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State/Territory Name: Texas

State Plan Amendment (SPA) #: 22-0027

This file contains the following documents in the order listed:

1) Approval Letter
2) CMS 179 Form/Summary Form (with 179-like data)
3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106

CENTERS FOR MEDICARE & MEDICAID SERVICES
CENTER FOR MEDICAID & CHIP SERVICES

Medicaid and CHIP Operations Group

October 3, 2023

Emily Zalkovsky
State Medicaid Director
Texas Health and Human Services Commission
Mail Code: H100
P.O. Box 13247
Austin, TX 78711-3247

Re: Texas State Plan Amendment (SPA) 22-0027

Dear Emily Zalkovsky:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) TX 22-0027. This amendment proposes to remove limitations on fee-for-service (FFS) for non-local mental health authorities and local behavioral health authorities of mental health targeted case management per recent state legislature.

We conducted our review of your submittal according to statutory requirements in Title XIX of the Social Security Act and implementing regulations 1915(g)(1) of the SSA and 42 CFR 440.169. This letter is to inform you that TX Medicaid SPA 22-0027 was approved on October 3, 2023, with an effective date of September 1, 2022.

If you have any questions, please contact Ford Blunt III at (214) 767-6381 or via email at Ford.Blunt@cms.hhs.gov.

Sincerely,

[redacted]

Digitally signed by James G. Scott -S
Date: 2023.10.03 16:18:40 -05'00'

James G. Scott, Director
Division of Program Operations

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

FORM APPROVED
OMB No. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES

1. TRANSMITTAL NUMBER: 22-0027

2. STATE: TX

3. PROGRAM IDENTIFICATION: TITLE 19 OF THE SOCIAL SECURITY ACT

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
09/01/2022

5. FEDERAL STATUTE/REGULATION CITATION
1915(g)(1) of the Social Security Act
42 Code of Federal Regulations 440.169

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)
a. FFY 2023 $ 0
b. FFY 2024 $ 0

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

Supplemental 1 to Attachment 3.1-A
Page 1A
Page 1A.1
Page 1A.2
Page 1A.2a
Page 1A.3
Page 1A.4
Page 1A.5

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*

Supplemental 1 to Attachment 3.1-A
Page 1A (TN 11-04)
Page 1A.1 (TN 11-04)
Page 1A.2 (TN 11-04)
New Page
Page 1A.3 (TN 11-04)
Page 1A.4 (TN 11-04)
New Page

9. SUBJECT OF AMENDMENT

Senate Bill (S.B.) 1921, 87th Texas Legislature, Regular Session, 2021, requires the Texas Health and Human Services Commission (HHSC) to provide fee-for-service (FFS) Medicaid reimbursement to public and private providers of behavioral health services. Section 1915(g)(1) of the Social Security Act is currently invoked to limit the providers of targeted case management services to local mental health authorities and local behavioral health authorities (LMHAs/LBHAs: public providers). The proposed amendment would remove limitations on FFS reimbursement for non-LMHA/non-LBHA (private providers) providers of mental health targeted case management. The proposed amendment is effective September 1, 2022.

10. GOVERNOR'S REVIEW *(Check One)*

- ☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
- ☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
- ☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
- ☑ OTHER, AS SPECIFIED: Sent to Governor's Officethis date. Comments, if any, will be forwarded upon receipt.

11. SIGNATURE OF STATE AGENCY OFFICIAL

[redacted] ally signed by hanie Stephens
2022.09.23
7:20 -05'00'

12. TYPED NAME
Stephanie Stephens

13. TITLE
State Medicaid Director

14. DATE SUBMITTED
09/23/2022

15. RETURN TO

Stephanie Stephens
State Medicaid Director
Post Office Box 13247, MC: H-100
Austin, Texas 78711

FOR CMS USE ONLY

16. DATE RECEIVED
09/23/2022

17. DATE APPROVED
October 3, 2023

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL
09/01/2022

19. SIGNATURE OF APPROVING OFFICIAL

[redacted] Digitally signed by James G. Scott -S
Date: 2023.10.03 16:19:19 -05'00'

20. TYPED NAME OF APPROVING OFFICIAL
James G. Scott

21. TITLE OF APPROVING OFFICIAL
Director, Division of Program Operations

22. REMARKS

Targeted Case Management for Individuals with Chronic Mental Illness

1) Target Group (42 Code of Federal Regulations (CFR) 441.18(a)(8)(i) and 441.18((a)(9)):
   a) Individuals, regardless of age, who have a single chronic mental disorder, excluding a single diagnosis of an intellectual or developmental disability, or a combination of chronic mental disorders as defined in the latest edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and who have been determined via a uniform assessment process to be in need of case management services.
   b) Individuals transitioning to a community setting up to 180 consecutive days prior to leaving the institution who have a single chronic mental disorder, excluding a single diagnosis of an intellectual or developmental disability, or a combination of chronic mental disorders as defined in the latest edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders and who have been determined via a uniform assessment process to be in need of case management services.
   c) The target group does not include individuals between ages 22 and 64 who are served in an IMD or individuals who are inmates of public institutions.

