RULE §382.1 Introduction

(a) Governing rules. This subchapter sets out rules governing the administration of the Healthy Texas Women program (HTW).

(b) Authority. This subchapter is authorized generally by Texas Government Code §531.0201(a)(2)(C), which transfers client services functions performed by the Texas Department of State Health Services to HHSC, and §531.0204, which requires the HHSC Executive Commissioner to develop a transition plan which includes an outline of HHSC’s reorganized structure and a definition of client services functions.

(c) Objectives. HTW is established to achieve the following overarching objectives:

1. to increase access to women’s health and family planning services to:

   (A) avert unintended pregnancies;

   (B) positively affect the outcome of future pregnancies; and

   (C) positively impact the health and wellbeing of women and their families;

2. to implement the state policy to favor childbirth and family planning services that do not include elective abortion or the promotion of elective abortion within the continuum of care or services;

3. to ensure the efficient and effective use of state funds in support of these objectives and to avoid the direct or indirect use of state funds to promote or support elective abortion;

4. to reduce the overall cost of publicly-funded health care (including federally-funded health care) by providing low-income Texans access to safe, effective services that are consistent with these objectives; and

5. to enforce Texas Human Resources Code §32.024(c-1) and any other state law that regulates the delivery of non-federally funded family planning services, to the extent permitted by the Constitution of the United States.

RULE §382.3 Non-entitlement and Availability
(a) No entitlement. This subchapter does not establish an entitlement to the services described in this subchapter.

(b) Fund availability. The services described in this subchapter are subject to the availability of appropriated funds.

RULE §382.5 Definitions

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

(1) Affiliate--

   (A) An individual or entity that has a legal relationship with another entity, which relationship is created or governed by at least one written instrument that demonstrates:

      (i) common ownership, management, or control;

      (ii) a franchise; or

      (iii) the granting or extension of a license or other agreement that authorizes the affiliate to use the other entity's brand name, trademark, service mark, or other registered identification mark.

   (B) The written instruments referenced in subparagraph (A) of this paragraph may include a certificate of formation, a franchise agreement, standards of affiliation, bylaws, articles of incorporation or a license, but do not include agreements related to a physician's participation in a physician group practice, such as a hospital group agreement, staffing agreement, management agreement, or collaborative practice agreement.

(2) Applicant--A female applying to receive services under HTW, including a current client who is applying to renew.

(3) Budget group--Members of a household whose needs, income, resources, and expenses are considered in determining eligibility.

(4) Child--An adoptive, step, or natural child who is under 19 years of age.

(5) Client--A female who receives services through HTW.

(6) Contraceptive method--A broad range of birth control options, approved by the United States Food and Drug Administration, with the exception of emergency contraception.

(7) Corporate entity--A foreign or domestic non-natural person, including a for-profit or nonprofit corporation, a partnership, or a sole proprietorship.
(8) Covered service--A medical procedure for which HTW will reimburse an enrolled health-care provider.

(9) Elective abortion--The intentional termination of a pregnancy by an attending physician who knows that the female is pregnant, using any means that is reasonably likely to cause the death of the fetus. The term does not include the use of any such means:

(A) to terminate a pregnancy that resulted from an act of rape or incest;

(B) in a case in which a female suffers from a physical disorder, physical disability, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy, that would, as certified by a physician, place the female in danger of death or risk of substantial impairment of a major bodily function unless an abortion is performed; or

(C) in a case in which a fetus has a life-threatening physical condition that, in reasonable medical judgment, regardless of the provision of life-saving treatment, is incompatible with life outside the womb.

(10) Family planning services--Educational or comprehensive medical activities that enable individuals to determine freely the number and spacing of their children and to select the means by which this may be achieved.

(11) Federal poverty level--The household income guidelines issued annually and published in the Federal Register by the United States Department of Health and Human Services.

(12) Health-care provider--A physician, physician assistant, nurse practitioner, clinical nurse specialist, certified nurse midwife, federally qualified health center, family planning agency, health clinic, ambulatory surgical center, hospital ambulatory surgical center, laboratory, or rural health center.

(13) Health clinic--A corporate entity that provides comprehensive preventive and primary health care services to outpatient clients, which must include both family planning services and diagnosis and treatment of both acute and chronic illnesses and conditions in three or more organ systems. The term does not include a clinic specializing in family planning services.

(14) HHSC--The Texas Health and Human Services Commission or its designee.

