placement, and the decision as to which child will be offered the family.

(b) An employee may not assume the responsibility for studying and approving adoptive placement for another employee. Therefore, children under DHR conservatorship who need adoptive families can be adopted by DHR employees only if another licensed agency chooses to work with DHR to place a child with the employee. In that event, the adoptive family's licensed adoption agency and the DHR unit holding conservatorship of the child being considered must agree on the child to be offered to the adoptive family.

(c) Employees may submit requests for exceptions to this policy. Only those applicants who are committed to the adoption of the hard to place child are

considered for a policy exception. The regional director for social services must approve the request and plan before it is sent to state office.

(d) A child in DHR's managing conservatorship may not be offered, even through a licensed agency, for adoptive placement with a DHR employee located in the same region as the child. Additionally, no child in DHR's managing conservatorship may be offered for adoptive placement with any employee who has had any contact with the child and his family. It would be considered a conflict of interest for a licensing worker to accept adoptive placement of a child from a child-placing agency which is within his caseload.

069 *Texas Adoption Resource Exchange*

(a) The Texas Adoption Resource Exchange (ARE) is a means of centralizing information about children whose adoptability has been determined and for whom homes have not been found locally. It also provides information on families who have been approved for hard to place children.

(b) The department publishes, distributes, and keeps the exchange current. DHR distributes the exchange to all the social services units which place children, all licensed adoption agencies in Texas, and any public and private child-placing agencies of other states which cooperate with the exchange.

(c) Within DHR, the Texas Adoption Resource Exchange Child Information Sheet, and a clear photograph of the child are submitted to the Texas Adoption Resource Exchange, state office, as soon as it is found that a child is ready for adoptive placement and a home is not being considered for him. Information on families approved for the hard to place child should be sent to the Texas Adoption Resource Exchange, state office. No child or family should be referred to the exchange if tentative placement plans are in process.

070 *Adoption Resource Exchange of North America (ARENA)* Only children for whom no other equally suitable adoptive family can be found in Texas will be registered through ARENA.

071 *Court Ordered Social Study on Adoption Petition*

(a) Upon the filing of any petition to adopt a minor child, the court is required to appoint a person to investigate the circumstances of the placement, the background of the child to be adopted, the kind of home in which the child has been placed, and to file a social study with the court regarding the investigation.

(b) The court may appoint a department representative to complete the social study. Under such circumstances, DHR must investigate the adoption placement.

(c) If DHR or another licensed child-placing agency made the placement, the worker doing the study must contact that social services unit or licensed child-

placing agency to get the information needed to complete the social study. If DHR or another licensed agency did not make the placement, the worker must get the needed information from the adoptive petitioners and their attorney. The worker must personally interview the petitioners as many times as necessary to complete the social study. The worker must get medical reports on the petitioners and the child to be adopted and must verify marriages and divorces. The worker must get references from the petitioners. The worker must visit the home of the petitioners, preferably when everyone who lives in the home will be present. The worker must see the child to be adopted and interview the biological parents of the child, if appropriate.

(d) A written, notarized social study, signed by DHR's appointed representative and the worker who made the study is submitted to the court. If several people took part in the study, their names should be listed. The court may require the attendance and testimony at the adoption hearing of the worker making the social study. If the investigation and social study indicate that the placement is questionable, DHR must say if it is willing to work out alternate plans for the child.

DHR No. 16094



Out-of-Town Inquiries (OTI) 326.50.76

These rules have been approved by the Texas Board of Human Resources and are adopted under the authority of Texas Civil Statutes, Articles 695a and 695c.

030 Definition of Out-of-Town Inquiries (OTI). An out-of-town inquiry (OTI) is a request for information received or begun by DHR. OTIs come from public and private social service agencies, including DHR protective services unit, and from individuals and courts.

031 OTIs Received from Other State Agencies

(a) The local protective services unit determines whether it can provide the service requested by another agency by considering the degree of danger to the child, type of referral, type of referrant, and local DHR caseload priorities. In general, DHR responds to OTIs as follows:

(1) Requests for home studies for placement of children, social studies concerning the care of children, and or supervision of the child after placement.

(A) DHR must provide these services:

(i) when court ordered, to include when an out-of-state court orders these services;

(ii) for a DHR unit or public agency having conservatorship or custody of the child;

(iii) when a DHR prison liaison unit requests them;

(iv) after a child has been approved under Texas laws for placement in Texas and post placement services are needed.

(B) DHR does not provide these services for private individuals, attorneys representing private individuals, or custody dispute cases when the court has not ordered DHR's involvement. DHR does not begin or complete foster or adoption studies at the request of other agencies or for children not on its open caseloads unless the child and family already have a relationship. Before the child is placed, DHR may give auxiliary services, such as home visits and contacts with relatives or referrals, when the study has been completed to this point and according to local caseload priorities. In no case can DHR provide services related to child placing for agencies not authorized to place children in Texas. If a request or court order for a home study or for other services related to child placing comes from within the State of Texas and seems to involve unlicensed agencies or other illegal child placing activities, local DHR staff must notify the regional licensing representative of this in writing.

(C) DHR may provide these services when the child and family already have a relationship, even when the child is from a foreign country, according to local caseload priorities and to the indicated degree of danger to the child.

(2) Protective services complaint, referral, or investigation. DHR must act to protect children referred for protective services when there are definite allegations of abuse or neglect.

(3) Check of case record file information. DHR may answer requests for case record or the case file in-

formation if allowed by policies on confidentiality and as caseload priorities allows

(b) In response to an OTI, the worker should answer inquiries, gather social information, and/or give the requested service. The OTI service should include one or more visits to get enough verified information to assess the family situation, to answer the OTI, and to help the family understand, anticipate, and plan for the child involved. The worker should make an initial response to the OTI referrant within two weeks and a final response within a month. When the referrant is an individual working with an agency, the evaluation or investigation results are forwarded to that agency to be explained to the individual.

(c) A supervisor must approve action on an OTI. A social services program director must approve OTIs involving placement of children into or out of Texas.

032 OTIs Made by DHR Protective Services

(a) Protective services staff should make OTIs when

(1) they are planning to place a child out of the county of conservatorship.

(2) a family moves outside the county before a protective services investigation is finished and the family's new address is known or suspected.

(3) a family or child moves out of the county while in an open protective services case and while they still need services and/or while DHR has conservatorship.

(4) parents are in prisons, hospitals, state schools, or otherwise live out of the county, and a DHR representative needs to make personal contact with them to explain action taken by DHR or to plan for the care of the child. The worker should contact the regional director of social services in the area of the incarcerated or hospitalized parent to locate the protective services staff working with persons in these facilities.

(5) a local unit becomes aware of a child needing protection in another county.

(b) OTIs should be made in writing, with telephone calls being made only in an emergency. Telephoned OTIs must be followed by a written request.

033 Interstate Compact on the Placement of Children

(a) The Interstate Compact on the Placement of Children (ICPC) tries to ensure protection for children being placed across state lines. It establishes a system for responsible planning which both the sending and receiving authorities in compact states can use to make informed decisions on the suitability of the proposed placement and to establish appropriate jurisdictional responsibility. Each member state has agreed to follow certain procedures and to respect the applicable laws of all member states.

(b) Children may be placed for care by an agency or individual from Texas into another compact state, or from another compact state into Texas, only with written approval beforehand from the compact administrators of both states. There are some exceptions to this requirement. The ICPC in each state makes the final determination of whether a placement must be made under the ICPC.

(c) Placements in which the ICPC does and does not have to be used are as follows:

(1) Relatives placing children with non-relatives in other compact states must follow ICPC procedures. If relatives ask a DHR unit to help them make an interstate placement, the unit's request for services should clearly state that DHR is not legally involved and will not be responsible under the compact. Any report done by the agency in the receiving state should be made directly to the responsible relative, unless the relative gives the agency permission to share the information with DHR.

(2) When the placement is a "relative to relative" one, the ICPC is not used. A relative to relative placement is when children are brought or sent to another state by relatives or non-agency guardians who have full legal custody of the child and who leave the children with relatives or non-agency guardians in the receiving state who will be responsible for the child. Relatives include only parents, stepparents, grand parents, adult brothers or sisters, adult aunt, or uncle.

(3) The ICPC is not used when children are placed in institutions, primarily educational, in character.

(4) The ICPC is not used when children are placed in hospitals or other medical facilities.

(5) The ICPC is not used when children are placed under the provisions of other interstate compacts or agreements which have the force of law.

(6) The ICPC is not used when children are placed in institutions providing care for the mentally ill, mentally retarded, or epileptic. When children are placed into these types of institutions in Texas:

(A) DHR's commissioner must approve the placement, and

(B) the placing agency person, or court must give a written statement of responsibility for the care, treatment, support, and maintenance of the child during placement and for relocation or return of the child if placement breaks down.

(7) Court ordered placements are subject to the compact. The DHR unit must complete an ICPC agreement when a judge dismisses a court order allowing custody to relapse automatically to someone in another compact state, when the unit has been giving services, is asked to give services, or retains jurisdiction. When DHR does not have jurisdiction of the child but is helping the court make the placement, the court is shown as being responsible for the child on the ICPC forms.

(8) Intrastate placement which becomes an interstate placement. The term "placement" as used in the Interstate Compact on the Placement of Children is not limited to a placement which began as an interstate placement. An intrastate placement becomes an interstate placement subject to the compact if a child moves to a compact state with a foster family or adoptive family before the consummation of the adoption. If the foster or adoptive family had been approved for placement of the child under the laws of the state in which the placement was first made, the receiving state's investigation is only for the purpose of deciding whether special needs the child may have can reasonably be met in the community or area of the proposed interstate placement. An authorized public or private agency in the receiving state may supervise the placement for the sending agency and inform the sending agency of any changes which could affect the suitability of the placement. The sending agency keeps jurisdiction and makes any decisions about ending the placement and returning the child to the sending state.