2) Areas of state in which services will be provided (§1915(g)(1) of the Act):
   a) Entire State

3) Comparability of services (§1915(g)(1)):
   a) Services are not comparable in amount duration and scope. Under section 1915(g) of the Social Security Act, a state may provide services without regard to the comparability requirements of section 1902(a)(10)(8).

4) Definition of services (42 CFR 440.169):
   a) Targeted case management services are defined as services furnished to assist individuals, eligible under the State Plan, in gaining access to needed medical, social, educational and other services and supports. Targeted case management includes the following assistance:
      i) Comprehensive assessment and periodic reassessment, as clinically necessary, of individual needs to determine the need for any medical, educational, social, or other services. These assessment activities include:
         (1) taking a client's history;
         (2) identifying the individual's needs and completing related documentation; and
         (3) gathering information from other sources, such as family members, medical providers, social workers, and educators (if necessary), to form a complete assessment of the individual.

Targeted Case Management for Individuals with Chronic Mental Illness (continued)

4) Definition of services (continued)

ii) Development (and periodic revision, as clinically necessary) of a specific care plan that:
(1) is based on the information collected through the assessment;
(2) specifies the goals and actions to address the medical, social, educational, and other services and supports needed by the individual;
(3) includes activities, such as ensuring the active participation of the eligible individual and working with the individual (or the individual's authorized health care decision maker) and others to develop those goals; and
(4) identifies a course of action to respond to the assessed needs of the eligible individual.

iii) Referral and related activities, such as scheduling appointments for the individual, to help an eligible individual obtain needed services and supports, including activities that help link an individual with:
(1) medical, social, and educational providers; and
(2) other programs and services that are capable of providing needed services to address identified needs and achieve goals specified in the care plan.

iv) Monitoring and follow-up activities and contacts that are necessary to ensure the care plan is implemented and adequately addresses the individual's needs.
(1) Such activities may be with the individual, family members, service providers, or other entities or individuals and conducted as frequently as necessary, and at least once annually, to determine whether the following conditions are met:
(a) services are being furnished in accordance with the individual's care plan;
(b) services in the care plan are adequate in amount, scope, and duration to meet the needs of the individual; and
(c) the care plan and service arrangements are modified when the individual's needs or status change.

(2) Case management may include contacts with non-eligible individuals that are directly related to identifying the eligible individual's needs and care, for the purposes of helping the eligible individual access services; identifying needs and supports to assist the eligible individual in obtaining services, providing case managers with useful feedback, and alerting case managers to changes in the eligible individual's needs.

(3) Case management services are coordinated with and do not duplicate activities provided as part of institutional services and discharge planning activities.

Targeted Case Management for Individuals with Chronic Mental Illness (continued)

5) Levels of case management:
   a) Site based – primarily face-to-face contact with the Medicaid-eligible individual provided primarily at the provider's place of business (e.g., clinic outpatient office) with telephone contacts with community-based agencies, support groups, providers, and other individuals as required to meet the needs of the individual.
   b) Community-based – face-to-face contact with the Medicaid-eligible individual provided primarily at the consumer's home, workplace, school, or other location that best meets the consumer's needs with telephone or face-to-face contacts with community-based agencies, support groups, providers, and other individuals as required to meet the needs of the individual.

6) Qualifications of providers (42 CFR 441.18(a)(8)(v) and 42 CFR 441.18(b)):
   a) The following entities are eligible to be enrolled as a Medicaid provider of case management services for individuals with chronic mental illness:
      i) the State Mental Health Authority, which is the Texas Health and Human Services Commission (HHSC); or
      ii) a governmental or non-governmental entity designated as a community mental health center, which are established in accordance with §534.001, Texas Health and Safety Code. In §534.001, the term "department" means, for mental health services, HHSC, the successor agency to the Department of Mental Health and Mental Retardation for mental health services; or
      iii) any other comprehensive provider agency as defined in 1 Texas Administrative Code §354.2603(12) and §353.1403 that is authorized to do business in the State of Texas that demonstrates, to HHSC or its designee, through the implementation of written and readily available policies, procedures, and practices and on-site confirmation thereof, compliance with standards of care promulgated by HHSC or its designee with the approval of HHSC, that are comparable to those required of other providers qualifying under this subsection.

   b) Effective August 31, 2004, a provider of case management must:
      i) demonstrate competency in the work performed and possess a bachelor's degree from an accredited college or university with a minimum number of hours that is equivalent to a major in psychology, social work,

