CHAPTER 853. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

PROPOSED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE SECRETARY OF STATE.

The Texas Workforce Commission (TWC) proposes amendments to the following sections of Chapter 853, relating to Independent Living Services for Older Individuals Who Are Blind:

Subchapter A. Independent Living Services for Older Individuals Who Are Blind, §853.2 and §853.4
Subchapter B. Services, §853.10 and §853.11
Subchapter C. Customer Financial Participation, §853.20 and §853.21

PART I. PURPOSE, BACKGROUND, AND AUTHORITY
The purpose of the proposed Chapter 853 rule change is to ensure alignment with the recently updated *Older Individuals Who Are Blind (OIB) Policy Manual* (OIB policy manual), as well as applicable state and federal regulations. Following a comprehensive review, discrepancies were identified between the current Chapter 853 and updated program policy. The proposed rule amendments address those inconsistencies and incorporate minor revisions to improve clarity, consistency, and overall readability. The updates support accurate implementation of the OIB program, reinforce compliance with governing authority under 34 Code of Federal Regulations, Part 367, and align rules with the requirements outlined in the OIB policy manual.

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS
(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER A. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND
TWC proposes amendments to Subchapter A, as follows:

§853.2. Referral
Section 853.2 is amended to clarify the definition and scope of minimal services by specifying examples of services included and incorporating independent living skills training that can be effectively delivered with no more than one or two face-to-face visits by OIB program staff to an individual receiving services. The revision ensures consistency with current program practices and provides clear guidance to staff for appropriate service delivery.

§853.4. Application

Section 853.4 is amended to replace electronic "PIN" with electronic "signature" to align the rule with the OIB program's practices.

SUBCHAPTER B. SERVICES

TWC proposes amendments to Subchapter B, as follows:

§853.10. Independent Living Plan

Section 853.10 is amended to remove the reference to form 5154, which has been retired, and updates the section to reflect the current process. The revision ensures accuracy, eliminates outdated information, and provides clear guidance aligned with current program procedures.

§853.11. Scope of Services

Section 853.11 is amended to clarify that training in using technology and independent living skills may be provided to OIB customers.

SUBCHAPTER C. CUSTOMER FINANCIAL PARTICIPATION

TWC proposes amendments to Subchapter C, as follows:

§853.20. Individuals Who Receive Social Security Income or Social Security Disability Insurance

Section 853.20 is amended to clarify that customers receiving certain types of Social Security benefits are exempt from cost participation for OIB services. The revision ensures consistency with program policy and provides clear guidance regarding eligibility for services at no cost.

§853.21. Customer Participation in the Cost of Services

Section 853.21 is amended to remove subsection (c) due to an inaccurate reference to §853.11 regarding cost participation. Current §853.21(c) does not clearly specify which services are exempt from customer participation. Removing this subsection eliminates potential confusion and ensures the rule accurately reflects program policy.

PART III. IMPACT STATEMENTS

Chris Nelson, Chief Financial Officer, has determined that for each year of the first five years the proposed rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the proposed rules.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the proposed rules.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the proposed rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the proposed rules.

There are no anticipated economic costs to individuals required to comply with the proposed rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the proposed rules.

Based on the analyses required by Texas Government Code, §2001.024, TWC has determined that the requirement to repeal or amend a rule, as required by Texas Government Code, §2001.0045, does not apply to this rulemaking.

Takings Impact Assessment

Under Texas Government Code, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the Texas Constitution, §17 or §19, Article I, or restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action, and is the producing cause of a reduction of at least 25 percent in the market value of the affected private real property, determined by comparing the market value of the property as if the governmental action is not in effect and the market value of the property determined as if the governmental action is in effect. TWC completed a Takings Impact Assessment for the proposed rulemaking under Texas Government Code, §2007.043. The primary purpose of this proposed rulemaking, as discussed elsewhere in this preamble, is to align with the requirements outlined in the OIB policy manual.

The proposed rulemaking will not create any additional burden on private real property or affect private real property in a manner that would require compensation to private real property owners under the US Constitution or the Texas Constitution. The proposal also will not affect private real property in a manner that restricts or limits an owner's right to the property that would otherwise exist in the absence of the governmental action. Therefore, the proposed rulemaking will not cause a taking under Texas Government Code, Chapter 2007.

Government Growth Impact Statement

TWC has determined that during the first five years the proposed rules will be in effect, they:
--will not create or eliminate a government program;
--will not require the creation or elimination of employee positions;
--will not require an increase or decrease in future legislative appropriations to TWC;
--will not require an increase or decrease in fees paid to TWC;
--will not create a new regulation;
--will not expand, limit, or eliminate an existing regulation;
--will not change the number of individuals subject to the rules; and

--will not positively or adversely affect the state's economy.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the proposed rules will not have an adverse economic impact on small businesses or rural communities, as the proposed rules place no requirements on small businesses or rural communities.