034 Retention of Jurisdiction

(a) The sending agency keeps the same jurisdiction over the child which it would have had if the child had stayed in the sending state. The sending agency also keeps the authority to return the child to the sending state.

(b) The receiving state has jurisdiction sufficient to deal with an act of delinquency or crime committed while a child is placed in that state, although the sending agency keeps jurisdiction in all other matters.

(c) The jurisdiction of the sending agency ends when an adoption is legally consummated, when the child reaches majority or becomes self-supporting, or when an agency or person in the receiving state assumes legal authority for the child with the approval of the appropriate compact authorities in both the sending and receiving states.

035 Institutional Care of Delinquent Children

(a) Under the ICPC, a juvenile court may place a child adjudicated delinquent in an institution in another compact state. However, no such placement can be made unless the child is given a court hearing with notice to the parent or guardian so that they can be heard before he is sent, and the court finds that

- (1) equivalent facilities for the child are not available in the sending state, and
- (2) institutional care in the other state is in the best interest of the child and will not produce undue hardship.

(b) After placement in another state, the court keeps jurisdiction of the child.

036 Penalty for Illegal Placement

(a) Sending or bringing children from one compact state into another compact state in violation of the

terms of the compact violates the laws on placement of children in both the sending and receiving states.

(b) A violator may be punished in either jurisdiction according to its laws. In Texas, any such violation constitutes full and sufficient grounds for the suspension or revocation of any license, permit, or legal authorization which empowers the sending or receiving agency to place or care for children, including DHR child-placing agency's certification.

037 Initiation of an Interstate Compact Placement

An interstate placement between compact states begins

(a) when an agency or court in a compact state wants to place a specific child which it has in its care, custody, or conservatorship, in

- (1) a specific foster home in another compact state,
- (2) a specific pre-adoptive home in another compact state,
- (3) a specific relative's home in another compact state,
- (4) a child-caring institution in another compact state,

(b) when a person in a compact state wants to place a child in his custody or conservatorship in a foster home, pre-adoptive home, or child-caring institution in another compact state. In these situations, an agency or court does not have custody or conservatorship and is not providing services. The person intending to place the child must request the help of an agency or court in the sending state. DHR is not obligated to give placement services in independent placements unless ordered to do so by a court.

038 Procedures When Texas Is the Sending State

(a) Before placing a child in DHR's conservatorship outside of Texas, the worker must get approval of the placement plan from the court and a social services program director. Children should be placed out of state only when

- (1) a parent, caretaker, or relative outside of Texas is willing and able to care for and support the child,
- (2) the child needs a specialized treatment, institution, or foster family not available in Texas,
- (3) the child is placed for adoption out of state when no otherwise suitable adoptive family can be found for him in Texas,
- (4) the child is placed with a non relative who already has a relationship with the child.

(b) Upon receiving a request for evaluation, the Interstate Compact Office in the receiving state arranges for the evaluation of the placement within 30 days. The compact administrator in the receiving state approves or disapproves the placement. If the compact administrator in the receiving state approves the placement, the DHR unit and the social agency in the receiving

ing state should work out the details of the actual placement. They may enter into an agreement on the supervision of the placement by the local agency in the receiving state, progress reports, etc. The DHR unit must notify the Texas Deputy Compact Administrator when the actual placement is made.

039 *Procedures When Texas is the Receiving State*

(a) When the Texas Deputy Compact Administrator receives the Compact Application and the summaries on the child and family from the compact administrator of the sending state, he sends a copy of the application and one of each of the summaries to the appropriate local DHR unit in Texas with a request for a recommendation within 30 days on the suitability of the placement. If a DHR unit gets a request for evaluation of a placement directly from a compact state, the DHR unit must send a copy of the request to the Texas Deputy Compact Administrator and answer the request within 30 days or as otherwise required.

(b) The unit must get whatever information is indicated on the family or child caring institution with whom placement is to be made, write the summary on the family or child caring institution, and make recommendations on the suitability of the placement. The summary and recommendations should be approved by the supervisor and a social services program director.

(c) If the DHR unit recommends placement, it must get a statement from the individuals or head of the institution where the child is to be placed saying that they accept the placement. A child cannot be placed into Texas unless the individuals or head of the institution where the child is to be placed agree that the child can be placed.

(d) The DHR unit must send the summary and statement from the individual or institution to the Texas Deputy Compact Administrator. If the Texas Deputy Compact Administrator approves the placement, the DHR unit and the local agency in the sending state work out the details of the placement. They may enter into an agreement on the supervision of the placement by the DHR unit in Texas, progress reports, etc. The DHR unit should notify the Texas Deputy Compact Administrator when the actual placement is made.

040 *Failure of Agency Placing A Child in Texas to Meet Financial Obligation for the Child*

(a) If the agency placing the child in Texas defaults in whole or in parts in its financial responsibility for support and maintenance of the child, the DHR commissioner may bring suit under the provisions of the Texas Family Code, and may file a complaint with the appropriate prosecuting attorney, claiming a violation of the provision of the Texas Penal Code.

(b) After default, if the commissioner finds that financial responsibility is unlikely to be assumed by the sending agency or the child's parents, he may cause the

child to be returned to the sending agency. DHR must assume financial responsibility for the child until the sending agency or the child's parents assume it or until the child is returned to the sending agency.

041 *Termination of a Compact Placement*

(a) When the placement of a child in another compact state by a DHR unit is ended by legal adoption or other closure of services, the DHR unit must notify the Texas Deputy Compact Administrator and the compact administrator in the other state.

(b) When the placement of a child into Texas is ended by legal adoption or other closure of services, the sending state sends copies of the Compact Report, which have been signed by its compact administrator, to the Texas Deputy Compact Administrator. A child placed from another state into a Texas public institution may not be discharged unless the head of the institution agrees.

042 *Placement of Children into Texas from Non-ICPC States*

(a) States not belonging to the ICPC must get the written approval of the Texas DHR commissioner before placing a child into Texas, except when

(1) a child is brought to Texas by his parent, stepparent, grandparent, adult uncle or aunt, or his guardian and is left with any such relative or non-agency guardian,

(2) a child is placed in any institution primarily educational in nature,

(3) a child is placed in any hospital or other medical facility,

(4) a child is placed under the provisions of another compact or any other agreement which has the force of law.

(b) The response to the request should be completed within 30 calendar days. The unit supervisor and program director must approve the request. An Application to Place a Child in Texas is the recommended form to be used by agencies or courts requesting placements in Texas.

(c) If the response is favorable, before the child is placed, the DHR unit must have a signed statement from the out of state agency that it will accept responsibility for the care, treatment, support, and maintenance of the child during placement and for relocation or return of the child if the placement breaks down. The director of Special Services Division approves or disapproves all placements.

(d) When Special Services Division approves the placement, the out of state agency and the DHR unit proceed with the placement. The DHR unit must notify Special Services Division of the date of placement. The out-of-state agency and the DHR unit should establish a placement plan, to include the estimated length of placement. The DHR unit's supervisory services, when

provided, should include referrals to community agencies for financial, medical, and counseling services. The unit should make monthly contact with the family and child. The unit should make a home visit at least every three months and at the end of services. Services should be ended only if mutually agreed by the family, out of state agency, and DHR unit. The DHR unit must notify Special Services Division when the out of state agency and the unit agree to end the placement by returning the child to the out of state agency or by ending the out of state agency's responsibility for the child.

(c) DHR will provide supervision without the statement of responsibility only when, in the DHR unit supervisor's opinion, a child may be endangered.

043 Placement of Texas Children into Non ICPC States. The DHR unit placing a child into a state that is not a member of the ICPC works directly with the out of state agency that will be studying and supervising the placement and any information available on the prospective placement should accompany the request.

044 Out of State Inquiries for Child Abuse and Neglect Report and Inquiry System Information.

(a) The Special Services Division can accept out of state inquiries for CANRIS information only from the agency responsible for protective services for children in the requesting state. The request should be submitted on stationery bearing the agency letterhead. In cases requiring an immediate response, Special Services Division may accept telephone requests. Special Services Division must then confirm the identity of the caller by using call back security procedures.

(b) Requests must pertain to a current abuse or neglect case in the requesting state. The Special Services Division cannot accept requests for CANRIS information pertaining to adoptive or foster home studies or public assistance.

(c) The out of state agency should request the information in writing. A written or verbal request must give the reason for requesting the information from Texas and give the following minimum information about each individual named in the request:

- (1) last name, including aliases,
- (2) first name, including aliases,
- (3) sex,
- (4) ethnic origin,
- (5) approximate age or birthdate,
- (6) last known address in Texas, if known,
- (7) social security number, if available.

045 OTIs Involving Prison Inmates. Protective services units may be housed in state prisons or may liaison with prisons to provide social services to prevent abuse or neglect, to help inmate parents concerned about the welfare of their children, and to help child welfare staff who need to contact an inmate parent. Prison liaison staff:

(a) respond to OTIs from workers seeking to verify incarceration of an absent parent. Liaison staff may have access to Texas Department of Corrections records and can provide information to verify incarceration, length of sentence, unit location if requested, and next parole hearing date.

