

**CHAPTER 50-06.2
COMPREHENSIVE HUMAN SERVICES PROGRAMS**

50-06.2-01. Purpose - Interpretation. (Effective through December 31, 2019)

It is the purpose of this chapter to establish a system for planning, coordinating, and providing comprehensive human services administered by county social service boards and human service centers. This chapter must be construed to effectuate the following public purposes:

1. To help individuals or their families to achieve, maintain, or support the highest attainable level of personal independence and economic self-sufficiency.
2. To prevent, remedy, or alleviate neglect, abuse, or exploitation of children and adults unable to protect their own interests.
3. To provide a continuum of community-based services adequate to appropriately sustain individuals in their homes and in their communities and to delay or prevent institutional care.
4. To preserve, rehabilitate, and reunite families.
5. To assist in securing referral or admission of individuals to institutional care when other forms of care are not appropriate.

Purpose - Interpretation. (Effective after December 31, 2019) It is the purpose of this chapter to establish a system for planning, coordinating, and providing comprehensive human services administered by human service zones and human service centers. This chapter must be construed to effectuate the following public purposes:

1. To help individuals or their families to achieve, maintain, or support the highest attainable level of personal independence and economic self-sufficiency.
2. To prevent, remedy, or alleviate neglect, abuse, or exploitation of children and adults unable to protect their own interests.
3. To provide a continuum of community-based services adequate to appropriately sustain individuals in their homes and in their communities and to delay or prevent institutional care.
4. To preserve, rehabilitate, and reunite families.
5. To assist in securing referral or admission of individuals to institutional care when other forms of care are not appropriate.

50-06.2-02. Definitions. (Effective through December 31, 2019)

As used in this chapter:

1. "Comprehensive human services" means services included in the comprehensive human services plan published by the state agency and human services required by state law or state agency regulation or federal law or regulation as a condition for the receipt of federal financial participation in programs administered under the provisions of this title.
2. "County agency" means the county social service board in each county of the state.
3. "County plan" means the county human services plan required by section 50-06.2-04.
4. "Family home care" means the provision of room, board, supervisory care, and personal services to an eligible elderly or disabled person by the spouse or by one of the following relatives, or the current or former spouse of one of the following relatives, of the elderly or disabled person: parent, grandparent, adult child, adult sibling, adult grandchild, adult niece, or adult nephew. The family home care provider need not be present in the home on a twenty-four-hour basis if the welfare and safety of the client is maintained.
5. "Human service center" means a regional center established under section 50-06-05.3.
6. "Qualified service provider" means a county agency or independent contractor which agrees to meet standards for service and operations established by the state agency.
7. "State agency" means the department of human services.

Definitions. (Effective after December 31, 2019) As used in this chapter:

1. "Comprehensive human services" means services included in the comprehensive human services plan published by the state agency and human services required by state law or state agency regulation or federal law or regulation as a condition for the receipt of federal financial participation in programs administered under the provisions of this title.
2. "Family home care" means the provision of room, board, supervisory care, and personal services to an eligible elderly or disabled person by the spouse or by one of the following relatives, or the current or former spouse of one of the following relatives, of the elderly or disabled person: parent, grandparent, adult child, adult sibling, adult grandchild, adult niece, or adult nephew. The family home care provider need not be present in the home on a twenty-four-hour basis if the welfare and safety of the client is maintained.
3. "Human service center" means a regional center established under section 50-06-05.3.
4. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the state agency.
5. "Human service zone plan" means the human service zone plan required by section 50-06.2-04.
6. "Human services" means:
 - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
 - b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.
 - c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.
7. "Qualified service provider" means a human service zone or independent contractor which agrees to meet standards for service and operations established by the state agency.
8. "State agency" means the department of human services.

50-06.2-03. Powers and duties of the state agency. (Effective through December 31, 2019)

The state agency has the following powers or duties under this chapter:

1. To act as the official agency of the state in the administration of the human services programs for individuals and families in conformity with state and federal requirements.
2. To prepare, at least biennially, a comprehensive human services plan which must:
 - a. Include human services determined essential in effectuating the purposes of this chapter.
 - b. Detail the human services identified by the state agency for provision by human service centers and the services which the county agencies have agreed to make available in approved county plans as a condition for the receipt of any funds allocated or distributed by the state agency.
3. To make available, through county agencies or human service centers, any or all of the services set out in the comprehensive human services plan on behalf of those individuals and families determined to be eligible for those services under criteria established by the state agency.
4. To supervise and direct the comprehensive human services administered by county agencies and human service centers through standard-setting, technical assistance, approval of county and regional plans, preparation of the comprehensive human services plan, evaluation of comprehensive human services programs, and distribution of public money for services.

