

## Texas Administrative Code

TITLE 25 Health Services  
PART 1 Department of State Health Services  
CHAPTER 37 Maternal and Infant Health Services  
SUBCHAPTER S Newborn Hearing Screening

### **RULE §37.501 Purpose**

The purpose of this subchapter:

- (1) describes point-of-care newborn hearing screening process administered by the Department of State Health Services (department) pursuant to Texas Health and Safety Code, Chapter 47;
- (2) details confidentiality and general access to data regarding newborn hearing screening with state and federal privacy guidelines;
- (3) identifies the department's Texas Early Hearing Detection and Management Information System (TEHDI MIS) used to capture and report newborn hearing screening information, and describes the requirements for follow-up, intervention, and reporting to the department by newborn hearing screening participants; and
- (4) incorporates by reference the protocols for newborn hearing screening programs and the criteria used by the department to certify hearing screening programs.

**Source Note:** The provisions of this §37.501 adopted to be effective May 14, 2015, 40 TexReg 2534

### **RULE §37.502 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Audiologist--A person licensed pursuant to Texas Occupations Code, Chapter 401.
- (2) Birthing facility:
  - (A) a hospital licensed under Texas Health and Safety Code, Chapter 241 that offers obstetrical services;
  - (B) a birthing center licensed under Texas Health and Safety Code, Chapter 244;
  - (C) a children's hospital licensed under Texas Health and Safety Code, Chapter 241 that offers obstetrical and/or neonatal intensive care unit services; or
  - (D) a facility maintained or operated by this state or an agency of this state that provides obstetrical services.
- (3) Consent--A written statement signed by a parent agreeing that individually-identifying information may be disclosed to the department.

## Texas Administrative Code

TITLE 25 Health Services

PART 1 Department of State Health Services

CHAPTER 37 Maternal and Infant Health Services

SUBCHAPTER S Newborn Hearing Screening

- (4) Department--The Department of State Health Services.
- (5) Follow-Up Care--Additional screening, diagnostic audiological evaluation, or treatment and services for newborns or infants who do not pass the initial hearing screening.
- (6) Hearing loss--A hearing loss averaging 30 dB hearing level or greater in the frequency region important for speech recognition and comprehension in one or both ears, 500 through 4000 Hz.
- (7) Individually-identifying information--Confidential and protected health information (PHI) that identifies the parent or newborn including common identifiers such as, but not limited to, names, addresses, birthdates, and social security numbers.
- (8) Infant--A child who is at least 30 days but who is younger than 24 months old.
- (9) Intervention--Other intervention services separate from Part C Early Childhood Intervention and include those medical and therapeutic services designed to support infants with hearing loss.
- (10) Newborn--A child younger than 30 days old.
- (11) Parent--A natural parent, stepparent, adoptive parent, legal guardian, or other legal custodian of a child.
- (12) Part C Early Childhood Intervention--The early intervention services described in Part C, Individuals with Disabilities Education Act (20) United States Code §§1431-1443.
- (13) Program--A supervised newborn hearing screening, tracking and intervention program certified by the department.
- (14) Protocol(s)--Guidelines or procedures, based on the latest Joint Committee on Infant Hearing (JCIH) position statement, used by programs to conduct newborn hearing screening.
- (15) Screen--An initial or a repeat test that identifies an increased risk for hearing loss, which must be confirmed by an audiological diagnostic evaluation.
- (16) State--The State of Texas.
- (17) Texas Early Hearing Detection and Intervention Management Information System (TEHDI MIS)--The department's central information source of newborn hearing screens and audiological diagnostics to ensure follow-up and any type of intervention for newborns or infants identified as hard of hearing or deaf.

**Source Note:** The provisions of this §37.502 adopted to be effective May 14, 2015, 40 TexReg 2534

## Texas Administrative Code

TITLE 25 Health Services  
PART 1 Department of State Health Services  
CHAPTER 37 Maternal and Infant Health Services  
SUBCHAPTER S Newborn Hearing Screening

### **RULE §37.503 Confidentiality and General Access to Data**

This section establishes the guidelines to protect the confidentiality of patients in accordance with Texas Occupations Code, Chapter 159, and Texas Health and Safety Code, §47.008 (relating to Confidentiality and General Access to Data) and §47.009 (relating to Immunity from Liability).

- (1) The birthing facility, provider, or program shall ensure that the written consent of a parent is obtained before any individually-identifying information on the newborn or infant is released through the TEHDI MIS.
- (2) If consent to disclose individually-identifying information to the department is obtained, the birthing facility, provider, or program obtaining consent shall retain the consent in the patient's medical record.
- (3) At any time a parent may request in writing that the department remove individually-identifying information concerning his or her child from the department's TEHDI MIS. The department shall act on any request in a timely manner.
- (4) Sample consent forms can be found on the department's newborn hearing website at: [www.dshs.state.tx.us/tehdi](http://www.dshs.state.tx.us/tehdi).

**Source Note:** The provisions of this §37.503 adopted to be effective May 14, 2015, 40 TexReg 2534

### **RULE §37.504 Information Management and Tracking System**

- (a) Birthing facilities, providers, or programs mentioned in this subchapter that perform hearing screening, diagnosis, and provide follow-up and intervention, including Part C early childhood intervention services for newborns or infants shall have access to the department's TEHDI MIS. Information regarding access and technical assistance is located at [www.dshs.state.tx.us/tehdi](http://www.dshs.state.tx.us/tehdi).
- (b) Reporting to the department's TEHDI MIS is required. The TEHDI MIS shall be updated to provide the department with information and data necessary to plan, monitor, and evaluate the program, including the program's screening, follow-up, diagnostic, and intervention components. The department may also use the collected data to monitor for health events of epidemiological importance.

