

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 is to describe the newborn hearing screening process administered by the Department of State Health Services pursuant to Texas Health and Safety Code Chapter 47 to ensure all babies born in Texas receive a hearing screening, proper intervention, and referrals to services if they are suspected or diagnosed as deaf or hard of hearing.

RULE §37.502	Definitions
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The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) 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 or neonatal intensive care unit services or both; or

(D) a facility maintained or operated by this state or an agency of this state that provides obstetrical services.

(2) Consent--Permission related to the release of individually identifying information that may be disclosed to the department or resource center.

(3) Consent form (form)--A form that contains required language prescribed by the department found at <https://www.dshs.texas.gov/tehdi> to capture consent, as defined in this subchapter.

(4) Department--The Department of State Health Services.

(5) ECI--Early Childhood Intervention. The early intervention services described in Part C Early Childhood Intervention, Individuals with Disabilities Education Act, 20 United States Code §§1431-1443.

(6) Follow-up care--Additional screening, diagnostic audiological evaluation, or intervention services to include medical and therapeutic treatment services for newborns or infants who do not pass the initial hearing screening.

(7) Healthcare provider--Any licensed professional along the hearing continuum, including:

(A) a registered nurse recognized as an advanced practice registered nurse by the Texas Board of Nursing or a physician assistant licensed by the Texas Physician Assistant Board;

(B) a midwife, as defined by Texas Occupations Code §203.002, including a nurse midwife described by Texas Occupations Code §301.152;

(C) a physician who is licensed to practice medicine by the Texas Medical Board; or

(D) a licensed audiologist, as defined by Texas Occupations Code Chapter 401.

(8) Hearing loss--A hearing threshold greater than 15 dB hearing level in the frequency region important for speech recognition and comprehension in one or both ears that is confirmed by a diagnostic audiological evaluation.

(9) Hearing screening--The initial physiologic measurement of hearing to identify an increased risk for hearing loss before birthing facility discharge.

(10) Individually identifying information--Confidential information that identifies the parent or newborn.

(11) Infant--A child who is at least 30 days old but who is younger than 24 months old.

(12) Newborn--A child younger than 30 days old.

(13) Parent--A natural parent, stepparent, adoptive parent, legal guardian, or other legal custodian of a child.

(14) Protocols--Guidelines or procedures based on the latest Joint Committee on Infant Hearing position statement, found at <http://www.jcih.org/posstatemts.htm>, as updated, used by programs to conduct newborn hearing screening.

(15) Resource center--Primary statewide resource center as defined by Texas Education Code §30.051.

(16) TEHDI MIS--Texas Early Hearing Detection and Intervention Management Information System. The department's central information source of results and referrals related to newborn hearing screens, audiological evaluations, and any type of intervention for newborns or infants.

Source Note: The provisions of this §37.502 adopted to be effective December 23, 2020, 45 TexReg 9210

(a) The birthing facility shall inform the parents during admission that:

- (1) the facility is required by law to screen a newborn or infant for hearing loss; and
- (2) the parents may decline the screening.

(b) The birthing facility is responsible for obtaining and documenting, during admission, on the form referenced in §37.502(3) of this subchapter (relating to Definitions), consent to release individually identifying information. Consent may be obtained and stored electronically and must be documented in the TEHDI MIS. The consent form may be found at <https://dshs.texas.gov/tehdi>.

(1) If the birthing facility contracts for hearing screening services, the birthing facility is responsible for ensuring its contractor is in compliance with Texas Health and Safety Code Chapter 47 and this subchapter, as it relates to newborn hearing screening.

(2) If the parent declines the consent to release individually identifying information during admission, the parent may later consent to release individually identifying information during subsequent follow-up screenings or diagnostic evaluations.

(c) Healthcare providers shall document and maintain consent, if obtained, in the medical record, and the consent must be provided at the request of the department.

(d) A healthcare provider is not criminally or civilly liable for furnishing information in good faith to the department or its designee in accordance with Texas Health and Safety Code §47.009.

