TITLE 1 ADMINISTRATION

PART 15 TEXAS HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 354 MEDICAID HEALTH SERVICES
SUBCHAPTER A
DIVISION 27, WOMEN'S HEALTH PROGRAM

<u>RULES</u> §§ 354.1361, 354.1362, 354.1363, 354.1364

#### **§354.1361.** Applicability.

This division applies only to the Title XIX Women's Health Program operated under Human Resources Code §32.0248.

#### §354.1362. Definitions.

<u>In this division, the following words and terms have the following meanings, unless the context clearly indicates otherwise:</u>

### (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, or a license.
- (2) Corporate entity--A foreign or domestic non-natural person, including a for-profit or nonprofit corporation and a partnership.
- (3) 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; or
- (B) in a case in which a woman 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 woman in danger of death unless an abortion is performed.

- (4) HHSC--The Health and Human Services Commission or its designee.
- (5) Health clinic--A corporate entity that provides preventive or primary health care, or both preventive and primary health care, to outpatient clients. The term includes family planning clinics, but excludes hospitals licensed under Health and Safety Code Chapter 241 and laboratories.
  - (6) Promotes--Advocates or popularizes by, for example, advertising or publicity.
- (7) Women's Health Program (WHP)--The demonstration project under Title XIX of the federal Social Security Act, which HHSC has implemented in accordance with Texas Human Resources Code §32.0248.

#### §354.1363. Prohibition of Contracts With Certain Providers.

- (a) HHSC may not contract with a Medicaid provider to participate in the Women's Health Program (WHP) if:
  - (1) in the case of a physician or physician assistant:
    - (A) the provider performs or promotes elective abortions; or
- (B) the provider performs services for a corporate entity that performs or promotes elective abortions (other than a corporate entity that is a hospital licensed under Health and Safety Code Chapter 241); or
  - (2) in the case of a health clinic, the provider:
- (A) performs or promotes elective abortions as an abortion facility licensed under Health and Safety Code Chapter 245; or
- (B) is an affiliate of a corporate entity that performs or promotes elective abortions (other than a corporate entity that is a hospital licensed under Health and Safety Code Chapter 241).
- (b) A WHP provider must provide HHSC with all information HHSC requires to determine the provider's compliance with this section.
- (c) If, after the effective date of this section, HHSC determines that a WHP provider performs or promotes elective abortions or is an affiliate of a corporate entity that performs or promotes elective abortions, HHSC will disqualify the provider from WHP.
  - (d) If a WHP provider is disqualified, HHSC will take appropriate action to:

# (1) assist a WHP client to find an alternate provider; and

(2) recoup any funds paid to a disqualified provider for WHP services performed during the period of disqualification.

## §354.1364. Certification.

A Women's Health Program provider who is a physician, physician assistant, or health clinic annually must certify that the provider complies with §354.1363(a) of this division (relating to Prohibition of Contracts With Certain Providers).