July 1, 2016

The Health and Human Services Commission adopts, on behalf of the Department of Family and Protective Services (DFPS), amendments to §§705.1001, 705.2105, 705.2107, 705.3102, 705.4103, 705.4105, 705.4107, 705.6101, 705.7103, and 705.7105; new §705.2103; and the repeal of §705.2103 without changes to the proposed text as published in the May 20, 2016, issue of the *Texas Register* (41 TexReg 3641) and will not be republished.

The justification of the amendments, new rules and repeal is to implement Senate Bills 760 and 1880 (84th Legislature), the APS Scope and Jurisdiction Bills, which expanded the APS Provider (formally Facility) program's jurisdiction to investigate abuse, neglect, and exploitation. These bills ensured continued State of Texas compliance with the Center for Medicaid and Medicare Services (CMS) requirements for the health and welfare of recipients of home and community-based services (HCBS). The bills (1) expanded the authority of Adult Protective Services (APS) to investigate, inter alia, all home and community-based service providers whether providing services in a traditional or managed care service delivery model, (2) clarified and addressed the gaps and inconsistencies that resulted from evolving service delivery changes and changes in contracting arrangements, and (3) updated statutory language and requirements related to provider and agency responsibilities.

The adopted rules will implement APS's expanded jurisdiction and modify existing DFPS rules, as applicable, to the expanded jurisdiction. These rules will take effect on September 1, 2016. The updates in Chapters 705 will implement statutory changes as required by the APS Scope and Jurisdiction Bills.

A summary of the changes are as follows:

The amendment to §705.1001 updates and adds definitions for emergency protective services, home and community support services agencies (HCSSA) agency, paid caretaker, protective services, and purchased client services, and removes definitions of terms not used in this subchapter.

Section 705.2103 is repealed and new §705.2103 updates who is eligible for purchased client services and when purchased client services are available.

The amendment to§705.2105 and §705.2107 updates terms and establishes who is eligible for purchased client services and when purchased client services are available.

The amendment to§705.3102 clarifies when APS can apply for a protective order.

The amendment to§705.4103 clarifies the circumstances in which a designated perpetrator has the right to appeal a validated finding.

The amendment to §705.4105 clarifies to whom APS may release the findings of an investigation when the findings of the investigation are valid.

The amendment to §705.4107 updates language.

The amendment to§705.6101 clarifies when APS uses assessments in an in-home case and when a case worker must consult with a supervisor.

The amendment to§705.7103 deletes outdated language.

The amendment to§705.7105 updates terms to align with APS Scope and Jurisdiction bills. In particular the APS Provider program's expanded authority to investigate providers; make minor edits.

The sections will function by expanding the authority of DFPS to investigate abuse, neglect, and exploitation of individuals receiving services from certain providers

No comments were received regarding adoption of the sections.