(15) HTW--The Healthy Texas Women program administered by HHSC as outlined in this subchapter.

(16) HTW provider--A health-care provider that performs covered services. An HTW provider may be contracted with HHSC to provide additional services.
(17) Medicaid--The Texas Medical Assistance Program, a joint federal and state program provided for in Texas Human Resources Code Chapter 32, and subject to Title XIX of the Social Security Act, 42 U.S.C. §1396 et seq.

(18) Minor--in accordance with the Texas Family Code, a person under 18 years of age who has never been married and never been declared an adult by a court (emancipated).

(19) Provider--A physician, physician assistant, nurse practitioner, clinical nurse specialist, certified nurse midwife, federally qualified health center, family planning agency, health clinic, ambulatory surgical, hospital ambulatory surgical center, laboratory, or rural health center that receives funding from HHSC to provide family planning services.

(20) Third-party resource--A person or organization, other than HHSC or a person living with the applicant or client, who may be liable as a source of payment of the applicant's or client's medical expenses (for example, a health insurance company).

(21) Unintended pregnancy--Pregnancy a female reports as either mistimed or undesired at the time of conception.

(22) U.S.C--United States Code.

RULE §382.7 Client Eligibility

(a) Criteria. A female is eligible to receive services through HTW if she:

(1) meets the following age requirements:

(A) is 18 through 44 years of age, inclusive; or

(B) is 15 through 17 years of age, inclusive, and has a parent or legal guardian apply, renew, and report changes to her case on her behalf;

(2) is not pregnant;

(3) has countable income (as calculated under §382.11 of this subchapter (relating to Financial Eligibility Requirements) that does not exceed 200 percent of the federal poverty level;

(4) is a United States citizen, a United States national, or an alien who qualifies under §382.9(g) of this subchapter (relating to Application and Renewal Procedures);

(5) resides in Texas;

(6) does not currently receive benefits through a Medicaid program, Children's Health Insurance Program, or Medicare Part A or B; and
(7) does not have creditable health coverage that covers the services HTW provides, except as specified in subsection (c) of this section.

(b) Age. For purposes of subsection (a)(1)(A) of this section, an applicant is considered 18 years of age on the day of her 18th birthday and 44 years of age through the last day of the month of her 45th birthday. For purposes of subsection (a)(1)(B) of this section, an applicant is considered 15 years of age the first day of the month of her 15th birthday and 17 years of age through the day before her 18th birthday. A female is ineligible for HTW if her application is received the month before her 15th birthday or the month after she turns 45 years of age.

(c) Third-party resources. An applicant with creditable health coverage that would pay for all or part of the costs of covered services may be eligible to receive covered services if she affirms, in a manner satisfactory to HHSC, her belief that a party may retaliate against her or cause physical or emotional harm if she assists HHSC (by providing information or by any other means) in pursuing claims against that third party. An applicant with such creditable health coverage who does not comply with this requirement is ineligible to receive HTW benefits.

(d) Period of eligibility. A client is deemed eligible to receive covered services for 12 continuous months after her application is approved, unless:

1. the client dies;
2. the client voluntarily withdraws;
3. the client no longer satisfies criteria set out in subsection (a) of this section;
4. state law no longer allows the female to be covered; or
5. HHSC determines the client provided information affecting her eligibility that was false at the time of application.

(e) Transfer of eligibility. A female who received services through the Texas Women’s Health Program is automatically enrolled as an HTW client and is eligible to receive covered services for as long as she would have been eligible for the Texas Women's Health Program.

(f) Auto-Enrollment. A female who is receiving Medicaid for pregnant women is enrolled into HTW at the end of her Medicaid for pregnant women certification period. A female enrolled into HTW has the option to opt out of receiving HTW. To be auto-enrolled, a female must:

1. be 18 to 44 years of age, inclusive, as defined in subsection (b) of this section;
2. not be receiving active third-party resources at the time of auto-enrollment; and
3. be ineligible for any other Medicaid or CHIP program.
RULE §382.9 Application and Renewal Procedures

(a) Application. A female, or a parent or legal guardian acting on her behalf if she is 15 through 17 years of age, inclusive, may apply for HTW services by completing an application form and providing documentation as required by HHSC.

(1) An applicant may obtain an application in the following ways:

   (A) from a local benefits office of HHSC, an HTW provider's office, or any other location that makes HTW applications available;
   
   (B) from the HTW or HHSC website;

    (C) by calling 2-1-1; or

    (D) by any other means approved by HHSC.