**Source Note:** The provisions of this §37.504 adopted to be effective May 14, 2015, 40 TexReg 2534

## Texas Administrative Code

TITLE 25 Health Services

PART 1 Department of State Health Services

CHAPTER 37 Maternal and Infant Health Services

SUBCHAPTER S Newborn Hearing Screening

### **RULE §37.505 Screens, Follow-up, and Reporting**

- (a) After an initial or a follow-up hearing screening is performed, the birthing facility that operates the program, other programs, or other providers shall report the results to the parents. The results are also reported to the attending or primary care physician or other applicable healthcare provider, and with parental consent, any individually-identifying information to the department according to the requirements in Texas Health and Safety Code, Chapter 47. The results are reported to the department within five business days after the date of birth or the date of discharge. The physician or health care provider attending to the infant who needs follow-up care should direct, track, and coordinate appropriate and necessary care.
- (b) The follow-up hearing screen should be performed within 30 days from date of discharge from the birthing facility.
- (c) If the newborn or infant does not pass the follow-up hearing screen, the program or provider performing the screens shall:
  - (1) assist in coordinating and scheduling a diagnostic audiological evaluation with another program or licensed audiologist who performs these evaluations; and
  - (2) refer the newborn or infant to Early Childhood Intervention Services, Department of Assistive and Rehabilitative Services.
- (d) Unless the newborn or infant has been hospitalized since birth, the diagnostic audiological evaluation must be completed:
  - (1) no later than the third month of birth; or
  - (2) upon referral by the newborn's or infant's primary care physician or other applicable health care provider.
- (e) The program, person, or provider that identified or diagnosed the newborn or infant with hearing loss shall refer the family for Part C Early Childhood Intervention services, in accordance with 34 Code of Federal Regulations §303.303(a)(2)(i) (relating to Referral Procedures) as soon as possible, but in no case more than seven days after the child has been identified and not later than the sixth month after birth and through the time the child is an infant, unless the infant has been hospitalized since birth. A referral can come from a primary referral resource identified in §303.303(c) (relating to Primary Referral Sources).
- (f) Audiologists, hospitals, physicians, health care providers, qualified hearing screeners, early childhood intervention specialists, educators, and others who receive referrals from programs under this subchapter shall either provide the needed services or refer the newborn or infant to

## Texas Administrative Code

TITLE 25 Health Services

PART 1 Department of State Health Services

CHAPTER 37 Maternal and Infant Health Services

SUBCHAPTER S Newborn Hearing Screening

appropriate services in accordance with the most recent JCIH guidelines. With parental consent, these providers shall report the following information to the department's TEHDI MIS. These providers may also track the activities and progress of the infant and obtain information from the TEHDI MIS relating to:

- (1) results of each hearing screening performed;
- (2) results of all follow-up care and services;
- (3) results of each diagnostic audiological evaluation;
- (4) reports on initiation and results of intervention services;
- (5) reports on the initiation of Part C Early Childhood Intervention services; and
- (6) case-level (patient) information necessary to report required statistics to the:
  - (A) Maternal and Child Health Bureau/Health Resources and Services Administration on an annual basis; and
  - (B) federal Centers for Disease Control and Prevention.

**Source Note:** The provisions of this §37.505 adopted to be effective May 14, 2015, 40 TexReg 2534

### **RULE §37.506 Program Protocols and Certification**

- (a) The department shall certify programs that meet and maintain the newborn hearing screening criteria and may renew certification to ensure quality services to newborns, infants and families. The department's criteria are based on the most recent JCIH position paper for newborn hearing screens. Specific requirements for program protocols and certification are established in policy located on the department's website at: [www.dshs.state.tx.us/tehdi](http://www.dshs.state.tx.us/tehdi).
- (b) No fees are associated with the certification or recertification of a program.

**Source Note:** The provisions of this §37.506 adopted to be effective May 14, 2015, 40 TexReg 2534

### **RULE §37.507 Authorized Newborn Hearing Services**

- (a) A newborn hearing screening performed by a birthing facility and any related diagnostic follow-up care, provided in accordance with Texas Health and Safety Code, Chapter 47 and the

## Texas Administrative Code

TITLE 25 Health Services

PART 1 Department of State Health Services

CHAPTER 37 Maternal and Infant Health Services

SUBCHAPTER S Newborn Hearing Screening

requirements of this subchapter, for a newborn who receives medical assistance or who is Medicaid-eligible is a covered service of the Texas Medical Assistance (Medicaid) Program, in accordance with Texas Human Resources Code, Chapter 32.

- (b) The reimbursement rates and methodology for covered services described in this section shall be established by the Health and Human Services Commission.
- (c) Screening tests for hearing loss from birth through the date the infant is 30 days of age and any diagnostic follow-up care related to the screening test from birth through the date the child is 24 months of age as provided under this subchapter shall be a covered benefit pursuant to Texas Insurance Code, §§1367.101 - 1367.103. Co-payments or co-insurance requirements are permitted, however; deductible requirements or dollar limits are prohibited.

**Source Note:** The provisions of this §37.507 adopted to be effective May 14, 2015, 40 TexReg 2534