5. Within the limits of legislative appropriations and at rates determined payable by the state agency, to pay qualified service providers, which meet standards for services and operations, for the provision of the following services as defined in the comprehensive human services plan which are provided to individuals who, on the basis of functional assessments, income, and resources, are determined eligible for the services in accordance with rules adopted by the state agency:
 - a. Homemaker services;
 - b. Chore services;
 - c. Respite care;
 - d. Home health aide services;
 - e. Case management;
 - f. Family home care;
 - g. Personal attendant care;
 - h. Adult family foster care; and
 - i. Such other services as the state agency determines to be essential and appropriate to sustain individuals in their homes and in their communities and to delay or prevent institutional care.
6. To take actions, give directions, and adopt rules as necessary to carry out the provisions of this chapter.

For purposes of this chapter, resources do not include the individual's primary home and the first fifty thousand dollars of liquid assets.

Powers and duties of the state agency. (Effective after December 31, 2019) The state agency has the following powers or duties under this chapter:

1. To act as the official agency of the state in the administration of the human services for individuals and families in conformity with state and federal requirements.
2. To prepare, at least biennially, a comprehensive human services plan which must:
 - a. Include human services determined essential in effectuating the purposes of this chapter.
 - b. Detail the human services identified by the state agency for provision by human service centers and the services which the human service zones make available in approved human service zone plans as a condition for the receipt of any funds allocated or distributed by the state agency.
3. To make available, through human service zone or human service centers, any or all of the services set out in the comprehensive human services plan on behalf of those individuals and families determined to be eligible for those services under criteria established by the state agency.
4. To supervise and direct the comprehensive human services administered by human service zone and human service centers through standard-setting, technical assistance, approval of human service zone and regional plans, preparation of the comprehensive human services plan, evaluation of comprehensive human services, and distribution of public money for services.
5. Within the limits of legislative appropriations and at rates determined payable by the state agency, to pay qualified service providers, which meet standards for services and operations, for the provision of the following services as defined in the comprehensive human services plan which are provided to individuals who, on the basis of functional assessments, income, and resources, are determined eligible for the services in accordance with rules adopted by the state agency:
 - a. Homemaker services;
 - b. Chore services;
 - c. Respite care;
 - d. Home health aide services;
 - e. Case management;
 - f. Family home care;
 - g. Personal attendant care;
 - h. Adult family foster care; and

- i. Such other services as the state agency determines to be essential and appropriate to sustain individuals in their homes and in their communities and to delay or prevent institutional care.
6. To take actions, give directions, and adopt rules as necessary to carry out the provisions of this chapter.

For purposes of this chapter, resources do not include the individual's primary home and the first fifty thousand dollars of liquid assets.

50-06.2-04. Powers and duties of county agencies. (Effective through December 31, 2019)

Each county agency has the following powers and duties under this chapter:

1. To administer comprehensive human services programs for individuals and families at the county level in conformity with state and federal requirements under the direction and supervision of the state agency.
2. To publish and provide to the state agency a county human services plan which must include the following:
 - a. A statement of the goals of county human services programs in the county.
 - b. Methods used to identify persons in need of services and the social problems to be addressed by the county human services programs.
 - c. A description of each county human service proposed and identification of the agency or person proposed to provide the service.
 - d. The amount of money proposed to be allocated to each service.
 - e. An agreement to make available those human services required by state law and by federal law or regulation as a condition for the receipt of federal financial participation in programs administered by county agencies under the provisions of this title.

The date of submission of the county human services plan to the state agency must be determined so that the plan is coordinated with the proposed and final comprehensive human services plan.

3. To make available the human services detailed in the comprehensive human services plan which the county agency has included in the approved county plan and to provide such other human services as the county agency determines essential in effectuating the purposes of this chapter within the county. To the extent funding is available under section 50-06.2-03 and chapter 50-24.1, the county plan must include the services enumerated in those sections. The county agency shall make these services available to any individual requesting service and determined eligible on the basis of a functional assessment conducted in accordance with state and federal laws and regulations. The individual shall pay for the services in accordance with a fee scale based on family size and income. The county agency may contract with any qualified service provider in its provision of those enumerated services.
4. To submit annually to the board of county commissioners a budget containing an estimate and supporting data, setting forth the funds needed to carry out the provisions of this chapter.