(2) HHSC accepts and processes every application received through the following means:

   (A) in person at a local benefits office of HHSC;

   (B) by fax;

   (C) through the mail; or

   (D) by any other means approved by HHSC.

(b) Processing timeline. HHSC processes an HTW application by the 45th day after the date HHSC receives the application.

(c) Start of coverage. Program coverage begins on the first day of the month in which HHSC receives a valid application. For applicants 18 through 44 years of age, inclusive, a valid application has, at a minimum, the applicant's name, address, and signature. For applicants 15 through 17 years of age, inclusive, a valid application has, at a minimum, the applicant’s name, address, and the signature of a parent or legal guardian.

(d) Social security number (SSN) required. In accordance with 42 U.S.C. §405(c)(2)(C)(i), HHSC requires an applicant to provide or apply for a social security number. If an applicant is not eligible to receive an SSN, the applicant must provide HHSC with any documents requested by HHSC to verify the applicant’s identity. HHSC requests, but does not require, budget group members who are not applying for HTW to provide or apply for an SSN.

(e) Interviews. HHSC does not require an interview for purposes of an eligibility determination. An applicant may, however, request an interview for an initial or renewal application.
(f) Identity. An applicant must verify her identity the first time she applies to receive covered services.

(g) Citizenship. If an applicant is a United States citizen, she must provide proof of citizenship. If the applicant, who is otherwise eligible to receive HTW services, is not an United States citizen, HHSC determines her eligibility in accordance with §366.513 of this title (relating to Citizenship).

(h) Renewal. A female, or a parent or legal guardian acting on her behalf if she is 15 through 17 years of age, inclusive, may renew HTW services by completing a renewal form and providing documentation as required by HHSC.

1. An HTW client will be sent a renewal packet during the 10th month of her 12-month certification period for HTW.

2. HHSC accepts and processes every renewal form received through the following means:

   (A) in person at a local benefits office of HHSC;

   (B) by fax;

   (C) through the mail; or

   (D) by any other means approved by HHSC.

RULE §382.11 Financial Eligibility Requirements

(a) Calculating countable income. Unless an applicant is adjunctively eligible as described in subsection (b) of this section, HHSC determines an applicant's financial eligibility by calculating the applicant's countable income. To determine countable income, HHSC adds the incomes listed in paragraph (1) of this subsection, less any deductions listed in paragraph (2) of this subsection, and exempting any amounts listed in paragraph (3) of this subsection.

1. To determine income eligibility, HHSC counts the income of the following individuals if living together:

   (A) the female age 18 through 44, inclusive, applying for HTW;

    (i) the female’s spouse; and

    (ii) the female’s children age 18 and younger; or

   (B) the female age 15 through 17, inclusive, applying for HTW;

    (i) the female’s parent(s);
(ii) the female’s siblings age 18 and younger; and

(iii) the female’s children;

(2) In determining countable income, HHSC deducts the following items:

(A) work-related expense deductions of up to $120 of earned income;

(B) a dependent care deduction of $200 per month for each child under two years of age, and $175 per month for each dependent two years of age or older, including an earned income deduction for the actual costs of unreimbursed payments if the person incurs an expense for the care of a child or incapacitated adult or transportation of a child to and from day care or school;

(C) payments to dependents living outside the home;

(D) alimony;

(E) child support payments; and

(F) up to $75 per month in received regular child support payments, except HHSC counts all child support payments an applicant received if HHSC determines the applicant has violated an agreement to assign child support to the State.

(3) HHSC exempts from the determination of countable income the following types of income:

(A) any income that federal law excludes;

(B) the earnings of a child:

   (i) who is 18 years of age and is a full-time student, including a home-schooled student, or a part-time student employed less than 30 hours a week; or

   (ii) who is under 18 years of age and is:

       (I) a full-time student, including a home-schooled student; or

       (II) a part-time student employment less than 30 hours a week;

(C) up to $300 per federal fiscal quarter in cash gifts and contributions that are from private, nonprofit organizations and are based on need;

(D) proceeds from claims on insurance policies to compensate for a loss or that are used to pay medical expenses;
(E) payments from federal volunteer programs for volunteer service, such as payments:

   (i) for volunteer service in a senior citizen volunteer program, under the Domestic Volunteer Service Act (42 U.S.C. §5000 et seq.);