(b) provide direct and indirect social services to Texas Department of Corrections inmates. Direct services may include referring and advocating for services for the inmate and his family with DHR and other agencies or attempting to locate relatives for inmates. If an inmate suspects abuse or neglect of his children the liaison staff must forward the referral to the protective services unit in the home county. Indirect services include helping DHR staff contact the inmate about paternity statements, support collection, and affidavits of relinquishment for protective services units. Matters concerning custody of children, especially suits to affect or terminate the parent child relationship, may be handled jointly by liaison staff and the inmate's attorney. The liaison staff should be notified when an inmate is to be served for court. If the protective services worker is seeking an affidavit of any kind, the liaison staff can coordinate the presentation with the inmate's attorneys and prison officials. When adverse actions are suggested, such as termination suits, the liaison staff explains DHR actions to the inmate and helps him take appropriate steps such as obtaining legal counsel, signing paternity statements or affidavits.

(c) place infants born to inmates. The worker helps inmate mothers locate and place their newborn infants with relatives, friends, or private agencies. In questionable or unknown situations, the liaison staff must request home studies from the receiving county's AFDC family services or protective services units. The final decision on placement is left to the inmate. However if the questionable placement has been made the liaison staff must request protective service support in investigating the situation.

(d) arrange in cooperation with child welfare staff and prison wardens, for visits from inmate's children in DHR conservatorship or from other DHR staff.

(e) show family planning films to pre release prisoner groups and conduct discussions after the films are shown.

Doc. No. 776996

Case Closure 326.50.77

These rules have been approved by the Texas Board of Human Resources and are adopted under the authority of Texas Civil Statutes, Articles 695a and 695c.

007 Procedure

(a) Cases should be closed when active services to protect the child are no longer needed, no services are

being delivered, the family and child are not being seen on a regular basis, and the requirements of this section have been met.

(b) A child's case must stay open and a service plan active as long as:

(1) the child is in DHR conservatorship;

(2) the child's adoptive family is receiving an adoption subsidy;

(3) the child is in permanent foster care;

(4) the child is in a DHR foster home or foster group home placement;

(5) the child is receiving AFDC foster care or Medicaid only foster care;

(6) until approval is received from the placing protective services unit, when the unit supervising the child is different;

(7) until a Compact Report is received from the sending state when a child has been placed into Texas from a compact state, or, until the DHR unit has placed a Texas child into a compact state;

(8) the child is receiving a purchased protective service. When the child's case is closed, the worker must notify the purchase of service provider that any currently effective Eligibility Without Regard to Income form is withdrawn;

(9) funds are held in trust for the child;

(10) a person age 18 to 21 is in AFDC foster care or Medicaid only foster care.

(c) When DHR does not have conservatorship, services to the child through a service plan should be continued until the home, the child himself, or a suitable permanent substitute placement is able to meet the child's minimum needs for protection and care. How long and how often the worker will continue to see the family after the child is no longer in actual danger depends on the degree of potential danger to the child and the size of the local caseloads.

(d) A child's case may be closed only when the following conditions are met:

(1) The court has dismissed, transferred, or otherwise ended DHR's conservatorship or consummated the child's adoption, or the person becomes 18 years of age. When the court dismisses, transfers, or otherwise ends conservatorship, or consummates the child's adoption, the worker must get a court order explaining final legal action for filing in the case record before closing the case. When a person in DHR's conservatorship turns 18, services may continue for a limited period:

(A) when there is a need to finish case planning;

(B) to refer the person to another resource which will work with him if he cannot yet function as an adult;

(C) when he is in foster care and in school or training;

(D) When the court order giving DHR conservatorship before the person's 18th birthday contains requirements or stipulations with which DHR complies after the person is age 18.

(2) The supervisor has approved closing the service plan because services to the child have ended. The worker must tell the child and family when DHR will no longer be delivering services to them.

(e) A family's case may be closed only when both of the following conditions are met:

(1) Parental rights have been terminated on all children in the family with whom DHR is working, or the cases of all the children in the family with whom DHR has worked have been closed.

(2) The supervisor has approved closing the service plan because services to the family have ended.

(3) A case plan must be active for any family which retains parental rights of children with whom DHR is working, unless the parents refuse involvement with the children and DHR can make other permanent plans for the children. The client's worker must notify any purchase of service provider still serving the client that the authorization is withdrawn when the case is closed.

(4) When a case is closed, the worker must tell the child and family that DHR will no longer be providing services to them.

Doc No 776998

Child Welfare Services and the Community 326.50.78

These rules have been approved by the Texas Board of Human Resources and are adopted under the authority of Texas Civil Statutes, Articles 695a and 695c.

.015. *Child Welfare Contracts.*

(a) The Department of Human Resources and a county may cooperate in providing a county-wide, jointly financed, and state-administered program of child protection by entering into a child welfare contract. This program may be neither a probation nor a general relief program, and DHR staff is not to aid in law enforcement.

(b) In counties without a child welfare contract, DHR and county officials work cooperatively to carry out their respective legal responsibilities for the provision of protective services and benefits to families and children.

.016. *County Child Welfare Boards.*

(a) The child welfare contract requires the appointment of a county child welfare board. The county commissioner's court appoints the board. The board consists of seven to 15 members who represent a cross section of the citizens of the county. The county judge

and the judge of the district court having jurisdiction in cases involving abuse and neglect serve as ex-officio members of the board.

(b) A single board may represent more than one county. When counties decide to have a multi-county board, each county contracts separately with the state and appoints members from the various counties to a single board. The counties represented by the multi-county board have the same powers and are subject to the same liabilities under the contract as a single county.

(c) The child welfare board has the legal authority, duties, and responsibilities which are given to it by statute, DHR, and the county commissioners' court. DHR, the commissioners' court, and the board should review the duties of the board annually and set goals for the next year. The board's responsibilities include:

(1) Explaining the child welfare program to the community and consulting with the child welfare staff about community priorities, program commitments, etc.

(2) Helping to develop, recommend, support, and present to the county commissioners' court an annual budget for county-wide child welfare services.

(3) Developing local policies consistent with DHR policies to carry out a child welfare program individualized to its setting.

(4) Coordinating operations and making administrative decisions with county-wide agencies and resources.

(5) Acting in an advisory capacity to DHR staff.

(6) Authorizing and approving expenditure of funds under the contract.

(7) Reviewing the receipts and expenditures of funds under the contract.

.017 Terms of the Child Welfare Contract.

(a) In addition to the appointment of a county child welfare board, other basic provisions of the child welfare contract include:

(1) The county having a foster care program which meets requirements of AFDC foster care by:

(A) The county paying, as authorized by the child welfare board, for the care of any child covered by the foster care program at the daily rate established by DHR. The county may not pay less for the care of AFDC foster care children than other foster care children. The total AFDC foster care reimbursement for a designated child must be spent for that child. The county will provide other child care as established under the contract.

(B) DHR reimbursing the county for AFDC foster care expense.

(2) DHR providing Title XIX (Medicaid) and vendor drug payments for eligible children in foster

care. DHR also provides personnel and programs for a statewide protective services program.

.018 Staff Responsibilities and Procedures for the Development of a Child Welfare Contract.

(a) To initiate a child welfare contract, the social services program director or supervisor should discuss with the county commissioners and county judge the provisions of the contract. The DHR person working with the county should ask the county officials to complete the Contract Outline. If the county disagrees with any of the provisions under Section A of the contract outline, state office must approve these exceptions. If the county disagrees with any of the provisions under Section B of the Contract Outline, the region should resolve these differences with the county. The county judge and commissioners' court members must sign Section C of the Contract Outline.

(b) The prepared contract is sent to the person working with the county so that he can get the county commissioners and county judge to sign it. The fully executed contract is returned to the person working with the county for filing in county and regional files. The county commissioners' court must appoint a county child welfare board before a vendor number of AFDC foster care payments can be assigned and before the contract is effective.

(c) As soon as the contract effective date is established by being recorded on the Contract Outline, the children's worker should apply for Medicaid for foster care children. Medicaid eligibility requirements cannot be met until the contract is fully executed. However, when all Medicaid eligibility requirements are met, the contract effective date will be used in determining the medical effective date of the application. Filing the application as soon as possible after the contract effective date protects the medical effective date of the application. The designated DHR staff member working with the board on an on-going basis is the manager of the child welfare contract.

(d) In on-going work with the child welfare board, the local staff should meet with the board regularly to present the activities and needs of the child welfare unit, explain DHR new programs, present a monthly financial report, present a case activity statistical report, request board approval for payment of bills, plan for future needs, etc. Local staff may also present reports on individual children to involve the board in specific planning and expenditures for children.

.019 Fiscal Procedures Required Under the Contract.

(a) The child welfare board must review and approve the expenditures and receipts under the contract on a regular basis.

(b) Receipt, depository, and expenditure of funds under the child welfare contract must meet the depart-

ment's criteria. County funds may be spent in accordance with the annual child welfare budget for the county, upon the authorization of the board or county commissioners' court. Children's private funds may be spent for foster care at the current foster care payment rates for the type of care needed by the child if the unit authorizes and the board approves.

(c) To get AFDC foster care reimbursements, the county child welfare board must certify the eligibility of children for AFDC foster care and verify and return a proper bill to DHR for eligible AFDC foster care payments. When it receives this bill, DHR will reimburse the county child welfare board for eligible AFDC foster care payments the board made in the preceding month. DHR will reimburse the board on or after the effective date of this contract each month, with adjustments for previous months.

(d) The county's total expenditures (excluding the AFDC foster care payments) for the child welfare program for the current fiscal year must be at least equal to the county's appropriated or actual expenses for the program, whichever is less, for the fiscal year before the contract is signed. The amount the county spends or receives as AFDC foster care reimbursement must not be used as a measure of the county's maintenance of effort. The county should extend the child welfare programs in the county to provide increasing care and services to the children of the county.

