

## Table of Contents

State/Territory Name: Texas

State Plan Amendment (SPA) #: 13-07

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form
- 3) Superseding Page Listing
- 4) Approved SPA Page

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



**DIVISION OF MEDICAID & CHILDREN'S HEALTH - REGION VI**

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June 24, 2013

Our Reference: SPA TX 13-007

Ms. Kay Ghahremani  
State Medicaid Director  
Health and Human Services Commission  
Post Office Box 13247  
Mail Code H100  
Austin, Texas 78711

Dear Ms. Ghahremani:

We have reviewed the State's proposed amendment to the Texas State Plan submitted under Transmittal Number 13-07, dated March 29, 2013. This state plan amendment adds licensed direct-entry midwives as a payable provider type in the birthing center setting.

Based on the information submitted, we have approved the amendment for incorporation into the official Texas State Plan with an effective date change of January 1, 2013. A copy of the CMS-179 and approved plan pages are enclosed with this letter.

If you have questions, please contact Cheryl Rupley at (214) 767-6278.

Sincerely,

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

Bill Brooks  
Associate Regional Administrator

cc: Becky Brownlee, Policy Development Support

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b> <b>FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES</b>		1. TRANSMITTAL NUMBER:  <b>13-007</b>	2. STATE:  <b>TEXAS</b>
		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:  <b>January 1, 2013</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>Social Security Act §1905(a)(28); 42 CFR 440.50(a); §1905(a)(5)(A) of Social Security Act, relating to Physician Services; 42 CFR 440.60(a); §1905(a)(6)(A) of Social Security Act, relating to Other Licensed Practitioners.</b>		7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2013 (\$17,610) b. FFY 2014 (\$24,353) c. FFY 2015 (\$25,340)	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  <b>SEE ATTACHMENT TO BLOCKS 8 &amp; 9</b>		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  <b>SEE ATTACHMENT TO BLOCKS 8 &amp; 9</b>	
10. SUBJECT OF AMENDMENT:  <b>The proposed amendment adds licensed direct-entry midwives as a payable provider type in the birthing center setting.</b>			
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:  [Redacted]		16. RETURN TO: <b>Kay Ghahremani</b> <b>State Medicaid Director</b> <b>Post Office Box 13247, MC: H-100</b> <b>Austin, Texas 78711</b>	
13. TYPE/NAME: <b>Kay Ghahremani</b>			
14. TITLE: <b>State Medicaid Director</b>			
15. DATE SUBMITTED: <b>March 29, 2013</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: <b>29 MARCH 2013</b>		18. DATE APPROVED: <b>24 June 2013</b>	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>1 JANUARY 2013</b>		20. [Redacted]	
21. TYPED NAME: <b>Bill Brooks</b>		22. TITLE: <b>Associate Regional Administrator</b> <b>Division of Medicaid &amp; Children's Health</b>	
23. REMARKS:			

**Attachment to Blocks 8 & 9 of CMS Form 179**

**Transmittal Number 13-007**

**Number of the  
Plan Section or Attachment**

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

Appendix 1 to Attachment 3.1-A  
Page 13g  
Page 52  
Page 52a

Appendix 1 to Attachment 3.1-A  
N/A – new page  
Page 52 (TN 10-049)  
N/A – new page

Appendix 1 to Attachment 3.1-B  
Page 13g  
Page 52  
Page 52a

Appendix 1 to Attachment 3.1-B  
N/A – new page  
Page 52 (TN 10-049)  
N/A – new page

Attachment 4.19-B  
Page 1a  
Page 8

Attachment 4.19-B  
Page 1a (TN 12-025)  
Page 8 (TN 12-034)

State: Texas  
Date Approved: 6/24/13  
Date Received: 3/29/13  
Date Effective: 1/1/13  
Transmittal Number: 13-07

Other Practitioners' Services (continued)

6.d (10). Licensed Midwife

Birthing services provided in a Medicaid certified freestanding birthing center by a licensed direct-entry midwife are covered services. Services provided by a licensed direct-entry midwife are available to Medicaid beneficiaries. Services provided by a licensed direct-entry midwife must be reasonable and medically necessary as determined by the single state agency or its designee.