Targeted Case Management for Individuals with Chronic Mental Illness (continued)

medicine, nursing, rehabilitation, counseling, sociology, human growth and development. physician assistant, gerontology, special education, educational psychology, early childhood education, or early childhood intervention;

ii) be a Register Nurse (RN); or

iii) complete an alternative credentialing process identified by HHSC.

c) Individuals authorized to provide case management services prior to August 31, 2004, may provide case management services without meeting the minimum qualifications described above if they meet the following criteria:

i) high school diploma or high school equivalency;

ii) three continuous years of documented full-time experience in the provision of mental health case management services as of August 30, 2004; and

iii) demonstrated competency in the provision and documentation of case management services.

iv) A case manager must be clinically supervised by another qualified case manager who meets the criteria in subsection 6b above.

Targeted Case Management for Individuals with Chronic Mental Illness (continued)

7) Freedom of choice (42 CFR 441.18(a)(1)):

a) The State assures that the provision of case management services will not restrict an individual's free choice of providers in violation of section 1902(a)(23) of the Act.
   i) Eligible individuals will have free choice of any qualified Medicaid provider within the specified geographic area in this plan.
   ii) Eligible individuals will have free choice of any qualified Medicaid provider of other medical care under the plan.

b) Freedom of choice exception (§1915(g)(1) and 42 CFR 441.18(b)):
   i) Target group consisting of eligible individuals with chronic mental illness. Providers are limited to qualified Medicaid providers of case management services capable of ensuring that individuals with chronic mental illness receive needed services. The providers of case management services for individuals with chronic mental illness are limited to:
      (1) The State Mental Health Authority;
      (2) A governmental or non-governmental entity designated as a community mental health center; and
      (3) any other comprehensive provider agency as described in Section (6)(a)(iii).

c) HHSC has implemented rules, standards, and procedures to ensure that case management activities are:
   i) Available on a statewide basis with procedures to ensure continuity of services without duplication;
   ii) Provided by individuals who meet the requirements of education and work experience commensurate with their job responsibilities as specified by HHSC; and
   iii) In compliance with federal, state, or local. laws, including directives, settlements, and resolutions applicable to the target population.

8) Access to Services (42 CFR 441.18(a)(2), 42 CFR 441.18(a)(3), 42 CFR 441.18(a)(6)):
   a) The State assures that case management services will not be used to restrict an individual's access to other services under the plan.
   b) The State assures that individuals will not be compelled to receive case management services, condition receipt of case management services on the receipt of other Medicaid services, or condition receipt of other Medicaid services on receipt of case management services.
   c) Providers of case management services do not exercise the agency's authority to authorize or deny the provision of other services under the plan.

Targeted Case Management for Individuals with Chronic Mental Illness (continued)

9) Case Records (42 CFR 441.18(a)(7)):
   a) Providers maintain case records that document for all individuals receiving case management:
      i) the name of the individual;
      ii) dates of the case management services;
      iii) the name of the provider agency (if relevant) and the person providing the case management service;
      iv) the nature, content, units of case management services provided, including:
         - whether the goals specified in the care plan have been achieved;
         - whether the individual has declined services in the care plan;
         - the need for, and occurrences of, coordination with other case managers, including coordination with collateral contacts;
         - the timeline for obtaining needed services; and
         - a timeline for reevaluation of the plan.

10) Payment (42 CFR 441.18(a)(4)):
   a) Payment for case management services under the plan does not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.
   b) Case management providers are paid based on the reimbursement methodology described in Attachment 4.19 B, 14(e).

11) Limitations:
   a) Case Management does not include, and Federal Financial Participation (FFP) is not available for services defined in §440.169 when the case management activities are an integral and inseparable component of another covered Medicaid service (State Medicaid Manual (SMM) 4302.F);
   b) Case management does not include, and FFP is not available for services defined in §440.169 when the case management activities constitute the direct delivery of an underlying medical, educational, social, or other service to which an eligible individual has been referred, including for foster care programs, services such as, but not limited to, the following: research gathering and completion of documentation required by the foster care program; assessing adoption placements; recruiting or interviewing potential foster care parents; serving legal papers; home investigations; providing transportation; administering foster care subsidies; making placement arrangements. (42 CFR 441.18(c); and
   c) Services provided to individuals with a single diagnosis of an intellectual or a developmental disability or disorder who, if an adult, do not also have a co-occurring diagnosis of mental illness or, if a child, do not have a co-occurring diagnosis of serious emotional disturbance.
   d) FFP only is available for case management services or targeted case management services if there are no other third parties liable to pay for such services, including as reimbursement under a medical, social, educational, or other program except for

Targeted Case Management for Individuals with Chronic Mental Illness (continued)

case management that is included in an individualized education program or individualized family service plan consistent with §1903(c) of the Act. (§§1902(a)(25) and 1902(c))