(e) The state and federal funds which are sent to a county child welfare board to reimburse county funds spend in the AFDC foster care program become, in effect, county funds and may be spent as the county commissioners' court and the county child welfare board approve.

(f) None of the funds, other than revenue sharing funds, that DHR gets from the county under the contract can be federal funds, nor can they have been used as federal matching funds. The county must keep fiscal documents which are adequate to ensure that claims for federal matching funds meet applicable federal requirements. The county must keep these documents three years after the date it submits the final expenditure report. If the department or the United States Department of Health, Education and Welfare conducts an audit, the county must keep the documents until the audit questions have been resolved.

.020. Volunteer Services in the Protective Services Program. Volunteers working directly with protective services clients must have the same qualifications as protective services caseworkers unless the tasks they perform require different or less academic training. Volunteers working directly with protective services clients must be supervised by the protective services worker or supervisor.

.021. Funds for the Development of Community and Parents Groups Related to Child Protective Services.

(a) Title IV-B funds are available to develop, or further the activities of, community and parent groups concerned with services for abused and neglected children and their families. The purpose of this program is to enable each region to help and cooperate with communities and parents in the development of group's interests in promoting child welfare services.

(b) The group's planned use of the funds must show some benefit to the families and children who come to DHR's attention because of abuse or neglect. The local protective services unit must be involved in the group's planning to verify that the planned use of the funding will benefit DHR's clients.

(c) The request for funding must say clearly how the funds will be used, and must give an auditable method of accountability for the expenditure of the funds. Groups requesting and using these funds are entitled to DHR consultation and leadership to help them get other community support, funding, and leadership so that they will not rely solely on these DHR funds for their existence.

(d) These funds should not be used to pay a salary, nor should the total regional allocation be granted to only one group or only one community. The funds should not be used to buy equipment. Any exceptions to these limitations must be approved by the state office.

(e) Before delivery of services, the department must have an approved signed agreement with each community or parent group. A Vendor Identification Number form must be completed if the community or parent group does not have a comptroller's identification number. A separate agreement must be completed for each parent or community group project, rather than for each expenditure related to a project. The agreement must include, but is not limited to:

- (1) identification and location of the group;
- (2) identification of the agencies, organizations, etc., sponsoring the group;
- (3) a discussion of the purpose of the group which says how the activities of this group are consistent with the purpose indicated by the guideline;
- (4) amount of funds and methods of accounting for the group's use of funds.

.022. Consultant Services.

(a) Title IV-B funds are available to a region to buy consultation for child welfare and family services staff, foster parents and parents, members of other agencies and organizations working with DHR, and parent and community groups interested in family and children's services.

(b) Consultation bought with these funds should be for groups and not individuals. Consultation may also be given to staff about actual cases where the principles involved can be transferred by staff to other simi-

lar cases. Those receiving the consultation should make a formal recorded evaluation of the helpfulness of the consultation.

(c) Before delivery of services, DHR must have an approved signed agreement with each consultant. A Vendor Identification Number form must be completed if the consultant does not have a comptroller's identification number. The agreement must include, but is not limited to:

- (1) identification of consultant and location;
- (2) rate of consultant plus additional costs, such as travel;
- (3) purpose and nature of consultation (how it relates to the guidelines);
- (4) estimated number of child welfare staff, family services staff, foster parents, biological parents, parents and community group members, and members of agencies and organizations working with the department who will receive the consultation.

.023. *Payment for Deaf Language Interpreter Services.* Title IV-B consultant services funds can be used to pay for deaf interpreter services to protective services clients. Payment should be based on an hourly service fee. The deaf language interpreter should be qualified to provide services to the client. Payment should only be made to interpreters who require payment for their services and only when no other funds are available for the service. The court is required to appoint and pay for an interpreter for a deaf person in civil suits. Title IV-B funds must not substitute for, or duplicate, payment required of the court.

Doc. No. 777000

Child Welfare Fiscal System 326.50.79

These rules have been approved by the Texas Board of Human Resources and are adopted under the authority of Texas Civil Statutes, Articles 695a and 695c.

.003. *Local Funds*

(a) Local funds are defined as all monies handled by or in behalf of the local child welfare unit or child welfare board for child welfare clients and programs.

(b) Public local funds are funds received by or budgeted for expenditure on behalf of local child welfare units or child welfare boards from cities or counties. These funds may never actually come into the hands of DHR staff or child welfare boards but may simply be paid out in behalf of the child welfare program. AFDC foster care reimbursements become county funds when they are received from DHR. The county may use the reimbursement for child welfare services, or put them in its general revenue.

(c) Private local funds are funds received by local child welfare units or child welfare boards from all sources other than cities or counties. This includes SSI payments, VA and Social Security pensions, child support and other payments from parents, civic contributions, etc.

(d) Adoption reimbursement fees are considered either public or private local funds, depending on whether the child's foster care was paid by the city or county or from a private source. If care was paid from both public and private funds, the reimbursement amount should be shared proportionately as both a public and private receipt.

.004. *Accounting Procedures for Child Welfare Local Funds.*

(a) Records of funds kept by the child welfare unit must have enough data to complete the Social Services Local Fund Report. This could necessitate some records in addition to those required by or kept by county officials. At minimum these records must include:

(1) Receipts accounts. Identify all receipts according to the following sources of funding:

- (A) county and/or city,
- (B) parents or relatives,
- (C) adoption reimbursements,
- (D) investigations for the courts,
- (E) receipts from other countries,
- (F) OASDI, VA pensions, etc.,
- (G) SSI,
- (H) AFDC reimbursements for foster care,
- (I) other income.

(2) Expenditures accounts. Identify all expenditures as to the source of the funds expended (either public or private funds) and according to the following types of expenditure:

- (A) unmarried/school-aged parents programs,
- (B) substitute care in foster homes or relatives' homes,
- (C) substitute care in institutions,
- (D) miscellaneous child care other than room and board,
- (E) county/city-paid staff expenses,
- (F) county/city office operation/maintenance,
- (G) other county/city-paid administrative expenses.

(3) In addition to the general receipts and expenditure accounts referred to above, a separate accounting ledger must be kept in all counties for each child who has receipts and/or expenditures from any private source (this includes all noncity or county sources or receipts). All receipts on behalf of the child and all expenditures made from those receipts should be entered on the child's ledger at least once a month.

The amount of balance on the ledger at anytime should represent the amount being held in trust for the child, either for future child care expenses, for the child's personal use while in care, or when conservatorship is released or transferred to someone other than DHR.

(b) The depository for child welfare local funds may vary from county to county. Any arrangement which meets local needs is acceptable, so long as the following criteria are followed:

(1) Public and private funds may be kept together or in separate accounts.

(2) Public and private funds may be kept in either the county treasury or in a local bank.

(3) When public funds are involved, city or county officials must agree with the depository arrangements for the city or county funds.

(4) In a child welfare contract county, the child welfare board must agree with the depository arrangement for all funds, both public and private.

(5) When balances of private funds are held for individual children, these funds may be kept together in one account with the county or in a local bank, or in a separate account for each child. However, one joint account is generally preferred since it would be the more economical and efficient system in most counties. This single account may combine these funds with city or county funds.

.005. Integrity of Public and Private Funds.

(a) Child welfare records must support and document the receipt and expenditure of all funds and that the expenditure of those funds was for the intended purpose.

(b) Public funds will usually be given for a specific purpose or type of service and period of time. County or local welfare unit records must show that the county or unit made the expenditures according to the directions of the city or county and of the existing child welfare board and in accordance with any existing child welfare contract, if either exists.

(c) Private funds actually belong to the children for whom they are received. The maintenance of individual accounting ledgers for each child should sufficiently document these receipts and expenditures of private funds and any balance being held in trust for each child.

.008. Audits of Child Welfare Fiscal Records.

(a) The Audit Division annually audits child welfare units with significant expenditures and child welfare board counties. The Audit Division will make other audits as requested by regional administrators.

(b) The regional director or his representative reviews the report and shares the review with the local child welfare unit, county officials, and the child welfare board in board counties. If errors of fact or policy interpretation are discovered, the local unit must

the unit must report the actions taken or scheduled to the regional director for social services.

(c) Fiscal adjustments are made when there has been an error in payments of AFDC foster care, trust funds for children, or county funds spent by DHR staff. AFDC foster care adjustments are made as follows:

(1) In child welfare board counties, the board must reimburse DHR the total sum of AFDC foster care overpayment in which the loss to DHR exceeded \$15 per individual child per year. Overpayments to a board resulting from errors in foster care financial eligibility determination are not returned to DHR.

(2) In child welfare board counties, DHR must reimburse the board the total sum of AFDC foster care it underpaid the county if the loss to the county exceeded \$15 per individual child per year.

(3) In non-child welfare board counties, DHR must reimburse the foster parent the total sum of AFDC foster care it underpaid. The foster parent is not required to pay overpayments back to DHR.

(d) If the child welfare board agrees with the audit recommendation, the audit report to the regional director for social services must contain the board's written confirmation for use in processing the fiscal adjustment. When the board agrees to reimburse DHR, the confirmation must include a reasonable payment plan. For a board to reimburse DHR, or for DHR to reimburse a board or a foster parent, the appropriate claim forms must be used.