(e) At any time, a parent may request in writing to the department or resource center that individually identifying information concerning their child be removed from:

- (1) the department's TEHDI MIS;
- (2) the resource center's records; or
- (3) both.

Source Note: The provisions of this §37.503 adopted to be effective December 23, 2020, 45 TexReg 9210

(a) Any healthcare provider who performs initial hearing screening, follow-up screening, diagnostic evaluations, follow-up care, or interventions is required to report all patient encounters and outcomes, including pass and do not pass results, in the TEHDI MIS within five calendar days after the date of the patient encounter.

(b) If a parent declines the hearing screening for the newborn, the hearing screening refusal must be documented in the medical record and the TEHDI MIS.

Source Note: The provisions of this §37.504 adopted to be effective December 23, 2020, 45 TexReg 9210

RULE §37.505

Birthing Facility
Screening
Provider
Responsibilities

(a) A birthing facility screening provider shall be a department-certified newborn hearing screening program. A provider that is not certified is required to refer the infant to a department-certified newborn hearing screening program.

(b) A birthing facility screening provider shall:

(1) perform the initial hearing screening, or document why the screening was not performed, in accordance with Texas Health and Safety Code §47.003;

(2) provide screening results and educational materials to the parents;

(3) provide screening results to the applicable healthcare providers; and

(4) report results in accordance with §37.504 of this subchapter (relating to Required Reporting).

(c) Infants who do not pass the initial hearing screening must be offered a follow-up screening or referral consistent with Joint Committee on Infant Hearing guidelines, found at <http://www.jcih.org/posstatemts.htm>, as updated.

Source Note: The provisions of this §37.505 adopted to be effective December 23, 2020, 45 TexReg 9210

RULE §37.506

Follow-up Screening
Provider Responsibility

(a) A follow-up screening provider shall:

- (1) perform a follow-up screening no later than 30 days after birth;
- (2) provide screening results to the applicable healthcare providers;
- (3) provide screening results and educational materials to the parents; and
- (4) report results in accordance with §37.504 of this subchapter (relating to Required Reporting).

(b) If the infant does not pass, a follow-up screening provider shall:

- (1) refer to ECI due to suspected deaf or hard of hearing diagnosis;
- (2) provide follow-up screening results to the resource center; and
- (3) schedule or refer for diagnostic audiological evaluation consistent with Joint Committee on Infant Hearing guidelines, <http://www.jcih.org/posstatements.htm>, as updated.

Source Note: The provisions of this §37.506 adopted to be effective December 23, 2020, 45 TexReg 9216

RULE §37.507

Diagnostic Evaluation Provider
Responsibilities

A diagnostic evaluation provider shall:

- (1) perform a diagnostic evaluation no later than three months after birth;
- (2) provide results to the parents, applicable healthcare providers, and the resource center;
- (3) refer children confirmed as deaf or hard of hearing to ECI within seven days of the encounter; and
- (4) report in accordance with §37.504 of this subchapter (relating to Required Reporting).

Source Note: The provisions of this §37.507 adopted to be effective December 23, 2020, 45 TexReg 9216

RULE §37.508

Department Responsibilities

(a) The department shall:

- (1) maintain the TEHDI MIS;
- (2) certify newborn hearing screening programs, as described by program protocol at <https://www.dshs.texas.gov/tehdi/FacilityCertRequire.aspx>; and

(3) make available standardized educational resources.

(b) The department may assist in coordination of follow-up care and diagnosis.

(c) The department shall ensure ECI services are available to a child suspected or diagnosed as deaf or hard of hearing.

(d) The department shall report de-identified, aggregate data to the Centers for Disease Control and Prevention and the Health Resources and Services Administration Maternal and Child Health Bureau annually.

Source Note: The provisions of this §37.508 adopted to be effective December 23, 2020, 45 TexReg 9210

RULE §37.509

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 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 Texas Health and Human Services Commission.

(c) Screening 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 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-payment or co-insurance requirements are permitted; however, deductible requirements or dollar limits are prohibited.

Source Note: The provisions of this §37.509 adopted to be effective December 23, 2020, 45 TexReg 9210