

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
1301 Young Street, Room 833
Dallas, Texas 75202



Division of Medicaid & Children's Health, Region VI

August 10, 2010

Our Reference: SPA TX 06-014B

Mr. Billy Millwee
Associate Commissioner for Medicaid & CHIP
Health and Human Services Commission
Post Office Box 13247
Mail Code: H100
Austin, Texas 78711

Dear Mr. Millwee:

We have reviewed the State's proposed amendment to the Texas State Plan submitted under Transmittal Number 06-014B, dated February 27, 2006. This amendment revises the reimbursement methodology for Day Activity Health Services (DAHS), modifying the Attendant Compensation Rate Enhancement (ACRE), which is a component of the cost used to determine the DAHS rate.

As previously communicated to the State, CMS is issuing a companion letter in conjunction with our approval of SPA 05-010B in which we requested the State to clarify coverage issues relating to Day Activity Health Services (DAHS). It was determined that certain areas in the coverage section were not consistent with current guidance and regulations at 42 CFR 440.130(d). Please be mindful of the timeframes referenced in that companion letter.

Based on the information submitted, we have approved the amendment for incorporation into the official Texas State Plan with an effective date change of February 1, 2006. A copy of the CMS-179 and the approved plan pages are enclosed with this letter.

If you have any questions, please contact Ford J. Blunt at (214) 767-6381.

Sincerely,

Bill Brooks
Associate Regional Administrator

Enclosures

Cc: Emily Zalkovsky, Policy Development Support

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES		1. TRANSMITTAL NUMBER: 06-014B	2. STATE: TEXAS
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE: February 1, 2006	
5. TYPE OF PLAN MATERIAL (Circle One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR §440.130(d)		7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2006 \$00 b. FFY 2007 \$00 c. FFY 2008 \$00	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: SEE ATTACHMENT TO BLOCKS 8 AND 9		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): SEE ATTACHMENT TO BLOCKS 8 AND 9	
10. SUBJECT OF AMENDMENT: The proposed amendment revises the reimbursement methodology for DAHS to change the method for determining the Attendant Compensation Rate Enhancement spending requirement and reinvestment amounts. The amendment also modifies requirements to qualify for reinvestment under the enhancement program.			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt. <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL:		16. RETURN TO:	
13. TYPED NAME: Billy R. Millwee		Billy R. Millwee State Medicaid Director Post Office Box 13247, MC: H-100 Austin, Texas 78711-5200	
14. TITLE: State Medicaid Director			
15. DATE SUBMITTED: February 24, 2006			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: 27 February, 2006		18. DATE APPROVED: 10 August, 2010	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 1 February, 2006		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME: Bill Brooks		22. TITLE: Associate Regional Administrator Dir of Medicaid & Children's Health	
23. REMARKS:			

X. Attendant Compensation Rate Enhancement.

- (1) Attendant compensation cost center. This cost center will include attendant and driver employee salaries and/or wages (including payroll taxes, worker's compensation, or employee benefits), contract labor costs, and personal vehicle mileage reimbursement for attendants.
- (2) Rate year. The rate year begins on the first day of September and ends on the last day of August of the following year.
- (3) Open enrollment. Each contracted provider must notify HHSC in a manner specified by HHSC of its desire to participate or its desire not to participate in the Attendant Compensation Rate Enhancement and its desired level of participation.
- (4) Determination of attendant compensation rate component for nonparticipating contracts. An attendant compensation rate component will be calculated as follows:
 - (A) Determine for each contract included in the cost report data base used in the determination of rates in effect on September 1, 1999, the attendant compensation cost center from X(1).
 - (B) Adjust the cost center data from X(4)(A) to account for inflation utilizing the inflation factors used in the determination of the September 1, 1999 rates.
 - (C) For each contract included in the cost report data base used in the determination of rates in effect on September 1, 1999, divide the result from X(4)(B) by the units of service to calculate the projected cost per unit of service.
 - (D) Provider projected costs per unit of service are rank ordered from low to high along with each provider's corresponding units of service. The median projected unit of service cost is then determined. This result is multiplied by 1.044.
 - (E) The attendant compensation rate component will remain constant over time, except for adjustments necessitated by increases in the minimum wage. In such cases, adjustments to the nonparticipating rates are limited to ensuring that these rates are adequate to cover mandated minimum wage levels.

