

# Chapter 54 – Social Services

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## ARTICLE I. - IN GENERAL

Secs. 54-1—54-30. - Reserved.

## ARTICLE II. - HUMAN SERVICES<sup>2</sup>

### DIVISION 1. - GENERALLY

Secs. 54-31—54-50. - Reserved.

### DIVISION 2. - WELFARE<sup>3</sup>

#### Subdivision I. - In General

Sec. 54-51. - Legal obligation and authority.

- (a) The commissioners courts of the counties of the state were made responsible for the care of indigents through an act passed in 1876 and amended in 1885 and 1911. Vernon's Ann. Civ. St. art. 2241, § 9 stated that the commissioners court shall provide for the support of paupers and such idiots and lunatics as cannot be admitted into the lunatic asylum, and residents of their counties who are unable to support themselves.
- (b) The Public Welfare Act of 1941 (Vernon's Ann. Civ. St. art. 695C, § 39) states: "No provision of this act is intended to release the counties and municipalities in this state from the specific responsibility which is currently borne by those counties and municipalities in support of Public Welfare, Child Support and Relief Service."
- (c) In 1936, the county commissioners court established with the City of Dallas the bureau of public aid, to administer a locally funded general assistance program for persons disabled to work. The name was changed to the city-county department of public welfare in 1938 and a five-member board established. In 1959, the county became the single entity government sponsoring the welfare department.
- (d) With the creation of the department of human services in 1981, the welfare department became a division of the county department of human services.
- (e) Financial assistance rates are determined annually by the county commissioners court, and approved prior to the approval of the agency's annual budget.

Secs. 54-52—54-70. - Reserved.

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<sup>1</sup> **Federal law references**— National Housing Act, 12 USC 1701 et seq.; Housing and Community Development Act, 42 USC 5301 et seq. **State Law reference**— Social services, V.T.C.A., [Human Resources Code § 1.001](#) et seq.

<sup>2</sup> **State Law reference**— Local health and human services advisory committee, V.T.C.A., [Government Code § 531.0249](#).

<sup>3</sup> **Editor's note**— This division was derived from the department of health and human services, welfare division policy manual sent by the county. **State Law reference**— Aid to families with dependent children, V.T.C.A., [Human Resources Code § 31.001](#) et seq.

## Subdivision II. - Financial Assistance Program<sup>4</sup>

Sec. 54-71. - Eligibility generally.

Assistance to meet basic financial needs is given to individuals and families who meet eligibility criteria from the date of application or as other noted in this subdivision.

Sec. 54-72. - Assistance duration; disabled persons.

- (a) Persons meeting the eligibility criteria in section 54-115(g), disability, may be financially assisted until medically able to resume employment or other resources to meet basic needs have been obtained.
- (b) Temporary assistance may be provided if the other resources are temporarily disrupted or when such resources are insufficient to meet basic needs due to unusual circumstances.
- (c) Assistance scale: definition. The assistance scale is the total amount of financial assistance which can be allowed under rates established by the commissioners court to meet basic needs not met by other resources.
- (d) Household: definition. A household is defined as all residents in the home who, at the time of application, are a single economic unit.

Sec. 54-73. - Types of assistance provided.

Various methods are utilized to provide the financial assistance needed, and each type of assistance includes certain qualifying criteria of its own, in addition to basic eligibility requirements.

Sec. 54-74. - Food assistance.

- (a) *Special criteria.* The recipient must not be in receipt of food stamps.
- (b) *Rates for food assistance.*

Family Size	Monthly Scale
1 person	\$ 90.00
2 persons	165.00
3 persons	236.00
4 persons	300.00
5 persons	357.00
6 persons	428.00
7 persons	473.00

<sup>4</sup> **State Law reference**— Financial assistance and service programs, V.T.C.A., [Human Resources Code § 31.001](#) et seq.

8 persons	541.00
9 or more persons	609.00

Within 60 days after each change in the rates of U.S. Department of Agriculture Food Stamp Program, the county commissioners court will reevaluate the above rates to determine whether adjustments are necessary.

- (c) *Methods of payment.* Food vouchers are issued to enable individuals and families to buy food at a designated grocery store of their choosing.
- (d) *Meals-on-wheels.* Prepared meals, delivered to eligible individuals are provided through negotiated arrangements with all agencies providing meals-on-wheels programs. Payment is made directly to the agency. The cost of such meals is deducted from the monthly food allowance with the remainder given to the individual in the form of a food voucher.
- (e) *Frequency of payments.* Food vouchers are issued for no more than one-half month. Meals-on-wheels are paid for at the end of each month.

Sec. 54-75. - Shelter assistance.