(e) If the child welfare board disagrees with the audit recommendations, it can request an informal meeting with the department staff. If the board continues to disagree with the audit recommendations, it can send a report to the regional director for social services with its objections. If the regional director and the board cannot reach a mutually satisfactory resolution, the regional director must inform the board by letter of DHR's final position, as approved by the regional administrator and the assistant deputy commissioner for social services. The regional director must send this letter by certified mail, return receipt requested, or have the letter hand delivered and a receipt obtained. The letter must specifically say how the board did not comply with the child welfare contract. The letter must also inform the board that a hearing will be scheduled within 10 days after it receives the letter of notification if it wants to contest DHR action.

Issued in Austin, Texas, on December 13, 1977.

Doc No 777002 Jerome Chapman
Commissioner
Texas Department of Human
Resources

Effective Date January 3 1978

For further information, please call (512) 475-4601.

Organization, Administration, and Management

Support Documents 326.51.99

The Department of Human Resources adopts the amendment to its rule which adopts by reference the Title XX Comprehensive Annual Services Program Plan (CASPP), as proposed in the November 8, 1977, issue of the *Texas Register* (2 TexReg 4309). This amendment adds a special service to the current CASPP for certain children who are certified recipients of Aid to Families with Dependent Children (AFDC). This service will enhance development of the AFDC certified child's personal, social, and educational functioning in the community.

Only one comment was received, but it was related to Title XX day care services, rather than the proposed amendment.

This amendment has been approved by the Texas Board of Human Resources and is adopted under the authority of Texas Civil Statutes, Article 695c.

003 Title XX Comprehensive Annual Services Program Plan The Department of Human Resources adopts by reference the Title XX Comprehensive Annual Services Program Plan for Texas for the services program year October 1, 1977, to September 30, 1978, as amended in January, 1978.

Issued in Austin, Texas, on December 15, 1977.

Doc No 777164 Jerome Chapman
Commissioner
Texas Department of Human
Resources

Effective Date January 2, 1978

For further information, please call (512) 475-4601



Texas State Board of Medical Examiners

District Review Committees 386.16.00

Under the authority of Texas Civil Statutes, Articles 4496 and 4509, the Texas State Board of Medical Examiners has adopted Rules 386.00.16.001-.004 to read as follows:

.001. Purpose. The purpose of these rules is to establish district review committees as required under Subchapter C, Sections 3.01-3.09 of House Bill 1048, 65th Legislature.

.002. Districts. The State of Texas shall be divided into four districts for the purpose of establishing district review committees.

(a) District 1 shall consist of the following counties: Brazoria, Galveston, and Harris.

(b) District 2 shall consist of the following counties: Anderson, Angelina, Austin, Bowie, Brazos, Camp, Cass, Chambers, Cherokee, Collin, Cooke, Dallas, Delta, Denton, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Grimes, Hardin, Harrison, Henderson, Hill, Hopkins, Houston, Hunt, Jasper, Jefferson, Kaufman, Lamar, Leon, Liberty, Limestone, Madison, Marion, Montgomery, Morris, Nacogdoches, Navarro, Newton, Orange, Panola, Polk, Rains, Red River, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Titus, Tyler, Trinity, Upshur, Van Zandt, Walker, Waller, and Wood.

(c) District 3 shall consist of the following counties: Andrews, Archer, Armstrong, Bailey, Baylor, Borden, Brewster, Briscoe, Brown, Callahan, Carson, Castro, Childress, Clay, Cochran, Coke, Coleman, Collingsworth, Comanche, Concho, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dickens, Donley, Eastland, Ector, El Paso, Erath, Fisher, Floyd, Foard, Gaines, Garza, Glasscock, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Haskell, Hemphill, Hockley, Hood, Howard, Hudspeth, Hutchinson, Irion, Jack, Jeff Davis, Johnson, Jones, Kent, Kimble, King, Knox, Lamb, Lipscomb, Loving, Lubbock, Lynn, Martin, Mason, Menard, McCulloch, Midland, Mills, Mitchell, Montague, Moore, Motley, Nolan, Ochiltree, Oldham, Palo Pinto, Parker, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Reeves, Roberts, Runnels, San Saba, Schleicher, Scurry, Shackelford, Sherman, Somervell, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Tom Green, Upton, Ward, Wheeler, Wichita, Wilbarger, Windler, Wise, Yoakum, and Young.

(d) District 4 shall consist of the following counties: Aransas, Atascosa, Bandera, Bastrop, Basque,

Bee, Bell, Bexar, Blanco, Brooks, Burleson, Burnet, Caldwell, Calhoun, Cameron, Colorado, Comal, Coryell, Dewitt, Dimmit, Duval, Edwards, Falls, Fayette, Fort Bend, Frio, Gillespie, Goliad, Gonzales, Guadalupe, Hamilton, Hayes, Hidalgo, Jackson, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kinney, Kleburg, Lampasas, LaSalle, Lavaca, Lee, Live Oak, Llano, Matagorda, Maverick, McLennan, McMullen, Medina, Milam, Nueces, Real, Refugio, San Patricio, Starr, Travis, Uvalde, Valverde, Victoria, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Zapata, and Zavala.

.003. *Per Diem and Expenses.* Each member of a district review committee shall receive the per diem and expenses provided for members of the board for actual duty.

.004. *Committee Functions.* The secretary of the board may delegate to the district review committees such functions as he deems appropriate for handling by the district review committees. No committee may exercise final authority over the disposition of a complaint against a person licensed by the board or may issue a final order or rule, and the board shall retain sole authority to make disposition of complaints against persons licensed by it and shall have sole authority to issue final orders and rules.

Issued in Austin, Texas, on December 11, 1977.

Doc. No 777181 A. Bryan Spires, Jr., M.D.
 Secretary-Treasurer
 Texas State Board of Medical
 Examiners

Effective Date January 6, 1978

For further information, please call (512) 474-6335.

Texas State Board of Pharmacy

Reciprocity

393.04.00.001

The Texas State Board of Pharmacy promulgates Rule 393.04.00.001 under the authority of Revised Civil Statutes, Article 4542a.

.001. *Requirement for Licensure.* Persons licensed by reciprocal agreement must have been granted the B.S. or Pharm. D. degree from a college or university accredited by the American Council on Pharmaceutical Education, except that (1) persons graduating or completing training prior to June 11, 1934, are exempt from this provision provided they meet all the requirements

set forth in Revised Civil Statutes, Article 4542a, Section 9, and (2) persons applying for reciprocity with other pharmacy-related degrees or degrees in pharmacy from institutions not accredited by the American Council on Pharmaceutical Education may be granted a license by the board upon review of each applicant's education and experience.

Doc No 777178

393.04.00.005

Under the authority of Article 4542a, Revised Civil Statutes, the Texas State Board of Pharmacy repeals Rule 393.04.00.005, which has required a foreign pharmacist to have an immigrant visa to become licensed.

In the board's view, no substantive benefit to the public health of the citizens of Texas has been shown by retaining this requirement. Consequently, the board has eliminated this requirement.

Doc No 777179

393.04.00.006-.008

The Texas State Board of Pharmacy adopts Rules 393.04.00.006-.008 under the authority of Revised Civil Statutes, Article 4542a.

.006. *Twelve-Month Licensure.* Any reciprocity applicant originally licensed after January 1, 1978, must have been licensed for a period of not less than 12 months before being granted a license to practice in Texas by reciprocity.

.007. *Reciprocity Criteria.* Any reciprocity applicant originally licensed after January 1, 1978, must show proof that he or she has passed the National Association of Boards of Pharmacy Licensing Examination based on criteria no less stringent than those currently in force in Texas.

.008. *Reciprocity Fees.* Effective January 1, 1978, a fee of \$200 will be charged for granting a license by reciprocity.

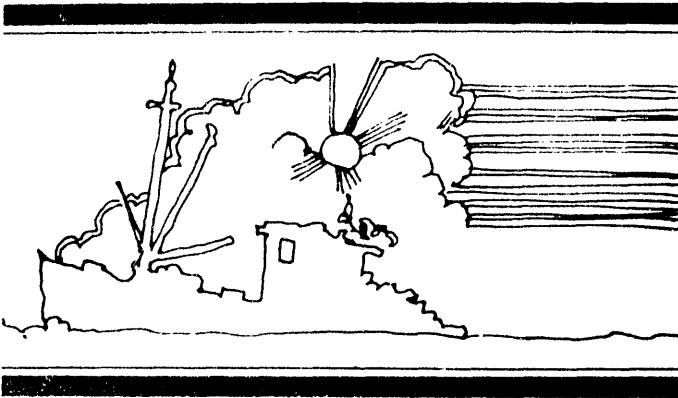
Issued in Austin, Texas, on December 12, 1977.

Doc No. 777180 Jim Riley
 Director of Operations and
 Administrative Services
 Texas State Board of Pharmacy

Effective Date January 6, 1978

For further information, please call (512) 478-9827.

The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must have notice posted for at least 72 hours before the scheduled meeting time. Notice of an emergency meeting or an emergency addition or amendment to an agenda must be posted for at least two hours before the meeting is convened. Although some notices may be received and filed too late for publication before the meetings are held, all filed notices will be published in the *Register*. Each notice published includes the date and time of filing. Notices are posted on the bulletin board outside the offices of the Secretary of State on the first floor in the East Wing of the State Capitol.



State Board of Barber Examiners

Meeting

The State Board of Barber Examiners will meet on Tuesday, January 3, 1978, 8 a.m., in Suite H-111, 5555 North Lamar, Austin. The board will conduct interviews with out-of-state barbers wishing to obtain Texas license, consider letters received that require action by board members, interview applicants for job as inspector, conduct an executive meeting, and discuss license renewals and complaint received concerning a barber college.

Additional information may be obtained from Charles F. Blackburn, Suite H-111, 5555 North Lamar, Austin, Texas 78751, telephone (512) 458-2241.

