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

May 25, 2010

Our Reference: SPA TX 07-043

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 07-043, dated October 3, 2007. This amendment specifies that the interim rate paid for targeted case management services provided to persons with mental retardation, which was in effect on September 30, 2007, will remain in effect until May 31, 2010. Under this methodology providers are reimbursed a monthly statewide interim rate, which is settled to each provider's cost within certain limits.

Based on the information submitted, we have approved the amendment for incorporation into the official Texas State Plan with an effective date change of October 1, 2007. 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

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: **TX 07-043**

2. STATE: **TEXAS**

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
CENTERS FOR MEDICARE & MEDICAID SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE: **October 1, 2007**

5. TYPE OF PLAN MATERIAL *(Circle One)*:

☐ ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION:
42 USC 1396n(g)

7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT
b. FFY **2008** $ 0
c. FFY **2009** $ 0

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:
See attachment

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION **OR ATTACHMENT *(If Applicable)*:**
See attachment

10. SUBJECT OF AMENDMENT:

The amendment adds language to the Texas State Plan for the Mental Retardation Case Management interim reimbursement rate in effect on September 30, 2007 to continue to be in effect from October 1, 2007 through September 30, 2009.

11. 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 Office this date. Comments, if any, will be forwarded upon receipt.

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME:
Chris Traylor

14. TITLE:
State Medicaid Director

15. DATE SUBMITTED: 9-28-07

16. RETURN TO:
Chris Traylor
State Medicaid Director
Post Office Box 85200
Austin, Texas 78708

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: 3 October, 2007

18. DATE APPROVED: 25 May, 2010

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: 1 October, 2007

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME: Bill Brooks

22. TITLE: Associate Regional Administrator
Div of Medicaid & Children's Health

23. REMARKS:

FORM CMS – 179 (07-92)

22. Case Management for Individuals with Mental Retardation or a Related Condition or Pervasive Developmental Disability (continued)

(I) The agency's fee schedule was not revised with new fees for case management services for individuals with mental retardation or a related condition or pervasive developmental disability effective for services on or after September 1, 2007 because the rates were not changed. The fee schedule was posted by September 1, 2007.

(J) All fee schedules are available through the agency's website as outlined on Attachment 4.19-B, Page 1.

SUPERSEDES: TN- 03-19

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22. Case Management for Individuals with Mental Retardation or a Related Condition or Pervasive Developmental Disability (continued)

(E) Total costs are projected from the historical reporting period to the interim rate period. Cost projections adjust the allowable historical costs for significant changes in cost related conditions anticipated to occur between the historical cost period and the prospective rate period. Significant conditions include, but are not necessarily limited to, wage and price inflation for deflation, changes in program utilization and efficiency, modification of federal or state regulations and statutes. Appropriate economic adjusters as described in state regulations, are determined to calculate the projected expenses. The Personal Consumption Expenditures (PCE) Chain-Type Index, which is based on data from the U.S. Department of Commerce, is the most general measure of inflation and is applied to salaries and benefits, materials, supplies, and services.

(F) Rates are adjusted if new legislation including the appropriations, regulations or economic factors affect costs, as specified in state regulations. Cost data will be collected to supplement the cost report to capture costs not reported during the historical reporting period.

(G) For the non-modeled component for the interim rates, provider costs by unit of service are arrayed from low to high. HHSC may exclude or adjust certain expenses in the cost report database in order to base rates on the reasonable and necessary costs that an economical and efficient provider must incur. Statistical outliers (those providers who unit costs exceed +/- two standard deviations of the mean) are removed. The mean projected total cost per unit of service is calculated after statistical outliers have been removed and this becomes the recommended reimbursement rate.

(H) If a provider's costs exceed the statewide rate, HHSC will reimburse the provider its costs up to 125 percent of the statewide rate. If a provider's costs are less than 95 percent of the statewide rate, the provider will pay HHSC the difference between the provider's costs and 95 percent of the statewide rate.