- (a) *Special criteria.* Special criteria for shelter assistance are as follows:
  - (1) Landlord or shelter provider must agree to accept payment.
  - (2) Housing must not be unhealthy or unsafe.
  - (3) The fact that an applicant is homeless does not disqualify the applicant for shelter assistance.
- (b) *Rates for shelter assistance.* Rates for shelter assistance shall be as follows:
  - (1) Rent or mortgage payment maximums:

1—2 persons	\$450.00 per month
3 + persons	600.00 per month

- (2) Shared housing. Rental up to the maximum allowable can be authorized for the pro rata share of the property used by the approved client.
- (3) If the department is unable to secure shelter for a qualified applicant at the above rates, the department head shall immediately notify the county commissioners court of the existence of such circumstances. Upon receipt of such notice, the county commissioners court shall, at the time of its next regularly scheduled meeting, consider exceptions or amendments to the above rates and authorize expenditures which are shown to be necessary to secure shelter for the qualified applicant.
- (c) *Methods of payment.* Payment to the landlord or mortgage holder. Rent or mortgage payment is paid for the days the premises have been occupied by the eligible individual or family. Legal agreements affirming payment are signed by the landlord or mortgage holder, caseworker and client, and are reviewed monthly.

- (d) *Frequency of payment.* Payments are made monthly for the period of the time the person was eligible and a shelter agreement was in effect.
- (e) *Rent/mortgage payments owed for prior occupancy.* If the applicant owes rent or house payments for a period prior to application, but according to all information would have been eligible and eviction is imminent, prior shelter payments can be allowed up to a period of 60 days at a rate not exceeding the monthly shelter rates established in subsection (b) of this section.
- (f) *Deposits.* Deposits are paid when the following criteria are met:
  - (1) Individual/family has eviction notice or is without housing; and
  - (2) No housing is available which does not require a deposit; or
  - (3) An interagency agreement has been developed to share portions of the costs of housing an eligible individual or family.
- (g) *Shelter payment.* Shelter payments do not include rent to relatives.

(Ord. No. 99-2029, 10-26-1999)

Sec. 54-76. - Utilities.

Utilities are paid so the individual/family can retain utilities services while receiving assistance. Since billing from utilities is after the service was used, the first payment may be for the period just prior to application.

- (1) *Types of payment.* Types of payment made are gas, electricity, water and butane.
- (2) *Payment rates.* Payment rates are as follows:

Electric utilities	Maximum of \$90.00 per month
Water utilities	Maximum of \$60.00 per month
Gas	Maximum of \$80.00 from October—March Maximum of \$45.00 from April—September
Butane	Per gallon: \$2.00

Exceptions to rates are allowed if:

- a. Severe weather has been experienced which required excessive heating/cooling.
- b. Severe illness of individual/family member.
- c. Very small children at home.
- (3) *Deposits.* Deposits are paid only to restore service when the individual/family has no other resources for payment.
- (4) *Method of payment.* The following are methods of payment:
  - a. Directly to service provider. Payment for actual amount of a bill or prorated share of a bill as discussed with the utility company, will be paid directly to the utility company.

- b. Utility payments to landlords for the prorated share of utilities may be paid if billed separately to the tenant.

Sec. 54-77. - Telephone.

Telephone bills may only be paid if the person's doctor certified the need due to a medical condition.

Sec. 54-78. - Drugs, medicines and eyeglasses.

- (a) Prescription medication are purchased only if:
  - (1) Medications are not available through Parkland Memorial Hospital; and
  - (2) Other resources for drug purchase are unavailable or exhausted.
- (b) Prescription lenses and/or frames are purchased if the individual needs them for function in the workplace or they are essential for daily living functions.
- (c) Rates of payment. The least expensive source of drugs or eyeglasses is utilized.
- (d) Method of payment. The actual cost as agreed by the caseworker/vendor is paid through use of a voucher.

Sec. 54-79. - Clothing purchase.

- (a) *Special criteria.* Clothing is only available to individuals/families receiving other assistance from the agency and for the following reasons:
  - (1) School-aged children need items for school attendance.
  - (2) Unusual circumstances such as a fire or theft which require clothing replacement.
- (b) *Allowable clothing costs.* No more than \$150.00 per person may be expended for clothing.
- (c) *Method of payment.* A voucher is issued to the vendor for those items approved by the caseworker.
- (d) *Donated clothing.* Donated clothing may be supplied to individuals or families as needed. Referrals for donated clothing are made to regular clothes agencies.

Sec. 54-80. - Transportation.

To assist individuals to keep medical, social service and employment appointments, transportation services are provided as follows:

- (1) *Bus tickets.* Tickets are purchased in bulk from DART and issued for verified appointments only.
- (2) *Handirides.* For those persons who cannot use regular transit buses, because of severe mobility problems, Handiride tickets are issued following certification.
- (3) *Agency van.* An agency van is used by those who cannot utilize any of the above transportation resources. The van provides transportation five days per week from 7:00 a.m. to 3:30 p.m.

Sec. 54-81. - Special needs.

- (a) *Daily living exclusions.* Items needed for daily living, but excluded from purchase with other funds, are not included in the payment for room and board occupancy.
- (b) *Special criteria.* Special needs are available only for clients who reside in room and board facilities as defined in this section and sections 54-84 and 54-85. Special needs funds are intended for daily living needs which may include, but are not limited to, personal hygiene supplies, nonprescription drug items, haircuts, laundry or household cleaning items.
- (c) *Rates of assistance for special needs.* The following are the health and human services/welfare division policy rates:

<i>Special need monthly allowance</i>	
Individual	\$10.00
Maximum per family	
per household member	7.00
per family	40.00

(d) *Method of payment.* Payment shall be made to the room and board operator as part of the room and board agreement.