Powers and duties of human service zones. (Effective after December 31, 2019) Each human service zone has the following powers and duties under this chapter:

1. To administer comprehensive human services for individuals and families at the human service zone level in conformity with state and federal requirements under the direction and supervision of the state agency.
2. To publish and provide to the state agency a human service zone plan that must include the following:
 - a. A statement of the goals of human service zone human services in the human service zone.
 - b. Methods used to identify persons in need of services and the social problems to be addressed by the human service zone human services.
 - c. A description of each human service zone human services proposed and identification of the agency or person proposed to provide the service.

- d. The amount of money proposed to be allocated to each service.
- e. An agreement to make available those human services required by state law and by federal law or regulation as a condition for the receipt of federal financial participation in programs administered by human service zones under the provisions of this title.

The date of submission of the human service zone plan to the state agency must be determined so that the plan is coordinated with the proposed and final comprehensive human service zone plan.

- 3. To make available the human services detailed in the comprehensive human service zone plan which the human service zone has included in the approved human service zone plan and to provide such other human services as the human service zone determines essential in effectuating the purposes of this chapter within the human service zone. To the extent funding is available under section 50-06.2-03 and chapter 50-24.1, the human service zone plan must include the services enumerated in those sections. The human service zone shall make these services available to any individual requesting service and determined eligible on the basis of a functional assessment conducted in accordance with state and federal laws and regulations. The individual shall pay for the services in accordance with a fee scale based on family size and income. The human service zone may contract with any qualified service provider in its provision of those enumerated services.
- 4. To submit annually to the board of county commissioners a budget, approved by the state agency, containing an estimate and supporting data, setting forth the funds needed to carry out the provisions of this chapter.

50-06.2-05. County human services program funding - Tax levy authority.

Repealed by S.L. 2019, ch. 391, § 138.

50-06.2-05.1. County share of service payments to elderly and disabled.

Repealed by S.L. 2015, ch. 329, § 11.

50-06.2-06. Freedom of choice. (Effective through December 31, 2019)

Each person eligible for services under this chapter, or the person's representative, must be free to choose among available qualified service providers that offer competitively priced services. The county agency shall inform each eligible applicant for services, provided under this chapter, of the identity of qualified service providers available to provide the service required by the applicant. The county agency shall make and document reasonable efforts to inform potential service providers of the anticipated need for services in the county.

Freedom of choice. (Effective after December 31, 2019) Each person eligible for services under this chapter, or the person's representative, must be free to choose among available qualified service providers that offer competitively priced services. The human service zone shall inform each eligible applicant for services, provided under this chapter, of the identity of qualified service providers available to provide the service required by the applicant. The human service zone shall make and document reasonable efforts to inform potential service providers of the anticipated need for services in the human service zone.

50-06.2-07. Disqualifying transfers.

An individual is not eligible to receive benefits under this chapter if, at any time before or after making application, the individual or the individual's spouse has made any assignment or transfer of any asset for the purpose of making that individual eligible for the benefits. Assignment or transfer includes any action or failure to act that effects a transfer, renunciation, or disclaimer of any asset or interest in an asset that the individual might otherwise assert or have asserted, or which serves to reduce the amount that an individual might otherwise claim from a decedent's estate, a trust or similar device, or another individual obligated by law to furnish support.

50-06.2-08. Service payments for elderly and disabled - Independent home and community-based services case manager - Pilot program.

Expired under S.L. 2013, ch. 135, § 2.

50-06.2-09. Medical assistance home and community-based services - Independent home and community-based services case manager - Pilot program.

Expired under S.L. 2013, ch. 135, § 2.

50-06.2-10. Service payments for elderly and disabled program eligibility.

1. The state agency may not require an individual to apply for services under chapter 50-24.1 as a condition of being eligible to apply for services under the service payments for elderly and disabled program:
 - a. If the individual's estimated monthly home and community-based services benefits, excluding the cost of case management, are between the income level established in section 50-24.1-02.6 and the lowest level of the fee schedule for services under this chapter; or
 - b. If the individual is receiving a service that is not available under chapter 50-24.1.
2. The home and community-based services case manager shall notify the state agency upon use of an exception authorized under subsection 1.
3. An overpayment, whether resulting from an eligible individual's or eligible individual's legal representative's concealment, misrepresentation, or fraud, or from assistance granted pending a decision on an appeal adverse to the appellant, and whenever made, is subject to recovery by the state agency. An overpayment may be collected from any person that benefited from, or that was responsible for, the overpayment. A statute of limitations or similar statute or the doctrine of laches does not bar a claim under this chapter.

50-06.2-11. Service payments for elderly and disabled sliding fee schedule.

The department shall establish annually a sliding fee schedule based on family size and income to determine a recipient's participation fee percentage for services received through the service payments for elderly and disabled program.