SUPERSEDES: TN- 02-02

22. Case Management for Individuals with Mental Retardation or a Related Condition or Pervasive Developmental Disability (continued)

(C) Providers must eliminate unallowable expenses from the cost report. Unallowable expenses included in the cost report are omitted from the cost report database and appropriate adjustments are made to expenses and other information reported by providers; the purpose is to ensure that the database reflects costs and other information which are consistent with efficiency, economy, and quality of care; are necessary for the provision of covered case management services; and are consistent with federal and state Medicaid regulations. If there is doubt as to the accuracy or allowableness of a significant part of the information reported, individual cost reports may be eliminated from the database.

(D) Providers will be reimbursed a statewide interim rate comprised of modeled costs for direct care plus a statewide weighted average for reported indirect costs. The modeled costs for direct care rate is based on cost calculations that include a statewide weighted average hourly wage for persons who provide case management as 100 percent of their job responsibilities, a predetermined caseload size of 45 for case managers providing case management, a statewide weighted average supervisory wage rate and span of control, and a statewide weighted average benefits factor. The associated indirect costs collected through the cost reporting process for administrative claiming include clerical and support costs, travel and training costs, and other allowable operating costs such as rent, utilities, office supplies, administration, and depreciation necessary to provide case management. Following each annual reimbursement period, each provider's actual allowable costs will be compared to interim reimbursement and any resulting monetary reconciliation will be made in accordance with item (G) of this section.

SUPERSEDES: TN- 02-02

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22. Case Management for Individuals with Mental Retardation or a Related Condition or Pervasive Developmental Disability

(a) For payment rates in effect until May 31, 2010.

(1) Reimbursement for case management services for individuals with mental retardation or a related condition or pervasive developmental disability is subject to the specifications, conditions, and limitations required by HHSC. These include the specifications provided in OMB Circular A-87 and A-102.

(2) The statewide reimbursement rates for the case management services program are interim throughout the rate period and subsequently adjusted to cost. HHSC determines statewide reimbursement rates biennially, but may determine them more often if deemed necessary. The reimbursement rates are based upon allowable costs, as specified by HHSC for qualified staff, travel, facility, and administrative overhead expenditures. The unit of service is one face-to-face contact per month.

(3) The interim reimbursement rate in effect on September 30, 2007 will remain in effect until May 31, 2010.

(4) Reimbursement rates are determined in the following manner.

(A) Inclusion of certain reported expenses. Provider agencies must ensure that all requested costs are included in the Time And Financial Information (TAFI) time and cost reporting system.

(B) Several different kinds of data are collected. These include the number of units of service. The cost data include direct costs, programmatic indirect costs, and general and administrative costs including salaries, benefits, and non-labor costs. Programmatic indirect costs include salaries, benefits and other costs of this case management program that are indirectly related to the delivery of case management services to clients. General and administrative overhead costs include the salaries, benefits and other costs that, while not directly part of the case management services program, constitute costs that support the operations of the case management services program.

SUPERSEDES: TN 02-02

(Case Management Services for Persons with Mental Retardation or Related Conditions or Pervasive Developmental Disability, Continued.)

9) Payment:

a) Payment for case management services under the state plan does not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

b) Provider agencies are paid based on the reimbursement methodology described in Attachment 4.19 B, Page 15.

10) Limitations:

a) Case Management does not include the following:

i) Case management activities that are an integral component of another covered Medicaid service;

ii) Direct delivery of an underlying medical, educational, social, or other service to which an eligible individual has been referred;

iii) Activities integral to the administration of foster care programs; or

iv) Activities for which an individual may be eligible that are integral to the administration of another non-medical program, except for case management that is included in an individualized education program or individualized family service plan consistent with section 1903(c) of the Social Security Act.

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(Case Management Services for Persons with Mental Retardation or Related Conditions or Pervasive Developmental Disability, Continued.)

7) Access to Services:

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) The State assures that providers of case management services do not exercise the agency's authority to authorize or deny the provision of other services under the plan.

d) The State assures that the amount, duration, and scope of the case management activities will be documented in an individual's plan of care, which includes case management activities prior to and post-discharge, to facilitate a successful transition to the community.

e) The State assures that case management is only provided by and reimbursed to provider agencies.