(Ord. No. 99-2029, 10-26-1999)

Sec. 54-82. - Room and board.

Placement in a facility providing room and board for the eligible individual shall be according to the following:

- (1) *Special criteria:* The individual must need the services such as meal preparation, laundry, etc., for medical reasons.
- (2) *Room and board rates basic:* Up to \$10.00 per day.
- (3) *Minimum standards:* Room and board operators must agree to provide minimum standard care and services.
- (4) *Method and frequency of payments:* Partial cost. When an individual has some income, it must be applied to the cost of room and board and the supplement, not to exceed the maximum allowable, is paid to the operator.

Sec. 54-83. - Nursing home placement.

- (a) *Generally.* Payments for nursing home care ordered by a physician are made to nursing homes with a valid license from the state department of health.
- (b) *Special condition.* The operator must agree to reimburse the county if and when retroactive medicaid payments are received.
- (c) *Approved rates.* The agency and Parkland Memorial Hospital utilize a point system to define the type of care and rate of payment for care.

<i>Nursing home placement/unskilled care</i>	
0—50 points	\$200.00
50—100 points	300.00

100+ points	350.00
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The referral from the hospital defines the number of points and the agency sets the rate with the nursing home operator.

- (d) *Method of payment.* Retroactive monthly payments are made to the nursing home operator for the actual time the individual resided in the nursing home.

(Ord. No. 99-2029, 10-26-1999)

Sec. 54-84. - Room and board exceptional.

Placement for mentally ill or for the terminally ill in facilities providing room and board and certain other services shall be as follows:

- (1) *Special criteria.*
  - a. The individual must need services such as meal preparation, laundry, etc.
  - b. The individual may need assistance with administering medication.
  - c. The individual must require and accept group or individual counseling, and/or medication management, and/or supervision by staff.
- (2) *Terminally ill.* Facilities offering the following services to terminally ill clients needing hospice care will be eligible for reimbursement to the maximum of \$14.50 per day and must provide:
  - a. Basic services.
  - b. Nursing services including blood pressure and temperature monitoring, administering medication, dressing changes, patient bathing assistance, help with mobility.
  - c. Adequate R.N., LVN or other medically trained persons to supervise the program and services. All staff are trained to provide personal care services, offer counseling and support.
- (3) *Mentally ill.* Facilities offering the following services to clients with mental illness shall be eligible for reimbursement to the maximum rate of \$13.50 per day and must provide:
  - a. Basic services.
  - b. Special care services which include group counseling, individual and family counseling and education special medical care, job assistance, psychiatric consultation services, self-help support groups.
  - c. Adequate staff to provide basic and support services or access for patients to mental health services.
- (4) *Method and frequency of payments.* The method and frequency of payment shall be as follows:
  - a. Entire cost: Retroactive payment made for the days the individual resided in a facility are made on a monthly basis to the operator.
  - b. Partial cost: When an individual has some income such as food stamps, SSI, SSD, workers' compensation, etc., it must be deducted from the total cost of the room and board, not to exceed the maximum allowable.

Sec. 54-85. - Certification of room and board facilities.

- (a) Facility operators will submit in writing a description of the services proposed; the number to be served; personnel numbers, qualifications and assignments; and copies of licenses or certifications.
- (b) To certify facilities, services and payment rates, staff will visit prior to any placements being authorized and semiannually thereafter.
- (c) Facility operators will sign agreements confirming services and acknowledging procedures used by county human services for reimbursement of costs for individual client care.
- (d) Complaints/noncompliance complaints or indication of noncompliance will be investigated by human services staff immediately and a decision made on whether to continue use of a facility. Operators will be advised of deficiencies and, if critical, all county human services clients will be moved pending deficiencies being corrected or removed.

Secs. 54-86—54-110. - Reserved.

### **Subdivision III. - Eligibility For Financial Assistance**

Sec. 54-111. - Purpose.

The general purpose of the agency is to serve the family or individual when the wage earner is disabled and has no other resources to provide shelter, food and other necessities. Each individual or family applying for assistance with financial problems must, in order to receive assistance, meet certain conditions which combined indicate that a person is eligible for or entitled to assistance. The various funds administered by the agency have different eligibility criteria as they are targeted toward distinct client situations.

Sec. 54-112. - Citizenship.

- (a) The citizenship requirement is met if an applicant or member of a family is a U.S. citizen or an alien legally admitted to the United States.
- (b) Applicants born in countries other than the United States shall be required to show proof of citizenship or alien registration.

Sec. 54-113. - Residence.