Mariana Vega, Director, Labor Market Information, has determined that there is not a significant negative impact upon employment conditions in the state as a result of the proposed rules.

Tammy Ames, Director, Vocational Rehabilitation Division, has determined that for each year of the first five years the proposed rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to ensure alignment with OIB policy and ensures clear OIB program rules.

TWC hereby certifies that the proposal has been reviewed by legal counsel and found to be within TWC's legal authority to adopt.

PART IV. REQUEST FOR IMPACT INFORMATION

TWC requests, from any person required to comply with the proposed rules or any other interested person, information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis. Please submit the requested information to TWCPolicyComments@twc.texas.gov no later than August 10, 2026.

PART V. PUBLIC COMMENTS

Comments on the proposed rules may be submitted to TWCPolicyComments@twc.texas.gov and must be received no later than August 10, 2026.

PART VI. STATUTORY AUTHORITY

The rules are proposed under:

--Texas Labor Code, §352.103(a), which provides TWC with the authority to establish rules for providing vocational rehabilitation services; and

--Texas Labor Code, §301.0015(a)(6), which provides TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules relate to Title 4, Texas Labor Code, particularly Chapter 352.

CHAPTER 853. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

SUBCHAPTER A. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

§853.2. Referral.

(a) An individual may be referred for OIB services in a variety of ways, including, but not limited to:

(1) a physician's office;

(2) a community organization;

(3) the Center for Independent Living (CIL);

(4) a senior community organization;

(5) family members, customer representatives~~representative~~, or ~~and~~ friends;

(6) contract providers; or

(7) an online self-referral portal.

(b) A referral shall include the name of the individual seeking services, the address where the individual resides, and an email address and telephone number, if available.

(c) During the referral process, OIB staff may determine the level of services needed by the customer, provide minimal services, or verify the customer's eligibility criteria. Minimal services ~~may~~ include, but are not limited to~~information and referral~~, a guide to independent living, bump dots for kitchen appliances, ~~and~~ low-cost magnifiers, and independent living skills training that does not require more than two visits. If minimal services are all that a customer requires, the case may be closed as a minimal services successful closure.

(d) For service delivery to begin, an individual shall submit a complete application and OIB staff shall document that all eligibility requirements are met.

§853.4. Application.

An individual is considered to have completed the application process when:

(1) the individual or the individual's representative has completed and signed the OIB application form and an OIB staff member has entered the electronic signature ~~PIN~~ into the case management system;

(2) the individual or the individual's representative has provided the information necessary to initiate an assessment to determine eligibility and service delivery; and

(3) the individual or the individual's representative is available to complete the assessment process to determine eligibility.

SUBCHAPTER B. SERVICES

§853.10. Independent Living Plan.

(a) Once an individual is determined eligible, OIB staff must develop the ILP ~~is developed~~ within 90 days of the eligibility date. If the ILP cannot be completed within 90 days, then OIB staff must document the reason for the delay in a case note.

(b) OIB staff must jointly develop the ILP and all subsequent amendments in writing, through consultation with the customer or the customer's representative, as appropriate.

(c) A customer may waive receipt of the written plan by signing the signature form for OIB program applicants~~Agency Waiver of Independent Living Plan (VR-5154)~~.

(d) Through consultation, OIB staff and the customer, or the customer's representative, as appropriate, determine how services shall be delivered and OIB staff must document and maintain service delivery methods in the electronic record of the ILP~~, which OIB staff must maintain~~.

(e) OIB staff~~The Agency~~ shall ensure that the customer or the customer's representative, as appropriate, is advised of procedures and requirements affecting the development and review of the ILP.

(f) To receive a copy of the ILP and its amendments in a medium other than print, the customer must inform OIB staff of the preferred medium.

(g) OIB staff shall review the ILP at least annually with the customer or the customer's representative, as appropriate, to assess the customer's progress in meeting the objectives identified in the ILP.

(h) OIB staff shall incorporate any revisions to the ILP that are necessary to reflect changes in the customer's goals, intermediate objectives, or needs.

(i) The customer must inform OIB staff~~the Agency~~ in a timely manner of changes that will affect the provision of services, including, but not limited to, the customer's unavailability to receive services.

§853.11. Scope of Services.

(a) All services provided under this section shall be subject to budget constraints of the program.

(b) OIB staff shall provide each service in accordance with a customer's ILP.

(c) OIB staff may directly provide the following services under this chapter:

(1) Information and referral services;

(2) Independent living skills training;

(3) Peer counseling (including cross-disability peer counseling);

(4) Individual and systems advocacy;

(5) Orientation and mobility training;

(6) Diabetes education;

(7) Braille training; and

(8) Transition services.