SUPERSEDES: TN- 00-16

STATE	<u>Texas</u>	A
DATE REC'D	<u>2-27-06</u>	
DATE APPV'D	<u>8-10-10</u>	
DATE EFF	<u>2-1-06</u>	
HCFA 179	<u>06-14(B)</u>	

TN No. 06-14(B) Approval Date 8-10-10 Effective Date 2-1-06
Supersedes TN No. 00-16

STATE	<u>Texas</u>	A
DATE REC'D	<u>2-27-06</u>	
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HGFA 179	<u>06-14(B)</u>	

- (5) Determination of attendant compensation rate component for participating contracts. HHSC will determine attendant compensation rate enhancement increments associated with each enhanced attendant compensation level. The attendant compensation rate enhancement increments will be determined by taking into consideration quality of care, labor market conditions, economic factors, and budget constraints. The attendant compensation rate enhancement increments will be determined on a per-unit-of-service basis applicable to each program or service.
- (6) Spending requirements for participating contracts. Participating contracts are subject to a spending requirement as follows:
- (A) For the rate years beginning September 1, 2003, and September 1, 2004:
- (i) The attendant compensation spending per unit of service will be multiplied by 1.10 to determine the adjusted attendant compensation per unit of service.
 - (ii) The adjusted attendant compensation per unit of service from X(6)(A)(i) will be subtracted from the accrued attendant compensation revenue to determine the amount to be recouped. If the adjusted attendant compensation per unit of service is greater than or equal to the attendant compensation revenue per unit of service, there is no recoupment.
 - (iii) The amount paid for attendant compensation per unit of service after adjustments for recoupment must not be less than the amount determined for nonparticipating contracts.
- (B) For the rate year beginning September 1, 2005, and thereafter, the accrued attendant compensation revenue per unit of service is multiplied by 0.90 to determine the spending requirement per unit of service. The unadjusted accrued attendant compensation spending per unit of service will be subtracted from the spending requirement per unit of service to determine the amount to be recouped. If the unadjusted accrued attendant compensation spending per unit of service is greater than or equal to the spending requirement per unit of service, there is no recoupment. The amount paid for attendant compensation per unit of service after adjustments for recoupment must not be less than the amount determined for nonparticipating contracts.
- (7) Reinvestment. HHSC will reinvest recouped funds from X(6) in the attendant compensation rate enhancement to the extent that there are qualifying contracts.
- (A) Contracts meeting the following criteria during the most recently completed reporting period are qualifying contracts for reinvestment purposes.
- (i) The contract was a participant in the attendant compensation rate enhancement.
 - (ii) The contract's attendant compensation spending per unit of service was greater than the total attendant compensation rate per unit of service granted to the contract.
 - (iii) An acceptable Attendant Compensation Report for the reporting period completed in accordance with all applicable rules and instructions was received by HHSC Rate Analysis.
 - (iv) The Texas Department of Aging and Disability Services contract that was in effect during the reinvestment reporting period is still in effect as an active contract when reinvestment is determined and there has been no ownership change from one legal entity to a different legal entity.
- (B) Available funds are distributed as described below.
- (i) For each qualifying report, HHSC subtracts the attendant compensation revenue per unit of service from the attendant compensation spending per unit of service and determines the number of full rate enhancement increments by which attendant compensation costs exceeded attendant compensation revenues. This number is multiplied by the add-on value of a rate enhancement increment during the reporting period and the product is multiplied by the units of service provided during the reporting period as determined by HHSC.

SUPERSEDES: TN- 03-32

TN No. 06-14(B)

Approval Date 8-10-10

Effective Date 2-1-06

Supersedes TN No. 03-32

- (ii) HHSC compares the sum of the products from (X)(7)(B)(i) to funds available for reinvestment.
 - (a) If the product is less than or equal to available funds, all enhancements for qualifying contracts are retroactively awarded for the reporting period.
 - (b) If the product is greater than available funds, retroactive enhancements are granted beginning with the lowest level of enhancement and granting each successive level of enhancement until enhancements are granted within available funds.
- (C) Retroactively awarded enhancements do not qualify as pre-existing enhancements for enrollment purposes.
- (D) Qualifying facilities are notified of the award of reinvested enhancements in a manner determined by HHSC.

~~SUPERSEDES:~~ TN- 03-05

STATE	<u>Texas</u>	A
DATE REC'D	<u>2-27-06</u>	
DATE APPV'D	<u>8-10-10</u>	
DATE EFF	<u>2-1-06</u>	
HC FA 179	<u>06-14(B)</u>	

TN No. 06-14(B) Approval Date 8-10-10 Effective Date 2-1-06
Supersedes TN No. 03-05