- (a) Only persons who reside in the county are eligible for assistance.
- (b) Residence is established by a home in the county, employment, etc., and verified by rent receipts, employment records, driver's license address, etc.
- (c) Incarceration is not considered residence, time prior to or post incarceration would be utilized to establish residence for an inmate, parolee or probationer.
- (d) Lack of residence in another county or state and intent to reside in the county established residency. Being homeless in the county with an intent to reside in the county also established residency. In either case, evidence of intent to reside in the county must be verified by employment or other proof.
- (e) Temporary residents may be assisted if they are receiving treatment at a local hospital and medical verification of the need to remain the county is received.

Sec. 54-114. - Age.

All ages are served by the agency. The applicant for assistance shall meet one of the following criteria:

- (1) Age 18 and above.
- (2) Legally emancipated minors.
- (3) Self-supporting minors without relatives who can provide support.

Sec. 54-115. - Resources.

- (a) *Lack required.* A lack of resources to meet basic financial family or individual needs is requisite. None of the following may be available for use by the applicant in an amount or value which exceeds the rates of assistance of the agency.
- (b) *Income.*
  - (1) *Earned and unearned.* Earned and unearned income will be considered resources, and the applicant will verify that income is unavailable or insufficient to meet needs before becoming eligible for assistance.
  - (2) *Disruption.* Verification that regular income has not been received by the applicant shall constitute a lack of resources and deems the applicant eligible.
  - (3) *Reduction.* Verified unintentional income reduction, through no fault of the applicant, is considered to make the applicant eligible. An increase in the size of the family, prior to the increase in regular benefits calculated on the size of the family, may also serve to make the family eligible until full benefits are received.
  - (4) *Extraordinary expense.* Temporary, verified expenses over and above the normal expenditures and resources of the family and individual may serve to make the unit eligible.
  - (5) *Allowable expenses.* Expenses allowed under this section include medical related costs, natural disasters, theft or burglary, or severe conditions such as weather related, increased in normal sustaining expenses.
- (c) *Potential income resources.* Benefits to which the applicant should be entitled must be applied for if eligibility under subsection (b) of this section is to be met. A reasonable time will be allowed before aid will be denied due to the nonapplication for benefits.
- (d) *Other conditions.* Applicants are required to fulfill conditions for other income sources. Failure to do so will serve to make the applicant or recipient ineligible.
- (e) *Exempt income.* The incomes listed in this subsection (e) will not be considered as resources for eligibility purposes; however, some portion may be considered in calculating the budget from the agency.
  - (1) Earnings of full-time students under age 18.
  - (2) Forty percent of earnings of a family member under 18 and not in school.
  - (3) Income from relatives, friends and/or agencies, which has been used to meet household essential needs such as house payments, back rent, rent supplement or utility payments.
- (f) *Financial resources; liquid assets.*
  - (1) Bank accounts will be considered available resources. Any balance which exceeds imminent expense expectations shall be used before a family or individual becomes eligible.
  - (2) Stocks and bonds shall be considered available resources.
  - (3) Personal property, which is defined as the property owned by the recipient which has marketable value.
  - (4) Personal and real property exemptions, which means personal property consisting of homestead, automobile, household furniture or clothing utilized for the personal needs of the individual or family will be exempt.
  - (5) Tools of trade, including a second vehicle if necessary for the worker, shall be exempt.
  - (6) Real property not exempt shall be land/dwellings and other personal property not used as tools of the trade which shall be utilized to meet living expenses.
  - (7) Assistance may be extended while attempts are made to convert property to available assets; however, the applicant will need to make a plan for the exchange.

