

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

March 18, 2010

Our Reference: SPA TX 09-045

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 09-045, dated December 22, 2009. This amendment revises the rate methodology for the Attendant Compensation Rate Enhancement in the Primary Home Care program to add five new enhancement levels resulting in 25 total levels.

Additionally, please note that when the State submits a State Plan Amendment (SPA) that may impact Indians or Indian health providers, CMS will look for evidence of the State's Tribal consultation process for that SPA. Pursuant to the new section 1902(a)(73) of the Act added by section 5006(e) of the American Recovery and Reinvestment Act (ARRA) of 2009, the State must submit evidence to CMS regarding the solicitation of advice prior to submission of the State Plan Amendment. Such consultation must include all federally-recognized tribes, Indian Health Service and Urban Indian Organizations within the State.

Based on the information submitted, we have approved the amendment for incorporation into the official Texas State Plan with an effective date change of November 1, 2009. 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,

A black rectangular redaction box covering the signature of Bill Brooks.

Bill Brooks
Associate Regional Administrator

Enclosures

cc: Emily Zalkovsky, Policy Development Support

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICAIRE AND MEDICAID		1. TRANSMITTAL NUMBER: 09-045	2. STATE: TEXAS
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICAIRE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE: November 1, 2009	
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 § 440.167 Section 1905(a)(24) of the Social Security Act		7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2010 \$ 4,882,513 b. FFY 2011 \$ 4,665,251 c. FFY 2012 \$ 4,444,875	
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 proposed amendment will revise the rate methodology for the Attendant Compensation Rate Enhancement in the Primary Home Care program to add five new enhancement levels resulting in 25 total levels.			
11. GOVERNOR'S REVIEW (Check One): <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt. <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL:		16. RETURN TO: Chris Traylor State Medicaid Director Post Office Box 85200 Austin, Texas 78711-5200	
13. TYPED NAME: Chris Traylor			
14. TITLE: State Medicaid Director			
15. DATE SUBMITTED: December 22, 2009			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: 22 December, 2009		18. DATE APPROVED: 18 March, 2010	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 1 November, 2009		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: Bill Brooks		22. TITLE: Associate Regional Administrator Div of Medicaid & Children's Health	
23. REMARKS:			

Attachment to Blocks 8 and 9 to CMS Form 179

TX Transmittal No. 09-045, Amendment No. 891

**Number of the
Plan Section or Attachment**

**Number of the Superseded
Plan Section or Attachment**

Attachment 4.19-B
Page 6e

Attachment 4.19-B
Page 6e (TN 06-014A)

STATE	<u>Texas</u>
DATE REC'D	<u>12-22-09</u>
DATE APPV'D	<u>3-18-10</u>
DATE EFF	<u>11-1-09</u>
HCFA 179	<u>09-45</u>

A

- (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. The rate enhancement increments were revised to add five new levels resulting in 25 total levels effective November 1, 2009.

- (6) Spending requirements for participating contracts. Participating contracts are subject to a spending requirement with recoupment calculated separately for their Priority and Nonpriority services 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. Reinvestment will be calculated separately for qualifying contracts' Priority and Nonpriority services.
 - (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.

Marks, Marsha L. (CMS/SC)

From: Marks, Marsha L. (CMS/SC)
Sent: Tuesday, March 23, 2010 12:11 PM
To: CMS CMSO_508_SPA; Potter, Cynthia J. (CMS/CMSO)
Cc: Blunt, Ford J. (CMS/SC); Prisby, Karen L. (CMS/CMCHO); Cieslicki, Mary E. (CMS/CMSO)
Subject: Approval Pkg for TX 09-45
Attachments: Final Approval Pkg for 09-45.pdf; TX0945APPROVAL.doc

See Attached. Hard copies are being sent by regular mail.

State: Texas

Brief Description: The amendment revises the rate methodology for Attendant Compensation Rate Enhancement in the Primary Home Care program. It adds five new enhancement levels resulting in 25 total levels. The payment is uniform for governmental and private providers, and the state answered all funding questions.

Approval Date: 18 March, 2010

Effective Date: 1 November, 2009

Marsha Marks // Dept of Health & Human Services // Centers for Medicare & Medicaid Services // Dallas Regional Office // Division of Medicaid & Children's Health // Dallas Texas 75202 // 214-767-6280 // Fax 214-767-0322 // marsha.marks@cms.hhs.gov