Filed December 16, 1977, 9:09 a.m.
Doc No 777170

Texas Department of Health

Meeting

The Advisory Board of Athletic Trainers of the Texas Department of Health will meet on Saturday, January 7, 1978, 11 a.m., in the Polk Robinson Meeting Room of Jones Stadium, Lubbock, to consider the chairman's report, junior colleges (definitions and vote of apprenticeship), curriculum change, continuing education, enforcements, ethics, adoptions of rules, and the election of officers.

Additional information may be obtained from Jess Brown, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7296.

Filed December 16, 1977, 4:16 p.m.
Doc No 777201

Meeting

The Title XIX Denture Advisory and Review Committee of the Texas Department of Health will meet on Sunday, January 8, 1977, 9:30 a.m., in the conference room, Main Building 107, 1100 West 49th Street, Austin. The committee will discuss provider fee profiles, provider manual, implementation of immediate dentures, and the budget report. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Dr. Oliver J. Knoll, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7635.

Filed December 16, 1977, 9:09 a.m.
Doc No 777172

State Board of Insurance Correction of Hearing Notice

A correction has been made to the agenda of a meeting to be held by the Commissioner's Hearing Section of the State Board of Insurance on Wednesday, December 28, 1977, 1 p.m., in Room 343, 1110 San Jacinto Street, Austin. The board will consider an application from J. C. Penney Casualty Insurance Company, Westerville, Ohio, for merger of Great American of Dallas Insurance Company, Dallas; and Great American of Dallas Fire and Casualty Company, Dallas, pursuant to the Texas Insurance Code, Articles 21.25 and 21.49-1, Section 5. The original notice omitted the article and section citations.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-4353.

Filed December 16 1977 9 08 a m
Doc No 777171

Lamar University

Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the Board of Regents of Lamar University held on Saturday, December 17, 1977, at noon, in the board room, Plummer Administration Building, Lamar University, main campus, Beaumont. The board reviewed bids, authorized contracts, considered university personnel recommendations, announced university programs for spring term 1977-78, and discussed reorganization of the board of regents.

Additional information may be obtained from Andrew J. Johnson, Box 10014, LUS, Beaumont, Texas 77710, telephone (713) 838-7533.

Filed December 16 1977 10 38 a m
Doc No 777173

Texas State Board of Medical Examiners

Hearing

The Texas State Board of Medical Examiners will meet on Saturday and Sunday, January 7 and 8, 1978, 10 a.m., at the Intercontinental Airport Hotel, Houston, to consider possible Medical Practice Act violations and to discuss various board business.

Additional information may be obtained from J. C. Randolph, 211 East 7th, Austin, Texas 78701, telephone (512) 475-6335.

Filed December 19 1977 9 57 a m
Doc No 777205

Merit System Council

Hearing

The Merit System Council will meet Friday, January 13, 1978, 1:30 p.m., in 507 Brown Building, Austin, for an appeal hearing.

Additional information may be obtained from Leo F. Brockmann, 507 Brown Building, Austin, Texas 78701, telephone (512) 477-9665.

Filed December 19 1977 9 57 a m
Doc No 777206

Texas Board of Polygraph Examiners

Meeting

The Texas Board of Polygraph Examiners will meet at 9 a.m. daily, Thursday through Sunday, January 12-15, 1978, at the Granada Royale Hotel, 6100 Gateway East, El Paso.

The agenda will include the following: administration of licensing examinations; action on applications for internship and reciprocity; election of officers; report from assistant attorney general; action on request from submitting polygraph schools to be included on list of recognized schools; reports from the board secretary and vice chairman regarding rewording of proposed rule; action on request for Scott hearing; ruling on investigation experience of Gutmueller, and consideration of Rule 397.01.00.002(b) (amended) proposed at the October, 1977, meeting, concerning procedure for qualified applicant seeking internship permit.

Additional information may be obtained from Henry L. Canty, Suite 502, 7701 North Lamar, Austin, Texas 78752, telephone (512) 454-3593.

Filed December 16 1977 10 39 a m
Doc No 777174

Public Utility Commission of Texas

Hearing Rescheduled

The Public Utility Commission of Texas will conduct a hearing on Thursday, January 5, 1978, 10 a.m., in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to consider the application of Ellis Water Company for a rate increase (Docket No. 596). This hearing was originally scheduled for January 4.

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed December 15 1977 4 01 p m
Doc No 777165

Hearing

The Public Utility Commission of Texas will conduct a hearing on Wednesday, February 1, 1978, 9 a.m., in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to consider the petition of Community Water and Sewer Corporation for relief and show-cause order against the City of Mansfield. The hearing on the case shall include the allegations and issues raised by the petitioner's complaint and all relevant issues concerning the application of respondent for a certificate of convenience and necessity (Docket No. 1209).

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed December 16 1977 10 37 a m

Doc No 777175

Hearing

The Public Utility Commission of Texas will conduct a hearing on Monday, February 6, 1978, 9 a.m., in Suite 400N, 7800 Shoal Creek Boulevard, Austin, to consider the application of Gulf States Utilities Company for a certificate of convenience and necessity for certain out-of-state facilities (Docket No. 857).

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed December 15 1977 4 01 p m

Doc No 777166

Hearing

The Public Utility Commission of Texas will meet on Monday, February 13, 1978, 10 a.m., in Suite 400N, 7800 Shoal Creek, Austin, Texas 78757, to consider Docket 1395, a petition of Tri-County Electric Cooperative, Inc., for a general rate increase.

Additional information may be obtained from Roy J. Henderson, Suite 400N, 7800 Shoal Creek Boulevard, Austin, Texas 78757, telephone (512) 458-6111.

Filed December 16 1977 3 52 p m

Doc No 777199

Railroad Commission of Texas

Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the Gas Utilities Division of the Railroad

Commission of Texas held on Monday, December 19, 1977, 9 a.m., in the Ernest O. Thompson Building, 10th and Colorado Streets, Austin.

The agenda included the following: Docket No. 1129, Examiner Jim Houchins, City Public Service Board, application for change in extension policy, customer charges, and rules and regulations, consideration of final order; Docket No. 1438, Examiner Meredith Kawaguchi, Lone Star Gas Company, statement of intent to change residential and commercial rates for the environs of Irving; and Docket No. 1177, Examiner Glenn Johnson, Champlin Petroleum Company Abandonment, consideration of interim order on odorization.

Additional information may be obtained from Joy Wood, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-2747.

Filed December 16 1977 11 37 a m

Doc No 777183

Emergency Addition to Agenda

An emergency addition was made to the agenda of a meeting of the Transportation Division of the Railroad Commission of Texas held on Monday, December 19, 1977, 9 a.m., in the Ernest O. Thompson Building, 10th and Colorado, Austin. The commission considered the following applications: Arrow Coach Lines for authority to transfer control through sale of capital stock to H. Gene Autry; Word Trucking, Inc., to sell SMC certificate to Wy-Tex Livestock Trucking, Inc.; Luke Johnson, Jr. to sell SMC certificate to L.J. Trucking Corporation (correction of order); and Purolator Courier Corporation to amend and increase rates in Items 330 and 340 of RCT Tariff 41-C.

Additional information may be obtained from Denna Braun, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-2088.

Filed December 16 1977 11 37 a m

Doc No 777184

Meeting

The Transportation Division of the Railroad Commission of Texas will meet on Wednesday, January 4, 1978, 9 a.m., in the Ernest O. Thompson Building, 10th and Colorado, Austin. The commission will consider contested applications to amend authority and for new authority. Uncontested applications will be considered to amend authority, for bus rate, to consolidate authority, to amend ICC authority, for ICC authority registration, for lease authority, for new authority, for interstate exempt authority, for rail rate, for reinstate-

ment, to sell authority, to change bus schedule, for truck rate, and for voluntary suspension. The complete agenda is posted in the East Wing of the State Capitol.

Additional information may be obtained from Denna Braun, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 475-2088.

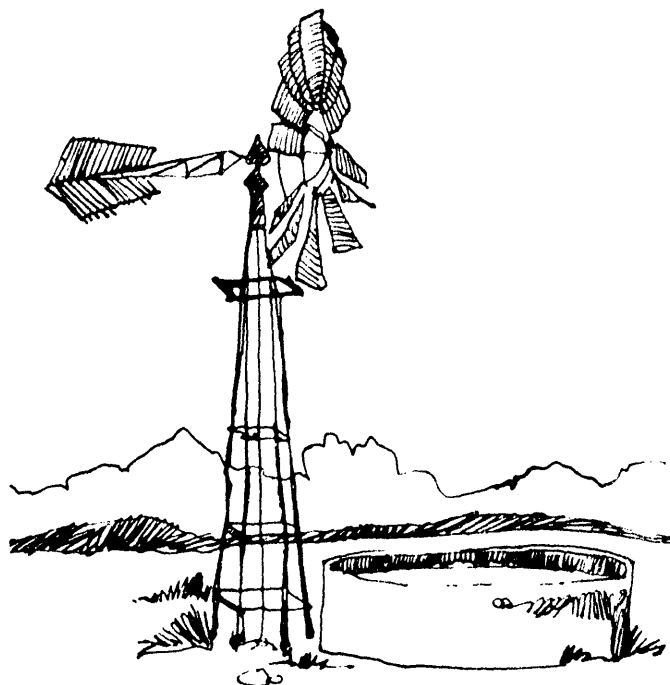
Filed December 16 1977 11 38 a m
Doc No 777185

School Land Board Emergency Addition to Agenda

The School Land Board made an addition to the agenda of a meeting held Tuesday, December 20, 1977, 10 a.m., in Room 831, 1700 North Congress, Austin, to include consideration of one easement application on coastal public lands.