- (g) *Physical disability.* The presence of a disabling physical disorder which prevents the actual and potential wage earner of a household from being gainfully employed, considering the physical disorder, age, education, training and work experience, will serve to make the household eligible under this section.
- (1) *Physician verified.* A statement from a licensed physician (M.D. or D.O.) that, as a result of a disabling physical disorder, the applicant is disabled from gainful employment, considering the applicant's disorder, age, education, training and work experience is required to establish physical disability except in the circumstances set for in subsections (g)(2) and (h) of this section.
  - (2) *Apparent.* The obvious presence of a disabling physical disorder, although unverified by a physician, will constitute eligibility under this section.
  - (3) *Treatment.* If the disabling physical disorder is treatable, the applicant will be required to seek medical care and any other treatment prescribed by a physician or his designee.
  - (4) *Training.* If retraining will assist the applicant in becoming gainfully employed, the applicant will be required to make application to enroll in a program of retraining and to actively engage in such a program as soon as he is able.
- (h) *Physical limitations.* Certain conditions are recognized as having a detrimental effect on the applicant's ability to secure and maintain gainful employment. Presence of one or more of these limitations may, under this section, constitute eligibility. However, the applicant must as in subsections (g)(3) and (g)(4) of this section, be actively engaged in correcting or compensating for these problems.
- (1) *Temporary disability; pregnancy.* Pregnancy is considered disabling at the onset of the seventh month, unless a physician verified condition exists prior to that time.
  - (2) *Postpartum disability.* Postpartum disability will consist of six weeks past the delivery unless physician verified complications extend this period.
- (i) *Denial of social security benefits.* Denial of social security benefits may be grounds for termination of benefits from county human services/welfare. The applicant has the right to appeal in accordance with section 54-142 or section 54-143. The county has the right to request additional information from the applicant's physician or other qualified physician at the discretion of the county.
- (j) *Receipt of settlement.* Applicants for assistance who have received workers' compensation or other settlement, including social security and civil settlements, will not be eligible for assistance until previous earnings are prorated to settlement. Caseworkers will divide the settlement amount by the last regular monthly income of the applicant prior to disability, resulting in the number of months the settlement should provide for the basic needs of the applicant. The applicant may reapply for assistance after the months that such earnings should expire and/or appeal a denial in accordance with section 54-142 or section 54-143.
- (k) *Mental disability.* The presence of a disabling mental disorder which prevents the actual and potential wage earners of a household from being gainfully employed, considering mental disorder, age, education, training and work experience will serve to make the household eligible under this section.
- (1) *Verification.* A statement from a licensed psychiatrist or psychologist that, as a result of a disabling mental disorder, the applicant is disabled from gainful employment, considering the applicant's disorder, age, education, training and work experience, is required to establish mental disability except in the circumstances set forth in subsections (k)(2) and (l) of this section.
  - (2) *Apparent.* The obvious presence of a disabling mental disorder, although unverified by a licensed psychiatrist or psychologist, will constitute eligibility under this section.
  - (3) *Treatment.* If the disabling mental disorder is treatable, the applicant will be required to seek mental health care and any other treatment prescribed by a licensed psychiatrist or psychologist or his designee.
  - (4) *Training.* If retraining will assist the applicant in becoming gainfully employed, the applicant will be required to make application to enroll in a program of retraining and to actively engage in such a program as soon as he is able.

- (l) *Mental limitations.* Certain conditions are recognized as having a detrimental effect on the applicant's ability to secure and maintain gainful employment. Presence of one or more of these limitations may, under this section, constitute eligibility. However, the applicant must, as in subsections (k)(3) and (k)(4) of this section, be actively engaged in correcting or compensating for these problems.
- (m) *Caretaker for disabled person.* A nondisabled person may meet the requirements under this section if a physician verifies that the person is needed in the home to care for a disabled person who is part of the same economic unit.

Secs. 54-116—54-140. - Reserved.

#### **Subdivision IV. - Application and Appeal Process**

Sec. 54-141. - Application process.

- (a) *Notice to potential applicants.* A written summary of the eligibility criteria and the procedure for determination or eligibility will be made available for the purpose of applying for benefits.
- (b) *Right to submit application.* No person who appears at an intake office for the purpose of applying for benefits will be denied the right to submit a written application for benefits. A notice to this effect will be conspicuously posted in a public area of each permanent intake office and, to the extent authorized, at all other locations where applications are received by the county.

Sec. 54-142. - Appeal process; applicants denied assistance or awarded assistance for less than 45 days.

- (a) *Notice reasons for denial.* Each applicant who submits a written application and who is denied assistance will be provided with a written statement of the reasons for denial.
- (b) *Right of appeal.* Each applicant who submits a written application and who is denied assistance, and each person who claims to have been denied the right to submit a written application, may appeal the denial through the following departmental levels: worker's supervisor, assistant director, department head. The decision of the department head shall be binding and no further appeal is granted.
- (c) *Notice regarding appeal process.* The notice required by subsection (a) of this section will include or be accompanied by a written summary of the right to appeal the denial and the appeal process. This document will include or be accompanied by a form which may be used to request an appeal.
- (d) *Initiation of appeal.* An appeal of the denial of assistance must be requested by the applicant in writing within seven days after written notice of denial is given to the applicant. An appeal of the claimed denial of the right to submit an application must be requested in writing within seven days after the claimed denial.
- (e) *Award of assistance for less than 45 days.* A person who granted assistance for one or more consecutive periods totalling less than 45 days may appeal under this section from the failure to grant assistance for a longer duration. Written notice of termination or nonrenewal and the reasons therefor will be given to the recipient. Such notice will include the notice prescribed in subsection (c) of this section. An appeal must be requested by the recipient in writing within seven days after such notice is given.

Sec. 54-143. - Termination of assistance.

- (a) *Notice of reasons for termination.* Each person who is granted assistance for one or more consecutive periods totalling 45 days or more and whose assistance is terminated will be provided with a written statement of the reasons for termination at least 15 days before the effective date of termination.
- (b) *Right of appeal.* Each person who is granted assistance for one or more consecutive periods totalling 45 days or more and whose assistance is terminated may appeal the termination under the procedure set forth in sections 54-142(c)—54-145.