To be considered for Medicaid reimbursement, licensed direct-entry midwives must be licensed by the Texas Midwifery Board at the Department of State Health Services in accordance with the Texas Midwifery Act. These providers must comply with all federal and state laws and regulations governing the service provided. Participating licensed direct-entry midwives must be enrolled in the Texas Medical Assistance Program and comply with all the terms of the provider agreement and all the regulatory provisions published by the single state agency or its designee.

STATE <u>Texas</u>	A
DATE REC'D <u>3-29-13</u>	
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DATE EFF <u>1-1-13</u>	
HOFA 179 <u>13-07</u>	

TN: 13-07 Approval Date: 6-24-13 Effective Date: 1-1-13

Supersedes TN: None - new page

SUPERSEDES: NONE - NEW PAGE

STATE <u>TEXAS</u>	A
DATE REC'D <u>3-29-13</u>	
DATE APP'VD <u>6-24-13</u>	
DATE EFF <u>1-1-13</u>	
HQFA 179 <u>13-07</u>	

**25. Birthing Center Facility Services.**

**1) Licensed or Otherwise State-Approved Freestanding Birth Centers**

Provided:     No limitations         With limitations

Please describe any limitations:

Subject to the specifications, conditions, requirements, and limitations established by the single state agency or its designee, birthing center facility services under this State Plan are limited to birthing centers licensed by the State of Texas pursuant to the Texas Birthing Center Licensing Act (Texas Health & Safety Code Chapter 244) or other legally authorized licensing authority under applicable state laws to provide a level of service commensurate with the professional skills of a physician (M.D. or D.O.), a certified nurse-midwife (CNM), or licensed midwife (LM) who acts as the birth attendant. The center, the physician, CNM, and LM must be licensed at the time and place the services are provided. The birthing center must be enrolled and approved by the state agency or its designee to participate in the Texas Medical Assistance Program.

Coverage of birthing center facility services is limited to certain birthing services provided by the center and determined by the attending physician, CNM, or LM to be necessary for the care of the mother and live newborn child following the mother's normal, uncomplicated pregnancy. Reimbursable services are limited to facility services provided during the labor, delivery, and postpartum periods. Birthing center facility services furnished prior to or after the above described period are not considered birthing center facility services and are not covered or reimbursed as such under this State Plan. Services provided by a physician, CNM, or LM are not considered to be birthing center facility services. For services other than birthing center facility services, other applicable provisions of this Title XIX State Plan and the Texas Medical Assistance Program will apply.

**2) Licensed or Otherwise State-Recognized covered professionals providing services in the Freestanding Birth Center**

Provided:     No limitations         With limitations (please describe below)

Not applicable (there are no licensed or State-approved freestanding birth centers)

Please describe any limitations:

Subject to the specifications, conditions, requirements, and limitations established by the single state agency or its designee, the State will reimburse an LM for a service in accordance with provisions of the State Plan only if the LM is licensed by the State of Texas pursuant to the Texas Midwifery Act or other legally authorized licensing authority under applicable state laws to provide

TN: 13-07                      Approval Date: 6-24-13                      Effective Date: 1-1-13

Supersedes TN: 10-049

SUPERSEDES: TN- 10-049

**25. Birthing Center Facility Services (continued).**

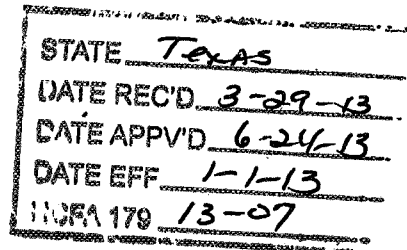
services consistent with rules and protocols promulgated by the Texas Midwifery Board or other appropriate state licensing authority that are provided in a freestanding birthing center. The services must be within the LM's scope of practice, as defined by state law and permitted by the freestanding birthing center, and must be one of the following: prenatal care; labor and delivery; postpartum care immediately following delivery and until discharge or transfer from the freestanding birthing center; or newborn care immediately following delivery and until discharge or transfer from the freestanding birthing center.