   (ii) for volunteer service to Volunteers in Service to America (VISTA), (42 U.S.C. §§4951 - 4960); and

   (iii) for volunteer service under the National and Community Service Act (42 U.S.C. §§12511 - 12657);

(F) payments under the Workforce Innovation and Opportunity Act (29 U.S.C. § 3101, et seq.);

(G) the value of any benefits received under a government nutrition assistance program that is based on need, including benefits under the Supplemental Nutrition Assistance Program (SNAP) (formerly the Food Stamp Program)(7 U.S.C. § 2011-2036), the Child Nutrition Act of 1966 (42 U.S.C. § 1771-1793), the National School Lunch Act (42 U.S.C. § 1751-1769), and the Older Americans Act of 1965 (42 U.S.C. § 3056, et seq.);

(H) foster care payments;

(I) payments made under a government housing assistance program based on need;

(J) energy assistance payments;

(K) job training payments that:

   (i) are earmarked as reimbursement for training-related expenses; and

   (ii) do not duplicate payment for an item that is covered by budgetary needs;

(L) a lump sum provided and used to pay burial, legal, or medical bills, or to replace damaged or lost possessions, except HHSC does not exclude amounts from lump sums used for another purpose;

(M) reimbursements for monies spent on items not covered by budgetary needs;

(N) amounts deducted from royalties for production expenses and severance taxes;

(O) all income of Supplemental Security Income recipients;

(P) third-party funds received and used for a third-party beneficiary who is not a household member;

(Q) vendor payments made from funds not legally obligated to the household;
(R) veterans benefits for special needs that are not items covered by budgetary needs;

(S) workers' compensation payments legally obligated to the recipient that are earmarked and used for medical expenses;

(T) the amount of any nonfarm self-employment income offsetting a tax deduction taken that year for a farm loss, for households with farms generating income of at least $1,000 annually;

(U) up to $2,000 of gifts annually from tax-exempt organizations provided to children with life-threatening conditions;

(V) independent living payments to youths who are leaving foster care, as provided by the Social Security Act, Title IV-E (42 U.S.C. §670 et seq.);

(W) funds from payments of up to $2,000 to Native Americans made under the federal Old Age Assistance Claims Settlement Act (25 U.S.C. §2301-2307) or the federal Alaska Native Claims Settlement Act (43 U.S.C. §1601-1629);

(X) funds from payments made to volunteers under Title I of the Domestic Volunteer Services Act of 1973 (42 U.S.C. §4950, et seq.) ;

(Y) funds from adoption subsidy payments made under Title IV-A (42 U.S.C. §601, et seq.) and Title IV-E (42 U.S.C. §670, et seq.) of the Social Security Act;

(Z) funds from insurance policy dividends;

(AA) funds from veterans payments earmarked as a housebound allowance or as an aid and attendance allowance;

(BB) earned income tax credit payments;

(CC) federal, state, or local government payments provided to rebuild a home or replace personal possessions damaged in a disaster, including payments under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §5121 et seq.), if the recipient is subject to legal sanction if the payment is not used as intended;

(DD) funds from educational assistance payments (but only during the quarter, semester, or applicable period that the payment is intended to cover);

(EE) loans, if the circumstances satisfy HHSC that there exists an understanding that the money will be repaid, and the applicant or client reasonably explains to HHSC how the money will be repaid; and

(FF) crime victim's compensation payments.
(b) Adjunctive eligibility. An applicant or client is considered adjunctively eligible at an initial or renewal application, and therefore automatically financially eligible, if:

1. a member in her budget group receives benefits under the Women, Infants, and Children (WIC) supplemental nutrition program;

2. she is a member of a certified Supplemental Nutrition Assistance Program (SNAP) household;

3. she is in a Children's Medicaid budget group for someone receiving Medicaid; or

4. she is receiving Temporary Assistance for Needy Families (TANF) cash or is in a TANF budget group for someone receiving TANF cash.

RULE §382.13 Denial, Suspension, or Termination of Services and Client Appeals

(a) Notice and opportunity for hearing. HHSC may deny, suspend, or terminate services to an applicant or client if it determines that the applicant or client is ineligible to participate in HTW.

(b) Notice and opportunity for a fair hearing. Before HHSC finalizes the denial, suspension, or termination under subsection (a) of this section, the applicant or client is notified and provided an opportunity for a fair hearing in accordance with Chapter 357, Subchapter A, of this title (relating to Uniform Fair Hearing Rules).