- (c) *Notice regarding appeals process.* The notice required by subsection (a) of this section will include or be accompanied by a written summary of the right to appeal and the appeal process. This document will include or be accompanied by a form which may be used to request an appeal.
- (d) *Initiation of appeal.* An appeal of the termination of assistance must be requested by the person whose assistance is terminated (appellant) in writing within five days after written notice of termination is given to the appellant.
- (e) *Notice of hearing.* If the appeal is timely initiated, the appellant will be given written notice of the date, time and place of the hearing at least seven days before the hearing date.
- (f) *Postponement of hearing.* Within seven days after notice of the hearing is given, the appellant may submit a written request for a postponement of the hearing, stating a valid reason therefor. If such a request is made, the hearing will be rescheduled and a new notice of hearing will be sent. Only one postponement may be obtained under this section.
- (g) *Hearing officer.* An impartial hearing officer, the county personnel director or his designee, conducts the hearing for the welfare division.
- (h) *Hearing.* The hearing will not be open to the public. The appellant may represent himself, or may be represented by friends, relatives or legal counsel. The appellant is responsible for arranging for any such representatives and for notifying them of the date, time and place for the hearing.
- (i) *Evidence.* The hearing officer will consider only the evidence presented at the hearing in making a decision. The entire hearing shall be recorded, and all testimony shall be given under oath. All written evidence which will be presented at the hearing will be available before and during the hearing for examination by the appellant. Both parties may present any relevant witnesses, testimony, records, exhibits, etc., and may cross examine any witnesses who testify at the hearing, but will avoid the use of evidence which legally may be considered hearsay. The hearing shall be conducted in a manner so as to best present the facts of the case so that the true controversy and issues are the primary consideration.

Sec. 54-144. - Dismissed or withdrawn appeals.

- (a) *Dismissed appeal.* If the appellant fails to appear for the hearing, the appeal will be dismissed.
- (b) *Withdrawn appeal.* Once filed, an appeal can only be withdrawn by the appellant. Such withdrawals shall be in writing, and shall include the reason for the withdrawal.

Sec. 54-145. - Hearing officer decision.

The decision of the hearing officer may be issued orally at the conclusion of the hearing. The decision must be placed in writing, and a copy must be sent to the appellant within two weeks after the hearing. If the appeal is timely initiated and not otherwise dismissed, benefits shall not be terminated prior to the issuance of the decision by the hearing officer. The hearing officer's decision shall be the final determination of the case.

Sec. 54-146. - Written notice.

- (a) For purposes of this subdivision, written notice shall be considered satisfactorily given to an applicant for assistance when presented in person or mailed to the address given by the applicant at the time of application.
- (b) For purposes of this subdivision, written notice shall be considered satisfactorily given to a recipient of assistance when presented in person or mailed to the last address at which benefits were provided to the recipient.
- (c) For purposes of this subdivision, written notice shall be considered satisfactorily given to the county when presented in person to a department of human services welfare division's caseworker or intake office employee or mailed to the department at its address as shown on the department's written materials provided to the applicant or recipient.

Secs. 54-147—54-180. - Reserved.

## ARTICLE III. - HOUSING ASSISTANCE (UPCAP)<sup>5</sup>

Sec. 54-181. - Introduction.

One of the major barriers to home ownership among households earning 80 percent and below the county median income is as follows: a lack of available funds for the necessary down payment and closing costs from otherwise qualified borrowers. In an effort to remove this barrier, the county has designed an upfront cost assistance program. The program will be implemented in conjunction with the county's home loan counseling center.

(Ord. No. 2000-851, 4-25-2000; Ord. No. 2000-1890, Att. A, 9-19-2000)

Sec. 54-182. - Purpose and objectives.

The purpose and objectives of the program are to:

- (1) Increase the home ownership population among households earning 80 percent and below the county median income who could otherwise qualify for a home loan if they had all of the necessary capital required for the down payment, closing costs and fees associated with purchasing a home.
- (2) Enable moderate to low income residents to purchase a decent, safe and sanitary home within the county.
- (3) Provide moderate to low income families with financial assistance to make the down payment and closing costs needed to purchase a home within eligible cities and unincorporated areas of the county.
- (4) Promote community stability in the county, as most communities and neighborhoods with a higher homeowner to renter ratio appear to be stronger socially and economically.

(Ord. No. 2000-851, 4-25-2000; Ord. No. 2000-1890, Att. A, 9-19-2000)

Sec. 54-183. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicant(s)/household/family/borrower(s)* means a single person or two or more adult persons related by marriage or birth; or unrelated co-borrowers.

*Child support* means that counted as part of household income, unless documented that no child support has been paid during 12-month period prior to time of UPCAP application. At the time of UPCAP application, if partial child support payments have been made during the previous twelve months; that amount will be projected as amount to be paid during the next twelve months.

*Dependent(s)* means that applicant(s) must provide documentation for minors residing in the household, whom they claim as dependent(s), who are not birth or adopted children, of guardianship or custody. Foster children are not counted as dependents.

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<sup>5</sup> **Federal law reference**— National Affordable Housing Act, 42 USC 12704 et seq. **State Law reference**— Housing assistance programs, V.T.C.A., [Government Code § 2306.001](#) et seq.; veteran's housing assistance, V.T.C.A., [Natural Resources Code § 162.001](#) et seq.; veterans land assistance program, V.T.C.A., [Natural Resources Code § 164.001](#) et seq.