Please check all that apply:

- (a) Practitioners furnishing mandatory services described in another benefit category and otherwise covered under the State plan (i.e., physicians and certified nurse midwives).
- (b) Other licensed practitioners furnishing prenatal, labor and delivery, or postpartum care in a freestanding birth center within the scope of practice under State law whose services are otherwise covered under 42 CFR 440.60 (e.g., lay midwives, certified professional midwives (CPMs), and any other type of licensed midwife). \*
- (c) Other health care professionals licensed or otherwise recognized by the State to provide these birth attendant services (e.g., doulas, lactation consultant, etc.).\*

\*For (b) and (c) above, please list and identify below each type of professional who will be providing birth center services:

Licensed midwives who are licensed by the State of Texas.



TN: 13-07

Approval Date: 6-24-13

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Supersedes TN: None-new page

SUPERSEDES: NONE - NEW PAGE

Other Practitioners' Services (continued)

6.d (10). Licensed Midwife

Birth services provided in a Medicaid certified freestanding birthing center by a licensed direct-entry midwife are covered services. Services provided by a licensed direct-entry midwife are available to Medicaid beneficiaries. Services provided by a licensed direct-entry midwife must be reasonable and medically necessary as determined by the single state agency or its designee.

To be considered for Medicaid reimbursement, licensed direct-entry midwives must be licensed by the Texas Midwifery Board at the Department of State Health Services in accordance with the Texas Midwifery Act. These providers must comply with all federal and state laws and regulations governing the service provided. Participating licensed direct-entry midwives must be enrolled in the Texas Medical Assistance Program and comply with all the terms of the provider agreement and all the regulatory provisions published by the single state agency or its designee.

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HJFA 179	<u>13-07</u>	

**25. Birthing Center Facility Services.**

**1) Licensed or Otherwise State-Approved Freestanding Birth Centers**

Provided:       No limitations       With limitations

Please describe any limitations:

Subject to the specifications, conditions, requirements, and limitations established by the single state agency or its designee, birthing center facility services under this State Plan are limited to birthing centers licensed by the State of Texas pursuant to the Texas Birthing Center Licensing Act (Texas Health & Safety Code Chapter 244) or other legally authorized licensing authority under applicable state laws to provide a level of service commensurate with the professional skills of a physician (M.D. or D.O.), a certified nurse-midwife (CNM), or licensed midwife (LM) who acts as the birth attendant. The center, the physician, CNM, and LM must be licensed at the time and place the services are provided. The birthing center must be enrolled and approved by the state agency or its designee to participate in the Texas Medical Assistance Program.

Coverage of birthing center facility services is limited to certain birthing services provided by the center and determined by the attending physician, CNM, or LM to be necessary for the care of the mother and live newborn child following the mother's normal, uncomplicated pregnancy. Reimbursable services are limited to facility services provided during the labor, delivery, and postpartum periods. Birthing center facility services furnished prior to or after the above described period are not considered birthing center facility services and are not covered or reimbursed as such under this State Plan. Services provided by a physician, CNM, or LM are not considered to be birthing center facility services. For services other than birthing center facility services, other applicable provisions of this Title XIX State Plan and the Texas Medical Assistance Program will apply.

**2) Licensed or Otherwise State-Recognized covered professionals providing services in the Freestanding Birth Center**

Provided:       No limitations       With limitations (please describe below)

Not applicable (there are no licensed or State-approved freestanding birth centers)

Please describe any limitations:

Subject to the specifications, conditions, requirements, and limitations established by the single state agency or its designee, the State will reimburse an LM for a service in accordance with provisions of the State Plan only if the LM is licensed by the State of Texas pursuant to the Texas Midwifery Act or other legally authorized licensing authority under applicable state laws to provide

TN: 13-07

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Supersedes TN: 10-049

**SUPERSEDES: TN. 10-049**

**25. Birthing Center Facility Services (continued).**

services consistent with rules and protocols promulgated by the Texas Midwifery Board or other appropriate state licensing authority that are provided in a freestanding birthing center. The services must be within the LM's scope of practice, as defined by state law and permitted by the freestanding birthing center, and must be one of the following: prenatal care; labor and delivery; postpartum care immediately following delivery and until discharge or transfer from the freestanding birthing center; or newborn care immediately following delivery and until discharge or transfer from the freestanding birthing center.

