

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**

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August 26, 2010

Our Reference: SPA TX 10-021

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 10-021, dated June 4, 2010. This amendment updates the Clinical Diagnostic Laboratory (CDL) fee schedule in accordance with changes in the Medicare rate.

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 April 1, 2010. 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</b> FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES		1. TRANSMITTAL NUMBER:  <div style="text-align: center; font-weight: bold;">10-021</div>	2. STATE:  <div style="text-align: center; font-weight: bold;">TEXAS</div>
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE & MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)  4. PROPOSED EFFECTIVE DATE:  <div style="text-align: center;">April 1, 2010</div>	
5. TYPE OF PLAN MATERIAL (Circle One):  <div style="display: flex; justify-content: space-between;"> <span><input type="checkbox"/> COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)</span> <span><input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN</span> <span><input checked="" type="checkbox"/> AMENDMENT</span> </div>			
6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR §440.30, Other laboratory and X-ray services; 42 CFR Part 493, Laboratory Requirements; Section 1903(i)(7) of the Social Security Act; and Social Security Act 1833 (h)(1)(A)		7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2010 \$ (1,860,191) b. FFY 2011 \$ (3,425,803) c. FFY 2012 \$ (3,369,864)	
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 updates the reimbursement for clinical diagnostic laboratories (CDL) and updates the CDL fee schedule. The requested effective date for the proposed amendment is April 1, 2010.			
11. GOVERNOR'S REVIEW (Check One): <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT  <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED  <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL         </div> <div style="width: 50%;"> <input checked="" type="checkbox"/> OTHER, AS SPECIFIED:            Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt.         </div> </div>			
12. SIGNATURE OF STATE AGENCY OFFICIAL:  <div style="border-top: 1px solid black; height: 20px;"></div>		16. RETURN TO:  Billy R. Millwee State Medicaid Director Post Office Box 13247 MC: H-100 Austin, Texas 78711	
13. TYPED NAME: Billy R. Millwee			
14. TITLE:  State Medicaid Director			
15. DATE SUBMITTED:  June 4, 2010			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: <div style="font-size: 1.2em;">4 June, 2010</div>		18. DATE APPROVED: <div style="font-size: 1.2em;">26 August, 2010</div>	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL:  <div style="font-size: 1.2em;">1 April, 2010</div>		20. SIGNATURE OF REGIONAL OFFICIAL:  <div style="border-top: 1px solid black; height: 20px;"></div>	
21. TYPED NAME: <div style="font-size: 1.2em;">Bill Brooks</div>		22. TITLE: <div style="font-size: 1.2em;">Associate Regional Administrator Div of Medicaid &amp; Children's Health</div>	
23. REMARKS:  <div style="height: 100px;"></div>			

STATE	<u>Texas</u>	A
DATE REC'D	<u>6-4-10</u>	
DATE APP'D	<u>8-26-10</u>	
DATE EFF	<u>7-1-10</u>	
HCTA 179	<u>10-21</u>	

### 3. Clinical Diagnostic Laboratory Services

Medicaid providers of clinical diagnostic laboratory (CDL) services are reimbursed based on fee schedules as follows:

- (a) The Texas Department of State Health Services (DSHS) Laboratory provides Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) medical and newborn screening services through a federal freedom-of-choice exemption as well as any other laboratory services provided that are not covered by this exemption.
  - (1) Effective November 1, 2008, the DSHS laboratory is reimbursed for all laboratory services provided at 100% of the Medicare fees in effect as of January 1, 2008. HHSC will update these fees effective each year on April 1, based on 100% of the Medicare fees in effect as of January 1 of that same year.
  - (2) The agency's fee schedule was revised with new fees for the EPSDT medical and newborn screenings provided by the DSHS laboratory effective April 1, 2010, and is effective for services provided on or after that date. The fee schedule was posted on the agency's website on April 9, 2010.
- (b) Sole community hospitals are reimbursed the lesser of their billed charges or the fee determined by HHSC, which is 100% of the Medicare fee. Under Medicare the fee schedule amount paid to sole community hospitals is three and one third percent higher than the fee schedule amount paid to other types of providers of CDL service.
  - (1) Effective April 1, 2008, HHSC will update these fees effective each year on April 1, based on 99.2 % of the Medicare fees in effect as of January 1 of that same year. The Medicaid fee for any new procedure codes added during the year will be based on 99.2 % of the Medicare fees in effect as of January 1 of that same year.
  - (2) The agency's fee schedule was revised with new fees for sole community hospitals effective April 1, 2010, and is effective for services provided on or after that date. The fee schedule was posted on the agency's website on April 9, 2010.
- (c) The remaining providers of these services are reimbursed the lesser of their billed charges or the fee determined by HHSC, which is 100% of the Medicare fee.
  - (1) Effective April 1, 2008, HHSC will update these fees effective each year on April 1, based on 96% of the Medicare fees in effect as of January 1 of that same year. The Medicaid fee for any new procedure codes added during the year will be based on 96% of the Medicare fees in effect as of January 1 of that same year.
  - (2) The agency's fee schedule was revised with new fees for these remaining providers of clinical laboratory services effective April 1, 2010, and is effective for services provided on or after that date. The fee schedule was posted on the agency's website on April 9, 2010.
- (d) The reimbursement methodologies in 3 (a) – (c) ensure that Medicaid payments to these providers for these services meet the upper payment limit requirements in Section 1903(i)(7) of the Social Security Act, which requires that Medicaid payments for clinical laboratory services must not exceed the Medicare fee for the service.
- (e) All fee schedules are available through the agency's website as outlined on Attachment 4.19-B, Page 1.

TN No. 10-21

Approval Date 8-26-10

Effective Date 7-1-10

Supersedes TN No. 09-11

SUPERSEDES: TN- 09-11