(c) Appeal procedures. An applicant or client who is aggrieved by the denial, suspension, or termination under subsection (a) of this section may appeal the decision in accordance with Chapter 357, Subchapter A of this title (relating to Uniform Fair Hearing Rules). An applicant or client may not appeal a decision to deny, suspend, or terminate services if the decision is the result of a decision by the State to reduce or stop funding the program.

RULE §382.15 Covered and Non-covered Services

(a) Covered services. Services provided through HTW includes:

1. health history and physical;

2. counseling and education;

3. laboratory testing;

4. provision of a contraceptive method;

5. referrals for additional services, as needed;
(6) immunizations; and

(7) breast and cervical cancer screening and diagnostic services.

(b) Non-covered services. Services not provided through HTW include:

(1) counseling on and provision of abortion services;

(2) counseling on and provision of emergency contraceptives; and

(3) other services that cannot be appropriately billed with a permissible procedure code.

RULE §382.17 Health-Care Providers

(a) Procedures. An HTW provider must:

(1) be enrolled as a Medicaid provider in accordance with Chapter 352 of this title (relating to Medicaid and Children’s Health Insurance Program Provider Enrollment);

(2) complete the HTW certification process as described in subsection (e) of this section; and

(3) comply with the requirements set out in Chapter 354, Subchapter A, Division 1 of this title (relating to Medicaid Procedures for Providers).

(b) Requirements. An HTW provider must ensure that:

(1) the provider does not perform or promote elective abortions outside the scope of HTW and is not an affiliate of an entity that performs or promotes elective abortions; and

(2) in offering or performing an HTW service, the provider:

(A) does not promote elective abortion within the scope of HTW;

(B) maintains physical and financial separation between its HTW activities and any elective abortion-performing or abortion-promoting activity, as evidenced by the following:

(i) physical separation of HTW services from any elective abortion activities, no matter what entity is responsible for the activities;

(ii) a governing board or other body that controls the HTW health care provider has no board members who are also members of the governing board of an entity that performs or promotes elective abortions;
(iii) accounting records that confirm that none of the funds used to pay for HTW services directly or indirectly support the performance or promotion of elective abortions by an affiliate; and

(iv) display of signs and other media that identify HTW and the absence of signs or materials promoting elective abortion in the provider's location or in the provider's public electronic communications; and

(C) does not use, display, or operate under a brand name, trademark, service mark, or registered identification mark of an organization that performs or promotes elective abortions.

(c) Defining "promote." For purposes of subsection (b) of this section, the term "promote" means advancing, furthering, advocating, or popularizing elective abortion by, for example:

(1) taking affirmative action to secure elective abortion services for an HTW client (such as making an appointment, obtaining consent for the elective abortion, arranging for transportation, negotiating a reduction in an elective abortion provider fee, or arranging or scheduling an elective abortion procedure); however, the term does not include providing upon the patient's request neutral, factual information and nondirective counseling, including the name, address, telephone number, and other relevant information about a provider;

(2) furnishing or displaying to an HTW client information that publicizes or advertises an elective abortion service or provider; or

(3) using, displaying, or operating under a brand name, trademark, service mark, or registered identification mark of an organization that performs or promotes elective abortions.

(d) Compliance information. Upon request, an HTW provider must provide HHSC with all information HHSC requires to determine the provider's compliance with this section.

(e) Certification. Upon initial application for enrollment in HTW, a provider must certify its compliance with subsection (b) of this section and any other requirement specified by HHSC. Each provider enrolled in HTW must annually certify that the provider complies with subsection (b) of this section.

(f) Provider disqualification. If HHSC determines that an HTW provider fails to comply with subsection (b) of this section, HHSC disqualifies the provider from HTW.

(g) Client assistance and recoupment. If an HTW provider is disqualified, HHSC takes appropriate action to:

(1) assist an HTW client to find an alternate provider; and

(2) recoup any funds paid to a disqualified provider for HTW services performed during the period of disqualification.
(h) Exemption from initial certification. The initial application requirement of subsection (g) of this section does not apply to a provider that certified and was determined to be in compliance with the requirements of the Texas Women's Health Program administered by HHSC pursuant to Texas Human Resources Code §32.024(c-1).

RULE §382.19 Prohibition of Abortion

Abortion is not considered a method of family planning, and no state funds appropriated for HTW family planning services are used to pay the direct or indirect costs (including overhead, rent, phones, equipment, and utilities) of abortion procedures.