Please check all that apply:

- (a) Practitioners furnishing mandatory services described in another benefit category and otherwise covered under the State plan (i.e., physicians and certified nurse midwives).
- (b) Other licensed practitioners furnishing prenatal, labor and delivery, or postpartum care in a freestanding birth center within the scope of practice under State law whose services are otherwise covered under 42 CFR 440.60 (e.g., lay midwives, certified professional midwives (CPMs), and any other type of licensed midwife). \*
- (c) Other health care professionals licensed or otherwise recognized by the State to provide these birth attendant services (e.g., doulas, lactation consultant, etc.).\*

\*For (b) and (c) above, please list and identify below each type of professional who will be providing birth center services:

Licensed midwives who are licensed by the State of Texas.

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NUFA 170	<u>13-07</u>	

**1. Physicians and Other Practitioners**

- (a) Subject to the qualifications, limitations, and exclusions in the amount, duration, and scope of benefits as provided elsewhere in the State Plan, payment to eligible providers of laboratory services, including x-ray services, radiation therapy services, physical and occupational therapists' services, physician services (including anesthesia and physician-administered drugs), podiatry services, chiropractic services, optometric services, dentists' services, psychologists' services, certified respiratory care practitioners' services, maternity clinics' services, tuberculosis clinic services, certified nurse midwife services, and licensed midwife services are reimbursed based on a uniform, statewide, prospective payment system.
- (b) The fees for covered services provided by physicians and other practitioners are based upon the determination of adequacy of access to health care services by the Texas Health and Human Services Commission (HHSC), as described in this section.
  - (1) There shall be no geographical or specialty reimbursement differential for individual services.
  - (2) The fees for individual services will be reviewed at least every two years and include:
    - (A) resource-based fees (RBFs) and
    - (B) access-based fees (ABFs).

The fee schedule is published quarterly.
  - (3) Measures of adequacy of access to health care services include, but are not limited to, the following determinations:
    - (A) adequate participation in the Medicaid program by physicians and other practitioners; and/or
    - (B) the ability of Medicaid recipients to receive adequate health care services in an appropriate setting.
- (c) Resource-based fees (RBFs) are based on actual resources required by an economically efficient provider to deliver each individual service and are calculated by multiplying the applicable relative value unit (RVU) times a conversion factor.

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TN: 13-07                      Approval Date: 6-24-13                      Effective Date: 1-1-13  
 Supersedes TN: 12-025

SUPERSEDES: TN- 12-025

**17. Birthing Center Facility Services.**

Medicaid providers of birthing center services are reimbursed based on fee schedules as follows:

- (a) Subject to the specifications, conditions, requirements, and limitations established by HHSC; payment for covered birthing center services provided by a participating, licensed birthing center is limited to the lesser of the customary charge or the allowable rates per established fee schedule by HHSC.
- (b) The fee schedule established by HHSC is based upon: (1) survey of costs to provide the services; (2) review of Medicaid fees paid by other states; (3) Medicaid fees for similar services; (4) Medicare fees; and/or (5) some combination or percentage thereof.
- (c) The birth attendant must be a physician, Certified Nurse-Midwife (CNM) or Licensed Midwife (LM). The physician, CNM or LM who was the birth attendant must be identified on the birthing center's claim. Prenatal, labor, delivery and postpartum services performed or provided by physicians, CNMs, or LMs are not considered birthing center facility services.
- (d) The birthing center must bill for the services that it provides. Unless approved by the State Agency or its designee, the birthing center may not bill for services provided by another type of provider. If the birthing center bills a single or itemized combined rate, charge, or amount for covered services for two or more providers, payment is the lesser of the single or itemized combined rate, charge, or the amount that would have been paid had each performing provider billed separately.
- (e) All fee schedules are available through the agency's website as outlined on Attachment 4.19-B, Page 1.
- (f) The agency's fee schedule was revised with new fees for providers of birthing center services effective for services on or after July 1, 2012. The fee schedule was posted on July 6, 2012.

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TN: 13-07

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Supersedes TN: 12-034

**SUPERSEDES: TN-12-034**