*Dwellings* mean single-family detached and single-family attached (townhouses, condominiums, and PUDs).

- (1) Only lender approved insurable properties including condos, townhouses, PUDs, and HUD foreclosures are eligible.
- (2) Properties built before January 1, 1978 are not eligible.
- (3) Existing (built after January 1, 1978) and new construction properties are eligible for purchase.
- (4) The sales price cannot exceed a maximum of \$95,000.00.
- (5) Properties to be purchased must be vacant or owner occupied. Contract on properties currently tenant occupied or occupied by tenants 60 days prior to an executed real estate sales contract will not be accepted.

*Eligible upfront cost* means 50 percent of up to a maximum five percent down payment or reasonable buyer closing costs. It is therefore not available to reimburse any out of pocket fees/expenses paid by buyer prior to closing such as surveys, inspections, appraisal fees, etc. Among the eligible UPCAP closing costs are the following:

- (1) Fifty percent of down payment, not to exceed five percent of purchase price;
- (2) HQS inspection fee;
- (3) Lender fees:
  - a. Loan origination/application fee (maximum of 1 percent);
  - b. Discount points (maximum of 1 percent), which cannot be paid if associated with obtaining a two to one buy down, ARM, or not associated with normal points charged for prevailing market mortgage interest rates. UPCAP does not pay real estate commission expenses;
  - c. Inspection fee;
  - d. Document preparation fee;
  - e. Miscellaneous lender fees;
- (4) Title charges:
  - a. Attorney fee;
  - b. Title insurance;
  - c. Transfer fee;
  - d. Survey;
  - e. Termite inspection;
  - f. Miscellaneous charges;
- (5) Prepaid expenses:
  - a. Odd-days interest;
  - b. Homeowner's insurance;
  - c. Real estate taxes.

*First-time home buyer(s)* means an applicant(s) who has no ownership interest in a principal residence at any time during the three-year period ending on the date of their application for assistance. However, an applicant(s) who has divorced during the three-year period where a formal settlement has been made under which the applicant(s) does not receive an ownership interest in a primary residence which had been jointly owned, and who has no other current ownership in residential property, is eligible. Ownership of a mobile home is considered real property and the applicant(s) is therefore a home owner.

*Household income* means the annual gross income anticipated to be received during the next 12-month period from date of UPCAP application, for all persons age 18 or older (except for full time students age 18 to 22) who reside in the household. This includes: all wages, salaries, tips, overtime pay, commissions, fees, bonuses, and all other compensation for personal services (before payroll deductions) and any other income, such as investment income, pensions, VA compensation, part-time employment, dividends, interest income, royalties, and unemployment compensation. Also includes, alimony, child support, public assistance, social security benefits, and foster care income. In cases of overtime income, client must furnish statement from employer stating projected, maximum, or average overtime that will be received for the next 12 months. If employer cannot furnish said information, HLCC staff will estimate same utilizing YTD payroll information.

*Household size* means all persons who will be residing with the applicant(s) on a permanent basis will be considered as part of family size. Applicant(s) dependents that will not be living in the house being purchased may not be counted toward family size. Unborn children are not counted. Full-time students ages 18 to 22 years are counted as part of family size.

*Relocation* means:

- (1) The prospective home buyer does not have the power of eminent domain, and will not purchase the property if negotiations fail to result in an amicable agreement.
- (2) The prospective purchase of a property under the cited program is a transaction between the person receiving the home buyer assistance and the seller of the real property; therefore, any such sale is not subject to a governmental agency's power of eminent domain, and a governmental agency will not be a party in the transaction except as the provider of assistance to the prospective purchaser and administrator of the assistance program.
- (3) The owner/seller of real property to a prospective home buyer receiving down payment assistance under the cited programs is not eligible for relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act.
- (4) The seller's fair market value of a property will be determined by a lender appraisal.

*Self-employment income* means that applicant(s) must provide the last two years of IRS tax returns which include profit and loss tax information from business and the current profit and loss notarized statement. Income will be calculated for next twelve months based on YTD taxable income.

*Upfront cost assistance (direct loan)* means the financial assistance provided to a household in order to purchase a home. The amount provided is due, on a pro-rata basis, if a borrower moves prior to five years, sells the property, or transfers title. A second lien is placed on the property to secure the county's direct loan. After five years, the second lien will be forgiven and the lien removed. No monthly payments are required.

(Ord. No. 2000-851, 4-25-2000; Ord. No. 2000-1890, Att. A, 9-19-2000; Ord. No. 2001-1395, Att. A, 7-24-2001)

Sec. 54-184. - Program assistance.

- (a) After a basic set of criteria are met, and on a case-by-case basis, upfront capital requirements associated with the purchase of a home will be made available per household.
- (b) This assistance will be provided in the form of a second lien loan against the property for the amount of the assistance provided a household. At the end of a five-year period of occupancy-ownership by the direct loan recipient household, the second lien loan will be forgiven and the lien released. Prior to this time period stipulation being met, payment is due on the second lien loan when the property is sold, if the title is transferred, if the property becomes a rental property, or if the property ceases to be the owner's primary residence. There are no monthly payments required. Each month a household recipient lives in/owns the property, 1/60 of the grant amount is retired.