Additional information may be obtained from H. E. White, Room 749, 1700 North Congress, Austin, Texas 78701, telephone (512) 475-6491.

Filed December 19 1977 10 46 a m
Doc No 777207



Tax Assessor Examiners Board

Meeting

The Tax Assessor Examiners Board will meet on Wednesday, December 28, 1977, 10 a.m., in the speaker's conference room, State Capitol, to finalize registration applications, letters to applicants, and identification cards, and to hear other business.

Additional information may be obtained from Carl S. Smith, 301 San Jacinto, Houston, Texas 77002, telephone (713) 221-5288.

Filed December 19 1977 11 51 a m
Doc No 777208

Texas Turkey Producers Board

Meeting

The Texas Turkey Producers Board will meet on Wednesday, January 11, 1978, 2:30 p.m., in Normandy Room A, Shamrock Hilton Hotel, Houston. The board will discuss National Turkey Federation funding, budget report, director's report, and old and new business.

Additional information may be obtained from Bill Powers, P.O. Box 14428, Austin, Texas 78761, telephone (512) 836-6580.

Filed December 16 1977 9 08 a m
Doc No 777169

Texas Water Commission Emergency Addition to Agenda

The Texas Water Commission makes an emergency addition to the agenda of its meeting held on Monday, December 19, 1977, 10 a.m., at the Stephen F. Austin Building, 1700 North Congress, Austin, to include an application by Marjorie W. Heck for a Water Code Section 11.121 Permit. The applicant seeks a permit to maintain a 1.2 acre-foot capacity on-channel reservoir on Running Water Draw, tributary White River, tributary Salt Fork Brazos River, tributary Brazos River, to operate it as a sump to capture tailwater and to divert and use 130 acre-feet of water annually for the irrigation of 272 acres of land in Hale County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4515.

Filed December 16, 1977, 2:44 p.m.
Doc No 777189

Hearing

The Texas Water Commission will meet on Thursday, January 19, 1978, 10 a.m., at the Stephen F. Austin Building, 1700 North Congress, Austin, to consider the adoption of Proposed Rules 156.01.15.001-.011 of the Texas Water Development Board. The commission is currently operating under emergency rules adopted September 1, 1977, and now proposes the permanent adoption of these rules. Any comments, suggestions, objections, or proposals concerning the rules should be submitted in writing to the commission no later than January 13, 1978. Copies of the proposals may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4515.

Filed December 16, 1977, 2:45 p.m.
Doc No 777190

Hearing

The Texas Water Commission will meet on Wednesday, January 25, 1978, 10 a.m., in the Council Chambers, City Hall, 400 North Rusk, Sherman, to consider a request by the North Lamar Independent School District (Powderly Elementary School), P.O. Box 68, Powderly, Texas 75473, for a permit to allow for a discharge of domestic sewage effluent from a sewage treatment plant to serve a population equivalent to 650 students in Lamar County.

Additional information may be obtained from Philip Hagg, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1317.

Filed December 16, 1977, 2:44 p.m.
Doc No 777194

Hearing

The Texas Water Commission will meet on Wednesday, January 25, 1978, 10 a.m., at the Stephen F. Austin Building, 1700 North Congress, Austin, to consider a request from the City of Frisco (Cottonwood Creek Plant), P.O. Box 177, Frisco, Texas 75034, for an amendment to Permit 10172 to accommodate an increase in treatment capacity.

Additional information may be obtained from Philip Hagg, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1317.

Filed December 16, 1977, 2:46 p.m.
Doc No 777191



Hearing

The Texas Water Commission will meet on Wednesday, January 25, 1978, 10 a.m., at the Stephen F. Austin Building, 1700 North Congress, Austin, to consider a request from the City of Frisco (Stewart Creek Plant), P.O. Box 177, Frisco, Texas 75034, for an amendment to Permit 10172 to accommodate an increase in treatment capacity.

Additional information may be obtained from Philip Hagg, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1317.

Filed December 16, 1977, 2:45 p.m.
Doc No 777192

Hearing

The Texas Water Commission will meet on Wednesday, January 25, 1978, 10 a.m., at the Stephen F. Austin Building, 1700 North Congress, Austin, to consider a request from the City of Pottsboro, P.O. Box 342, Pottsboro, Texas 75076, for an amendment to Permit 10591 which would omit the compliance schedule specified in Other Requirements, No. 7, of that permit.

Additional information may be obtained from Philip Hagg, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1317.

Filed December 16, 1977, 2:45 p.m.
Doc No 777193

Hearing

The Texas Water Commission will meet on Friday, January 27, 1978, 9 a.m., in Room 618, Stephen F. Austin Building, Austin, to consider an application by the City of Austin (Seaholm Power Plant), P.O. Box 1088, Austin, for amendment to Permit 01901 to regulate the discharge of boiler blowdown and to allow for an increased discharge of 193,000,000 gallons per day of industrial wastewater.

Additional information may be obtained from John Sutton, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

Filed December 16, 1977 2:46 p.m.

Doc No 777198

Hearing

The Texas Water Commission will meet on Friday, January 27, 1978, 9 a.m., in Room 618, Stephen F. Austin Building, Austin, to consider an application by the City of Austin (Decker Steam Electric Power Station), P.O. Box 1088, Austin, for an amendment to Permit 01887 to accommodate the addition of a new generating unit.

Additional information may be obtained from John Sutton, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

Filed December 16, 1977, 2:46 p.m.

Doc No 777195

Hearing

The Texas Water Commission will meet on Friday, January 27, 1978, 9 a.m., in Room 618, Stephen F. Austin Building, Austin, to consider an application by the Lower Colorado River Authority (Fayette Power Project) for a permit to allow for a discharge not to exceed an average flow of .5 cfs from Cedar Creek Reservoir of industrial wastewater effluent in Fayette County.

Additional information may be obtained from John Sutton, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

Filed: December 16, 1977, 2:46 p.m.

Doc No 777197

Hearing

The Texas Water Commission will meet on Friday, January 27, 1978, 10 a.m., in the Stephen F. Austin Building, Austin, to consider an application by Michael D. Stone, Ap. No. 3834, seeking a permit to directly divert and use not to exceed 80 acf per annum from Caney Creek, Brazos-Colorado Coastal Basin, to irrigate 40 acres in Matagorda County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed December 16, 1977 2:45 p.m.

Doc No 777196

Regional Agencies

Meetings Filed December 15, 1977

The Austin-Travis County MHMR Center, Operations Committee met in the board room, 1430 Collier Street, Austin, on December 19, 1977, at 7:30 p.m. The Board of Trustees met at the same location on December 22 at 7:30 p.m. Further information may be obtained from Dr. Larry J. Miller, 1430 Collier Street, Austin, Texas, 78704, telephone (512) 447-4141.

Doc No 777168

Meetings Filed December 16, 1977

The Edwards Underground Water District, Board of Directors, will meet in the meeting room of the Tower Life Building, San Antonio, on January 10, 1978, at 10 a.m. Further information may be obtained from McD. D. Weinert, 2603 Tower Life Building, San Antonio, Texas 78205, telephone (512) 222-2204.

The High Plains Underground Water Conservation District No. 1, Board of Directors, met at 2930 Avenue Q, Lubbock, on December 22, 1977, at 10 a.m. Further information may be obtained from C. E. Thompson, 2930 Avenue Q, Lubbock, Texas 79405, telephone (806) 762-0181.

The Lower Colorado River Authority met at 3700 Lake Austin Boulevard, Austin, on December 20, 1977, at 11 a.m. Further information may be obtained from Charles Herring, P.O. Box 220, Austin, Texas 78767, telephone (512) 474-5931, extension 330.