(d) OIB staff may purchase goods or services with an approved provider as identified and agreed upon with the customer in the ILP, including:

(1) counseling services, to include psychological and psychotherapeutic services;

(2) orientation and mobility training;

(3) diabetes awareness training;

(4) rehabilitation technology (for example, a video magnifier) and training to use technology;~~ and~~

(5) related visual aid tools, such as magnifiers and low vision eyeglasses; and

(6) independent living skills training.

(e) OIB staff may refer customers to other services to meet their needs. Such other services may include, but are not limited to:

(1) CIL services;

(2) housing services, including supportive living;

(3) accessible transportation services;

(4) medical services;

(5) personal assistance services, including attendant care and the training of individuals to provide such services;

(6) education and training necessary for living in a community and participating in community activities; and

(7) social and recreational services.

SUBCHAPTER C. CUSTOMER FINANCIAL PARTICIPATION

§853.20. Individuals Who Receive Social Security Income or Social Security Disability Insurance.

(a) Customers who have been determined eligible for Social Security benefits under Titles II and XVI of the Social Security Act, relating to Supplemental Security Income and Social Security Disability Insurance, shall not be charged any cost to receive OIB services under the OIB program. This includes customers who are receiving Title II benefits related to Social Security retirement who meet the requirements to obtain old-age and survivors insurance benefit payments (for more information, please refer to SSA.gov).~~Customers who are recipients of either Social Security Income (SSI) or Social Security Disability Insurance (SSDI) are not required to participate in the cost of services.~~

(b) OIB staff shall ensure that each customer or the customer's representative, as appropriate, is informed of the services that require customer participation in the cost of services and the services that do not require customer participation.

§853.21. Customer Participation in the Cost of Services.

(a) Some independent living services, as set forth in §853.11 of this chapter, ~~relating to Scope of Services,~~ may be subject to customer participation in cost of service as defined in OIB policy.

(b) OIB staff shall administer the customer participation system in accordance with ~~the rules in~~ this chapter, the OIB policy manual, and 34 CFR §367.67(b)(1).

~~(c) OIB staff shall provide those independent living services not requiring customer participation in cost of services as set forth in §853.11 of this chapter at no cost to the customer.~~

(c)~~(d)~~ OIB staff shall determine the customer's adjusted gross income and the percentage of the Federal Poverty Guidelines at https://aspe.hhs.gov/poverty-guidelines for that income, based on documentation provided by the customer.

(d)~~(e)~~ OIB staff is required to apply the Federal Poverty Guidelines at https://aspe.hhs.gov/poverty-guidelines to determine customer participation.

(e)~~(f)~~ The customer or customer's representative shall sign an ILP acknowledging the customer's contribution for services and providing written agreement that:

(1) the information provided by the customer or the customer's representative about the customer's household size, annual gross income, allowable deductions, and comparable services or benefits is true and accurate; or

(2) the customer or the customer's representative chooses not to provide information about the customer's household size, annual gross income, allowable deductions, and comparable services or benefits.

(f)~~(g)~~ If the customer or the customer's representative, as appropriate, chooses not to provide information on the customer's household size, annual gross income, allowable deductions, and comparable services or benefits, the customer shall pay the entire cost of applicable services.

(g)~~(h)~~ The customer shall report to OIB staff as soon as possible all changes to household size, annual gross income, allowable deductions, and comparable services or benefits and sign an amended ILP.

(h)~~(i)~~ When the customer amends the ILP, the new customer's contribution for services takes effect the beginning of the following month. The new contribution shall not be applied retroactively.

(i)~~(j)~~ OIB staff shall develop a process to reconsider and adjust the customer's contribution for services based on circumstances that are both extraordinary and documented. This may include assessing the customer's ability to pay the customer's participation amount. Extraordinary circumstances include:

(1) an increase or decrease in income;

(2) unexpected medical expenses;

(3) unanticipated disability-related expenses;

(4) a change in family size;

(5) catastrophic loss, such as fire, flood, or tornado;

(6) short-term financial hardship, such as a major repair to the customer's home or personally owned vehicle; or

(7) other extenuating circumstances for which the customer makes a request and provides supporting documentation.

(j)~~(k)~~ The customer's contribution for services remains in effect during the reconsideration and adjustment process.

(k)~~(l)~~ OIB staff shall:

(1) use program income that is received from the customer only to provide services outlined in §853.11 of this chapter; and

(2) report fees collected as program income.

(l)~~(m)~~ The Agency may not use program income received from the customer to supplant any other fund sources.

(m)~~(n)~~ The Agency may not pay any portion of the customer's contribution.

(n)~~(o)~~ The customer's ILP and all financial information collected by OIB staff are subject to subpoena.