- (c) Completed applications will be processed and funds will be reserved/disbursed on a first come first served basis. When a household commitment expires and the applicant(s) seeks to reapply for assistance, applicant(s) will be placed at the bottom of any waiting list.

(Ord. No. 2000-851, 4-25-2000; Ord. No. 2000-1890, Att. A, 9-19-2000)

Sec. 54-185. - Program criteria for assistance.

- (a) The household income requirement is 80 percent or below the county median as established by HUD.
- (b) Applicant(s) does not have to be a resident of the county to apply; however, priority will be given to county residents.
- (c) The property purchased with UPCAP assistance must be the primary residence of the borrower(s) and located in either unincorporated Dallas County or eligible cities in the county.
- (d) Investment income property purchases are not eligible for assistance.
- (e) No member of the applicant(s) household shall own real estate which is or can be used for residential purposes.
- (f) The applicant(s) shall need financial assistance under the program in order to pay some of the upfront costs necessary to purchase a home. However, the financial assistance to help defray the upfront costs shall not exceed 50 percent of up to a maximum five percent down payment or reasonable buyer closing costs.
- (g) The applicant(s) shall have adequate credit and possess ability to obtain a mortgage loan according to a financial institutions' normal underwriting criteria. No lender B or C paper allowed.
- (h) Applicant(s) requesting assistance must conform to IRS filing status.
- (i) Applicant(s) shall have available, in a verifiable account, funds to be applied toward the down payment or closing costs, and shall commit, not less than their 50 percent of these costs. Borrowed funds are not permissible.
- (j) Properties shall meet the municipal and federal standards established in any applicable housing, environmental, building, zoning, plumbing, electrical codes, or regulations at the time of closing/settlement on the property. Properties must pass HUD Housing Quality Standards (HQS) prior to closing.
- (k) Properties must appraise at 100 percent of sales price.
- (l) The purchase price of properties shall conform with FHA, VA, or conventional appraisal standards, whichever is applicable, prior to closing. The maximum purchase price shall not exceed \$95,000.00.
- (m) The applicant's household shall agree to commit to the purchase not less than 50 percent of all household assets in excess of the lender required down payment that are in a form of cash or capable of ready conversion into cash. If household assets in the form of cash or assets capable of ready conversion into cash, meet or exceed the county's UPCAP loan, then the applicant will not be eligible for participation in the program.

(Ord. No. 2000-851, 4-25-2000; Ord. No. 2000-1890, Att. A, 9-19-2000; Ord. No. 2001-1395, Att. A, 7-24-2001)

Sec. 54-186. - Program procedures.

- (a) The UPCAP will be based in and administered by the county home loan counseling center. Completed applications for upcap will be received and processed at the counseling center on a first-come, first-served basis. Only original counseling center date stamped applications will be accepted. After UPCAP assistance has been approved and prior to closing on a home, applicant(s) will be required to attend

the county home loan counseling center series of three home buyer education seminars. Thereafter, homeowners can receive periodic post purchase counseling.

- (b) Through the county's home loan counseling center, applications will be analyzed for meeting the basic eligibility requirements for UPCAP assistance. Staff will then make an eligibility determination after applicant(s) has attended an individual family pre-purchase counseling session. At the pre-purchase counseling session detailed information about UPCAP assistance and pertinent home buyer information will be provided.
- (c) Once the staff has made a decision on an applicant(s) eligibility applicant(s) who has been approved will be issued a 90-day conditional commitment letter for the UPCAP assistance. Applicant(s) has 90 days to find a home and execute a real estate contract. If this is done, the conditional commitment can be extended for an additional 60 days to allow time for a mortgage loan approval by a lender and closing/settlement.
- (d) Applicant(s) who were not approved as eligible for an UPCAP loan will be issued a letter of the staff's decision which will contain the primary reason(s) for the loan denial.
- (e) Applicant(s) may make a written appeal to the staff on their decision within 30 days of the loan denial. Applicant(s) may reapply for the UPCAP, when applicable and appropriate remedies are made and can be substantiated. These remedies must be congruent with the reasons that contributed to the denial of the loan request.
- (f) Borrower(s) will be able to call on the counseling staff for assistance and information as needed throughout the duration of the home purchase process.
- (g) When a contract has been executed on a home to be purchased by borrower(s) who receive UPCAP assistance, borrower(s) will notify the counseling center staff of the lender with whom they have applied. When mortgage financing has been secured and closing is imminent, the program staff will coordinate the closing with the title company and will order (RFP) the appropriate UPCAP assistance payment through the county auditor, when the HUD-1 Settlement Statement from the lender/title company is received. The title company will conduct loan closing/settlement functions.

(Ord. No. 2000-851, 4-25-2000; Ord. No. 2000-1890, Att. A, 9-19-2000)