8) Case Records:

a) A provider agency maintains case records that document for all individuals receiving case management the following:

i) the name of the individual;

ii) dates of the case management services;

iii) the name of the provider agency and the employee providing the case management service;

iv) the nature, content, and units of the case management services received and whether goals specified in the plan of care have been achieved;

v) whether the individual has declined services in the plan of care;

vi) the need for, and occurrences of, coordination with other case managers;

vii) a timeline for obtaining needed services; and

viii) a timeline for reevaluation of the plan of care.

(Case Management Services for Persons with Mental Retardation or Related Conditions or Pervasive Developmental Disability, Continued.)

(2) personal experience as an immediate family member of an individual with mental retardation.

c) A person who was authorized by a provider agency to provide case management services to an individual with mental retardation or related condition or pervasive developmental disability prior to April 1, 1999, may provide case management services without meeting the minimum qualifications described in b) above.

d) Until December 31, 2011, a provider agency may hire a person to provide case management services who does not meet the minimum qualifications described in b) above if the person was employed as a case manager in the Home and Community-based Services (HCS) waiver program for any period of time prior to June 1, 2010.

e) Beginning January 1, 2012, a provider agency may hire a person to provide case management services who does not meet the minimum qualifications described in b) above if the person had been hired by another provider agency in accordance with d) above.

f) Supervision of case managers (service coordinators) is provided by the provider agency. Supervisors are staff with considerable experience in the provision of service and supports to persons with mental retardation. Supervisors are knowledgeable about local resources available to provide supports. Additionally, state rules require specific training for staff that supervise or oversee the provision of service coordination. Additionally, provider agencies are required to conduct quality assurance activities that review processes and outcomes of service coordination activities.

6) Freedom of choice of provider agency:

a) Freedom of Choice of provider agency exception:

i) The target group consists of eligible individuals with developmental disabilities. Section 1915(g)(1) of the Social Security Act is invoked to limit the provider agencies of case management services to the State Mental Retardation Authority, which is the Texas Department of Aging and Disability Services and each local MRA that is designated as such by the Executive Commissioner of the Texas Health and Human Services Commission pursuant to the Texas Health Safety Code, §533.0035(a).

b) Eligible recipients will have free choice of providers of other medical care under the plan.

(Case Management Services for Persons with Mental Retardation or Related Conditions or Pervasive Developmental Disability, Continued.)

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, providers, or other entities or individuals and conducted as frequently as necessary, and at least every 90 calendar days, 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; 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 needs and supports for helping the eligible individual access services.

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

5) Qualifications of providers:

a) A provider agency of case management must be an entity that is designated as the local mental retardation authority (MRA) pursuant to the Texas Health Safety Code, §533.0035(a). Only an employee of a provider agency may provide case management services.

b) Effective April 1, 1999, an employee of a provider agency who provides case management services must have:

i) a bachelor's or advanced degree from an accredited college or university with a major in a social, behavioral, or human service field, including, but not limited to, psychology, social work, medicine, nursing, rehabilitation, counseling, sociology, human development, gerontology, educational psychology, education, and criminal justice; or

ii) a high school diploma or a certificate recognized by the state as the equivalent of a high school diploma; and

(1) two years of paid experience as a case manager in a state or federally funded Parent Case Management Program or have graduated from Partners in Policy Making; and

(Case Management Services for Persons with Mental Retardation or Related Conditions or Pervasive Developmental Disability, Continued.)

i) Comprehensive assessment and periodic reassessment 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 presenting problem and service 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.

ii) Development (and periodic revision) of a specific care plan that:

(1) is based on the information collected through the assessment;

(2) conforms to the principles of person-directed planning, which is a process that empowers the individual (and the legally authorized representative (LAR) on the individual's behalf) to direct the development of a plan of supports and services that meet the individual's personal outcomes or goals;

(3) specifies the goals and actions to address the medical, social, educational, and other services needed by the individual;

(4) 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

(5) identifies a course of action to respond to the assessed needs of the eligible individual and includes a description of the desired outcomes identified by the individual (or LAR) and a description of the services and supports (including service coordination) to be provided to the individual, with specifics concerning frequency and duration.

iii) Referral and related activities to help an eligible individual obtain needed services, including activities that help link an individual with:

(1) medical, social, and educational providers, or

(2) other programs and services that can provide needed services, such as making referrals to providers for needed services and scheduling appointments for the individual.