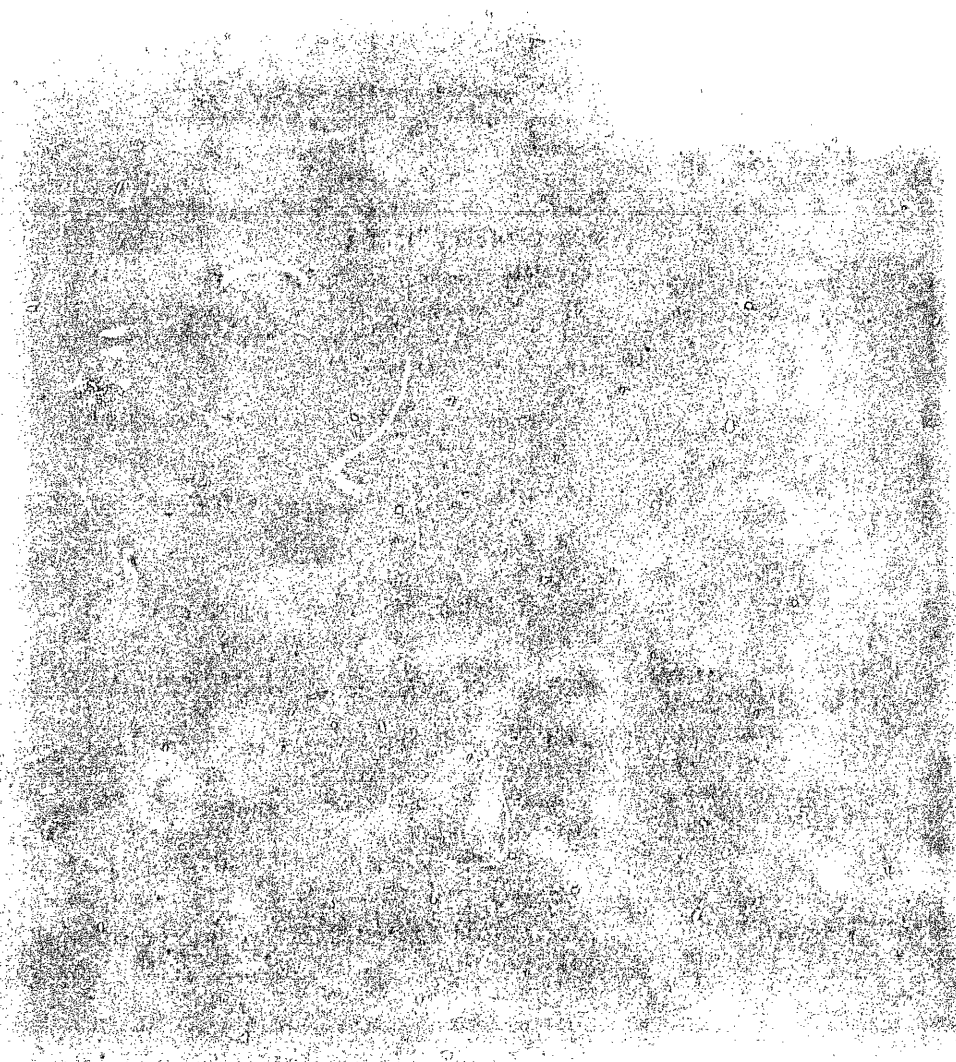
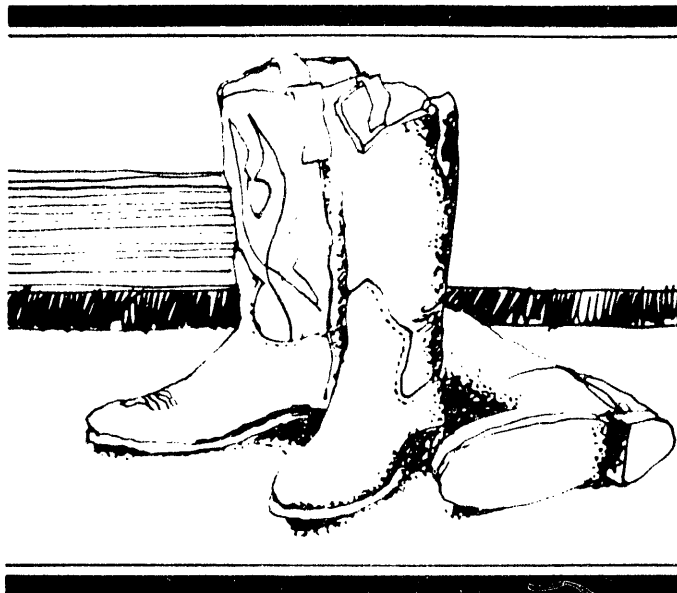
The Lubbock Regional MHMR Center, Human Development Center, met at 1210 Texas Avenue, Lubbock, on December 20, 1977, at 4:30 p.m. Further information may be obtained from R. V. Whittington, 1210 Texas Avenue, Lubbock, Texas 79401, telephone (806) 763-4213, extension 30.

Doc. No. 777202

Meetings Filed December 19, 1977

The Austin-Travis County MHMR Center, Budget and Finance Committee, met in the board room at 1430 Collier Street, Austin, on December 22, 1977, at 6:30 p.m. Further information may be obtained from Larry Miller, 1430 Collier, Austin, Texas 78704, telephone (512) 447-4141.

Doc. No. 777209



Texas Health Facilities Commission

Notice of Applications

Notice is given by the Texas Health Facilities Commission of applications (including a general project description) for declaratory rulings or exemption certificates accepted December 6-12, 1977.

Should any person wish to contest the application for a declaratory ruling or an exemption certificate, that person must file a notice of intent to contest the application with the chairman of the commission within 12 days after the enclosed listing is published. The first day for calculating this 12-day period is the first calendar day following the dating of the publishing. The 12th day will expire at 5 p.m. on the 12th consecutive day after said publishing if the 12th day is a working day. If the 12th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. When notice of intent to contest is mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, it must be postmarked no later than the day prior to the last day allowed for filing notice of intent to contest.

The contents and form of a notice of intent to become a party to an application for a declaratory ruling or exemption certificate must meet the minimum criteria set out in Rule 506. Failure of a party to supply the minimum necessary information in the correct form by the 12th day will result in a defective notice of intent to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02, 3.03, or 6.02 of Article 4418(h), Vernon's Annotated Texas Statutes, and Rules 302, 502, and 515.

In the following notice, the applicant is listed first, the file number second, and the relief sought and project description third. EC indicates exemption certificate and DR indicates declaratory ruling.

Scott and White Memorial Hospital and Scott, Sherwood and Brinkley Foundation, Temple
AH76-1220-012E

EC--Request four-month extension of completion deadline in E/C to acquire an EMI Scanner Update System

Heritage Manor, Dayton
AN77-1207-001

EC--Remodel existing facility and add 1500 square feet

High Plains Baptist Hospital, Amarillo

AH77-0518-004E

EC--Request 90-day extension of completion deadline in E/C to establish an overread station to receive computerized EKG reports

Hermann Hospital, Houston

AH75-0925-021E

DR--Request two-year extension of completion deadline in DR to construct a 10-story addition to existing facility and renovation and expansion of existing support facilities

Texoma Medical Center, Denison

AH77-1209-017

DR--That neither a CN or E/C is required for increase in square footage for the project approved in CN AH76-1020-001

McKinney Nursing Home-The Pavilion, McKinney

AN77-1212-001

EC--Reclassify 68 nursing home beds to skilled nursing care in facility currently licensed for 268 intermediate nursing care beds, ICF-III

North Central Texas Home Health Agency, Inc., Fort Worth

AS77-1212-005

EC--Combine two existing offices by increasing space at 603 South Adams Street location and closing 515 South Adams Street office

McAllen General Hospital, McAllen

AH77-1208-001

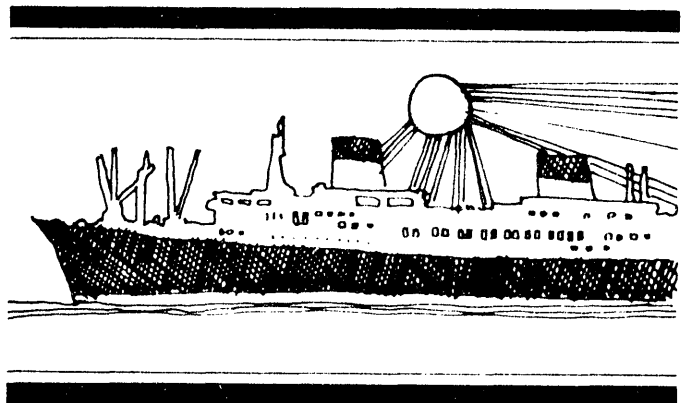
EC--Acquisition of laser photocoagulator to treat various eye diseases

Issued in Austin, Texas, on December 15, 1977.

Doc No 777182 William D. Darling
General Counsel
Texas Health Facilities
Commission

Filed December 16 1977 11 20 a m

For further information please call (512) 475-6940



Texas Register

Correction of Error

The issue date and the effective date of *Texas Department of Health* adopted rules concerning standards governing drinking water quality and reporting requirements for public water supply systems, published in the December 20, 1977, issue of the *Register* (2 Tex-Reg 4915) were incorrect as published. Those rules were issued by the department on December 12, 1977, and will take effect on January 3, 1977.

Texas Water Development Board

Construction Grants Administration

A hearing examiner of the Texas Department of Water Resources will conduct a public hearing beginning at 9 a.m. January 20, 1978, in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, to consider proposed rules for Construction Grants Administration, specifically, changes to the Municipal Facilities Construction Grant Priority Rating Process to be adopted by the Texas Water Development Board on behalf of the Texas Department of Water Resources. The process is designed to determine the project funding priority of construction grant applications in accordance with the provisions of the Federal Water Pollution Control Act of 1972 (Public Law 92-500), and in accordance with provisions of applicable state law.

Certain revisions to the Municipal Facilities Construction Grant Priority Rating Process are being proposed. These revisions include: substituting a Step 1 Ranking Group, Step 2 Ranking Group, and Step 3 Ranking Group for the First and Second Ranking Group; adding a Water Quality Problem Longevity aspect to Rating Sheets Numbers 1 through 5; adding an operational

and maintenance aspect to Rating Sheet Number 1; and submitting applications for 208 areawide planning areas. Consideration will also be given to applicable modifications to the Municipal Facilities Construction Grants Priority Rating Process as it is affected by amendments to the Federal Water Pollution Control Act of 1972.

Interested persons are encouraged to attend the hearing and to present relevant and material comments concerning the rating process as it relates to the ranking of various municipalities throughout the state. In addition, interested persons are also encouraged to submit written comments to Rebecca S. Motal, Hearings Examiner, General Counsel's Office, at the address below.

A copy of the proposed process may be obtained from Johnny Fisher, Construction Grants Section, Construction Grants and Water Quality Planning Division, Texas Department of Water Resources, P. O. Box 13087, Austin, Texas 78711, or by telephoning (512) 475-7891 after January 3, 1978. The proposed rules will be considered pursuant to Sections 5.131 and 5.132 of the Texas Water Code and Chapter 1 of the rules of the Texas Water Development Board.

Issued in Austin, Texas, on December 13, 1977.

Doc No 777163 Rebecca S. Motal
 General Counsel's Office
 Texas Department of Water
 Resources

Filed December 15 1977 3:38 p.m.

For further information, please call (512) 475-7836