

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 16, 2011

Our Reference: SPA TX 10-88

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 10-88, dated December 29, 2010. This state plan amendment implements a reimbursement reduction of one percent for clinical diagnostic laboratory services.

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 February 1, 2011. A copy of the CMS-179 and the approved plan pages are enclosed with this letter.

CMS is approving this state plan amendment; however, due to concerns regarding potential problems with access to care, CMS will continue to inquire about the results of the State's planned efforts to monitor access to care to help determine whether it has been negatively affected by this rate reduction or due to the State's rate reductions. If you have any questions, please contact Cheryl Rupley at (214) 767-6278.

Sincerely,

/s/

Bill Brooks
Associate Regional Administrator

Enclosures

cc: Emily Zalkovsky, Policy Development Support

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES		1. TRANSMITTAL NUMBER: 10-088	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: February 1, 2011	
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 440.30; Social Security Act Section 1903(l)(7), Social Security Act; and Social Security Act 1833 (h)(1)(A)		7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2011 \$(1,112,828) b. FFY 2012 \$(1,548,118) c. FFY 2023 \$(1,600,135)	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: SEE ATTACHMENT TO BLOCKS 8 & 9		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): SEE ATTACHMENT TO BLOCKS 8 & 9	
10. SUBJECT OF AMENDMENT: The amendment implements a one percent payment reduction for clinical laboratory services excluding services provided by the Texas Department of State Health Services.			
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: <i>[Signature]</i>		16. RETURN TO: Billy R. Millwee State Medicaid Director Post Office Box 85200 Austin, Texas 78711-5200	
13. TYPED NAME: Billy R. Millwee			
14. TITLE: State Medicaid Director			
15. DATE SUBMITTED: December 29, 2010			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: 29 December, 2010		18. DATE APPROVED: 16 March, 2011	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 1 February, 2011		20. SIGNATURE OF REGIONAL OFFICIAL: <i>[Signature]</i>	
21. TYPED NAME: Bill Brooks		22. TITLE: Associate Regional Administrator Division of Medicaid & Children's Health	
23. REMARKS:			

STATE <u>Texas</u>	A
DATE REC'D <u>12-29-10</u>	
DATE APPV'D <u>3-16-11</u>	
DATE EFF <u>2-1-11</u>	
HC:FA 179 <u>10-88</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 percent 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 percent of the Medicare fees in effect as of January 1 of that same year.
- (b) Sole community hospitals are reimbursed the lesser of their billed charges or the fee determined by HHSC, which is 100 percent 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 percent 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 percent of the Medicare fees in effect as of January 1 of that same year.
 - (2) The reimbursement for services effective September 1, 2010 through January 31, 2011 will be equal to the payment that would have been made on August 31, 2010, less one percent.
 - (3) The reimbursement for services effective February 1, 2011 will be equal to the payment that would have been made on August 31, 2010, less two percent.
- (c) The remaining providers of these services are reimbursed the lesser of their billed charges or the fee determined by HHSC, which is 100 percent of the Medicare fee.
 - (1) Effective April 1, 2008 HHSC will update these fees effective each year on April 1, based on 96 percent 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 percent of the Medicare fees in effect as of January 1 of that same year.
 - (2) The reimbursement for services effective September 1, 2010 through January 31, 2011 will be equal to the payment that would have been made on August 31, 2010, less one percent.
 - (3) The reimbursement for services effective February 1, 2011 will be equal to the payment that would have been made on August 31, 2010, less two percent.
- (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. The agency's fee schedule was revised with new fees effective February 1, 2011, and is effective for services provided on or after that date. The fee schedule will be posted on the agency's website on April 8, 2011

TN 10-88 Approval Date 3-16-11 Effective Date 2-1-11

Supersedes TN 10-45

SUPERSEDES: TN- 10-45