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Case Management Services for Persons with Mental Retardation or Related Conditions or Pervasive Developmental Disability

1) Target Group:

   a) Individuals with mental retardation or a related condition or pervasive developmental disability who require long-term care in the community.

      i) Mental retardation is defined as significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and originating during the developmental period. Sub-average general intellectual functioning refers to measured intelligence on standardized psychometric instruments of two or more standard deviations below the age group mean for the tests used. Developmental period means the period of time from conception to 18 years. Arrest or deterioration of intellectual ability that occurs after this period is functional retardation and does not meet the definition of mental retardation.

      ii) Related condition is defined as a severe, chronic disability that meets the criteria outlined in 42 CFR 435.1010.

      iii) Pervasive developmental disorder (PDD) is characterized by severe and pervasive impairment in several areas of development: reciprocal social interaction skills, communication skills, or the presence of stereotyped behavior, interests, and activities that meet the criteria outlined in the current version of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders.

   b) Individuals who meet the criteria in a) who are transitioning to a community setting from a medical institution during the last 180 days of a covered long-term stay.

2) Areas of state in which services will be provided:

   Entire State

3) Comparability of services:

   Services are not comparable in amount, duration and scope. Under section 1915(g) of the Social Security Act, a state may provide case management services without regard to the comparability requirements of section 1902(a)(10)(B).

4) Definition of services:

   a) Case management services are services furnished to assist individuals, eligible under the State Plan, in gaining access to needed medical, social, educational, and other services that will help them achieve a quality of life and community participation acceptable to each individual. Case management includes the following assistance:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT
MEDICAL ASSISTANCE PROGRAM

State: TEXAS

Case Management Services

A. Target Group: Persons with Mental Retardation or Related Conditions or Pervasive Developmental Disability

See page 1B.1 of this Supplement.

B. Areas of State in which services will be provided:

☒ Entire State

☐ Only in the following geographic areas (authority of section 1915(g)(1) or the Act is invoked to provide services less than Statewide)

C. Comparability of Services:

☐ Services are provided in accordance with section 1902(a)(10)(B) of the Act

☒ Services are not comparable in amount, duration, and scope. Authority of section 1915(g)(1) of the Act is invoked to provide services without regard to the requirements of section 1902(a)(10)(B) of the Act.

D. Definition of Services:

See page 1B.1 of this Supplement.

E. Qualification of Providers:

See page 1B.3 of this Supplement.

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(Case Management Services for Persons with Mental Retardation or Related Conditions or Pervasive Developmental Disability, Continued.)

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(Case Management Services for Persons with Mental Retardation or Related Conditions or Pervasive Developmental Disability, Continued.)

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(Case Management Services for Persons with Mental Retardation or Related Conditions or Pervasive Developmental Disability, Continued.)

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(Case Management Services for Persons with Mental Retardation or Related Conditions or Pervasive Developmental Disability, Continued.)

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(Case Management Services for Persons with Mental Retardation or Related Conditions or Pervasive Developmental Disability, Continued.)

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(2) conforms to the principles of person-directed planning, which is a process that empowers the individual (and the legally authorized representative (LAR) on the individual's behalf) to direct the development of a plan of supports and services that meet the individual's personal outcomes or goals;

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Case Management Services for Persons with Mental Retardation or Related Conditions or Pervasive Developmental Disability

1) Target Group:

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b) Individuals who meet the criteria in a) who are transitioning to a community setting from a medical institution during the last 180 days of a covered long-term stay.

2) Areas of state in which services will be provided:

Entire State

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4) Definition of services:

a) Case management services are services furnished to assist individuals, eligible under the State Plan, in gaining access to needed medical, social, educational, and other services that will help them achieve a quality of life and community participation acceptable to each individual. Case management includes the following assistance:

19. Case Management Services - Persons with Mental Retardation or Related Conditions or Pervasive Developmental Disability

See Supplement 1 to Attachment 3.1-B, Page 1B.

SUPERSEDES: TN- 92-32

STATE Texas
DATE REC'D 10-8-07
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DATE EFF 10-1-07
HCFA 179 07-43

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