DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

Center for Medicaid, CHIP, and Survey & Certification

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

AUG 1 8 2010

RE: TN 10-26

Dear Mr. Millwee:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 10-26. This amendment revises the reimbursement methodology for non-state operated intermediate care facilities for persons with mental retardation (ICF/MR) to indicate that payment rates effective September 1, 2010, will be equal to rates in effect August 31, 2010, less one percent. In addition, it will add non-state operated ICF/MRs to the Attendant Compensation Rate Enhancement program effective September 1, 2010.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), 1903(a), and 1923 of the Social Security Act and the implementing Federal regulations at 42 CFR 447 Subpart C. As part of the review process the State was asked to provide information regarding funding of the State share of expenditures under Attachment 4.19-D. Based upon your assurances we are pleased to inform you that Medicaid State plan amendment 10-26 is approved effective September 1, 2010. We are enclosing the HCFA-179 and the amended plan pages.

If you have any questions, please call Sandra Dasheiff, CPA at (214) 767-6490.

Sincerely,

Cindy Mann
Director
Center for Medicaid, CHIP, and Survey & Certification

Enclosures

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

FORM APPROVED
OMB NO. 0938-0193

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES

1. TRANSMITTAL NUMBER: **10-026**

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: **September 1, 2010**

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

☐ NEW STATE PLAN ☐ 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 CFR §440.150

7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT
a. FFY 2010 **$ 4,637**
b. FFY 2011 **$ 49,530**
c. FFY 2012 **$(2,524)**

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 will add non-state operated intermediate care facilities for persons with mental retardation (ICF/MR) to the Attendant Compensation Rate Enhancement program effective September 1, 2010. The proposed amendment will also revise the reimbursement methodology for non-state operated ICF/MRs to indicate that payment rates effective September 1, 2010, will be equal to rates in effect August 31, 2010, less one percent.

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: [redacted]

13. TYPED NAME:
Billy R. Millwee

14. TITLE:
State Medicaid Director

15. DATE SUBMITTED:
June 9, 2010

16. RETURN TO:
Billy R. Millwee
State Medicaid Director
Post Office Box 13247 MC: H-100
Austin, Texas 78711-5200

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: 06/09/2010

18. DATE APPROVED: 8-18-10

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: SEP - 1 2010

20. [redacted]

21. TYPED NAME: William Lasowski

22. TITLE: Deputy Director, CMCS

23. REMARKS:

FORM CMS – 179 (07-92)

Attachment to Blocks 8 and 9 to CMS Form 179

TX Transmittal No. 10-026, Amendment No. 919

Number of the <u>Plan Section or Attachment</u>	**Number of the Superseded <u>Plan Section or Attachment</u>**
Attachment 4.19-D	Attachment 4.19-D
Page 10	Page 10 (TN 09-024)
Page 11 – New Page	N/A
Page 11(a) – New Page	N/A

Reimbursement Methodology for Intermediate Care Facilities for Persons with Mental Retardation (ICF/MR) (continued)

XV. Effective September 1, 2010, payment rates for non-state operated facilities will be equal to the rates in effect on August 31, 2010, less one percent. These rates will be posted on the agency's website at http://www.hhsc.state.tx.us/Medicaid/programs/rad/index.html on September 3, 2010.

XVI. Attendant Compensation Rate Enhancement

(A) Attendant compensation cost center. This cost center will include attendant employee salaries and/or wages (including payroll taxes, worker's compensation, or employee benefits), contract labor costs, and personal vehicle mileage reimbursement for attendants.

(B) Rate year. The rate year begins on the first day of September and ends on the last day of August of the following year.

(C) 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 in an enrollment period prior to the rate year.

(D) Determination of attendant compensation rate component for nonparticipating contracted providers. An attendant compensation cost center rate component will be calculated separately for day habilitation and residential services based on the percentage of the direct service cost component from (X)(B)(2)(a) accruing from day habilitation attendant compensation costs and residential attendant compensation costs, respectively.

(E) Determination of attendant compensation rate enhancements. Attendant compensation rate enhancement payment increments of $0.05 are associated with each attendant compensation rate enhancement level. The maximum number of rate enhancement payment levels is 25 for a maximum rate enhancement payment per unit of service of $1.25.

XVI. Attendant Compensation Rate Enhancement (continued)

(F) Spending requirements for participating contracted providers. Participating contracts are subject to a spending requirement with recoupment calculated separately for their day habilitation and residential services as follows: Accrued attendant compensation revenue per unit of service is multiplied by 0.90 to determine the spending requirement per unit of service. The 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 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 contracted providers.