



**Division of Medicaid & Children's Health, Region VI**

---

August 10, 2010

Our Reference: SPA TX 09-046

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 09-046, dated December 22, 2009. This amendment deletes the provision for reinvestment under the Attendant Compensation Rate Enhancement (ACRE) for the Day Activity Health Services (DAHS) program.

As previously communicated to the State, CMS issued 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). As referenced, that companion letter also applies to this SPA approval. 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.

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 6, 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,

Bill Brooks  
Associate Regional Administrator

Enclosures

Cc: Emily Zalkovsky, Policy Development Support

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICAIRE AND MEDICAID</b>		1. TRANSMITTAL NUMBER:  <b>09-046</b>	2. STATE:  <b>TEXAS</b>
		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:  <b>November 6, 2009</b>	
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: <b>42 CFR §440.130(d)</b>		7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2010 <b>\$( 20,600)</b> b. FFY 2011 <b>\$( 20,017)</b> c. FFY 2012 <b>\$( 19,072)</b>	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>SEE ATTACHMENT</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  <b>SEE ATTACHMENT</b>	
10. SUBJECT OF AMENDMENT:  <b>The proposed amendment will delete the provision for reinvestment under the Attendant Compensation Rate Enhancement in the Day Activity and Health Services (DAHS) program.</b>			
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 <b>Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt.</b> <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL:		16. RETURN TO:  <b>Chris Traylor State Medicaid Director Post Office Box 85200 Austin, Texas 78711-5200</b>	
13. TYPED NAME:  <b>Chris Traylor</b>			
14. TITLE:  <b>State Medicaid Director</b>			
15. DATE SUBMITTED:  <b>December 22, 2009</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: <b>22 December, 2009</b>		18. DATE APPROVED: <b>10 August, 2010</b>	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL:  <b>6 November, 2009</b>		20. SIGNATURE OF REGIONAL OFFICIAL:  <i>[Signature]</i>	
21. TYPED NAME:  <b>Bill Brooks</b>		22. TITLE: <b>Associate Regional Administrator Div of Medicaid &amp; Children's Health</b>	
23. REMARKS:			

STATE	<u>Texas</u>	A
DATE RECD.	<u>12-22-09</u>	
DATE APPL'D	<u>8-10-10</u>	
DATE EFF	<u>11-6-09</u>	
HCTA 179	<u>09-46</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. 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 as follows:
- (a) For the rate years beginning September 1, 2003, and September 1, 2004:
- (1) The attendant compensation spending per unit of service will be multiplied by 1.10 to determine the adjusted attendant compensation per unit of service.
  - (2) 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.
  - (3) 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.

SUPERSEDES: TN- 09-44

TN No. 09-46

Approval Date 8-10-10

Effective Date 11-6-09

Supersedes TN No. 09-44