RULE §382.21 Reimbursement

(a) Reimbursement.

(1) Covered services provided through HTW are reimbursed in accordance with Chapter 355 of this title (relating to Reimbursement Rates).

(2) Entities that contract with HHSC to provide additional services related to HTW that are separate from services referenced in subsection (a)(1) of this section are reimbursed by HHSC in compliance with program standards, policy and procedures, and contract requirements unless payment is prohibited by law.

(b) Claims procedures. An HTW provider must comply with Chapter 354, Subchapter A, Divisions 1 and 5 of this title (relating to Medicaid Procedures for Providers and relating to Physician and Physician Assistant Services).

(c) Improper use of reimbursement. An HTW provider may not use any HTW funds received to pay the direct or indirect costs (including overhead, rent, phones, equipment, and utilities) of elective abortions.

RULE §382.23 Provider's Request for Review of Claim Denial

(a) Review of denied claim. An HTW provider may request a review of a denied claim. The request must be submitted as an administrative appeal under Chapter 354, Subchapter I, Division 3 of this title (relating to Appeals).

(b) Appeal procedures. An administrative appeal is subject to the timelines and procedures set out in Chapter 354, Subchapter I, Division 3 of this title and all other procedures and timelines applicable to a provider's appeal of a Medicaid claim denial.

RULE §382.25 Confidentiality and Consent
(a) Confidentiality required. An HTW provider must maintain all health care information as confidential to the extent required by law.

(b) Written release authorization. Before an HTW provider may release any information that might identify a particular client, that client must authorize the release in writing. If the client is 15 through 17 years of age, inclusive, the client’s parent, managing conservator, or guardian, as authorized by Chapter 32 of the Texas Family Code or by federal law or regulations, must authorize the release.

(c) Confidentiality training. An HTW provider's staff (paid and unpaid) must be informed during orientation of the importance of keeping client information confidential.

(d) Records monitoring. An HTW provider must monitor client records to ensure that only appropriate staff and HHSC may access the records.

(e) Assurance of confidentiality. An HTW provider must verbally assure each client that her records are confidential and must explain the meaning of confidentiality.

(f) Consent for minors. HTW services must be provided with consent from the minor’s parent, managing conservator, or guardian only as authorized by Texas Family Code, Chapter 32, or by federal law or regulations.

RULE §382.27 Audits and Reports

(a) Compliance audits. HHSC may audit any HTW provider to verify compliance with any applicable law or regulation.

(b) Reporting duties. An HTW provider must submit information to HHSC as HHSC requires.

RULE §382.29 Severability

(a) Legislative intent. The Texas Legislature, in enacting Texas Human Resources Code §32.024(c-1), confirmed its intent that the Healthy Texas Women program, as successor to the Medicaid Women's Health Program, must be operated only in a manner that ensures that no funds spent under the program are:

(1) spent to perform or promote elective abortions; or

(2) used to contract with entities that perform or promote elective abortions or affiliates of such entities.

(b) Limitation on administration. HHSC, as the agency responsible for administering HTW, is subject to the conditions specified in Texas Human Resources Code §32.024(c-1). Its authority
to operate the program is thus strictly limited, and HHSC has no authority to operate the HTW program except in compliance with such conditions.

(c) Nonseverable provisions.

(1) Section 382.5(1) of this subchapter (relating to Definitions) and §382.17 of this subchapter (relating to Health Care Providers) are necessary and integral to the implementation of the requirements of Texas Human Resources Code §32.024(c-1), the fulfillment of legislative intent, and the achievement of the objectives of HTW. As such, HHSC regards the provisions and application of these sections as essential aspects of HHSC's compliance with state law and, therefore, not severable from the other provisions of this subchapter.

(2) Accordingly, to the extent that §382.5(1), §382.17, or this section is determined by a court of competent jurisdiction to be unconstitutional or unenforceable, or to the degree an official or employee of HHSC or the State of Texas is enjoined from enforcing these sections, HHSC will regard this entire subchapter as invalid and unenforceable and will cease operation of the program.

(d) Severable provisions. To the extent that any part of this subchapter other than §382.5(1), §382.17, or this section are enjoined, HHSC may enforce the parts of the subchapter not affected by such injunctive relief to the extent that HHSC determines it can do so consistent with legislative intent and the objectives of this subchapter.