

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

April 29, 2011

Our Reference: SPA TX 11-02

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 11-02, dated February 3, 2011. This state plan amendment revises the reimbursement for hospice providers to 96.96% of the room and board rate for recipients residing in nursing facilities or intermediate care facilities for persons with mental retardation.

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 3, 2011. A copy of the CMS-179 and the approved plan pages are enclosed with this letter.

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		1. TRANSMITTAL NUMBER: 11-002	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 3, 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 U.S.C. §1396(a)(13)(B)		7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2011 \$0 b. FFY 2012 \$0 c. FFY 2013 \$0	
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 PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): SEE ATTACHMENT TO BLOCKS 8 & 9	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 proposed amendment will revise the reimbursement methodology for hospice care to indicate that the Department of Aging and Disability Services pays a Medicaid hospice room and board per diem amount that is 96.96 percent of the appropriate rate for each Medicaid hospice recipient residing in a nursing facility or intermediate care facility for persons with mental retardation.			
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 Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt. <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL:		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: February 2, 2011			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: 3 February, 2011		18. DATE APPROVED: 29 April 2011	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 3 February, 2011		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME: Bill Brooks		22. TITLE: Associate Regional Administrator Division of Medicaid & Children's Health	
23. REMARKS: * Pen and Ink Change made to add Appendix 1 to Attachment 3.1-B page 40 to the SPA pkg. per State E-mail dated 3/24/2011			

18. Hospice Care.

The Texas Department of Aging and Disability Services (DADS) administers the Texas Medicaid hospice program through provider enrollment contracts with hospice agencies. These agencies must be licensed by the DADS and be Medicare certified as hospice agencies by the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services. Coverage of services in the Texas Medicaid hospice program follows the amount, duration, and scope of services specified in the Medicare hospice program, with the following three exceptions.

1. The Texas Medicaid hospice program has unlimited benefit periods of unlimited duration.
2. The Texas Medicaid hospice program does not have a maximum number of days for which a recipient can receive hospice services under Medicaid.
3. The Texas Medicaid hospice program does not allow cost sharing to be imposed on Medicaid recipients for hospice services rendered to Medicaid recipients.

The recipient must file a Medicaid election statement with a specific Medicaid hospice provider. In doing so, the recipient waives rights to other Medicaid services that are related to the treatment of his or her terminal illness(es) with the exception of individuals less than 21 years of age. Individuals less than 21 years of age may receive concurrent hospice and acute care treatment. The recipient has the right to cancel the election at any time without forfeiting additional Medicaid hospice coverage at a later time. The recipient does not waive rights to Medicaid services for conditions not related to the terminal condition. Dually eligible (Medicare and Medicaid) recipients must participate in the Medicare and Medicaid hospice programs simultaneously in order to receive Medicaid hospice services.

SUPERSEDES: TN- 10-50

STATE <u>Texas</u>	A
DATE REC'D <u>2-3-11</u>	
DATE APPV'D <u>4-29-11</u>	
DATE EFF <u>2-3-11</u>	
HCFA 179 <u>11-02</u>	

TN 11-02

Approval Date 4-29-11

Effective Date 2-3-11

Supersedes TN 10-50

Hospice Care (continued)

The 42 U.S.C. §1396(a)(13)(B) requires Medicaid to pay a per diem amount that takes into account "the room and board furnished by the facility, equal to at least 95 percent of the rate that would have been paid by the State under the plan for facility services in that facility for that individual." To comply with this federal statute, effective February 1, 2011, the Texas Department of Aging and Disability Services (DADS) pays a Medicaid hospice room and board per diem amount that is 96.96 percent of the appropriate case mix class of service rate for each Medicaid recipient residing in a nursing facility and that is 96.96 percent of the appropriate level of need service rate for each Medicaid recipient residing in an intermediate care facility for persons with mental retardation.

DADS pays the Medicaid hospice room and board rate to Medicaid hospice providers who in turn pay nursing facilities and intermediate care facilities for persons with mental retardation at least that same amount for room and board services provided to Medicaid hospice recipients residing in that facility.

The nursing facility case mix class of service rates are determined in accordance with the Medicaid state plan reimbursement methodology for nursing facilities. The intermediate care facility for persons with mental retardation rates are determined in accordance with the Medicaid state plan reimbursement methodology for intermediate care facilities for persons with mental retardation.

SUPERSEDES; TN- 08-30

STATE <u>TEXAS</u>	A
DATE REC'D <u>2-3-11</u>	
DATE APPV'D <u>4-29-11</u>	
DATE EFF <u>2-3-11</u>	
HCFA 179 <u>11-02</u>	

TN 11-02

Approval Date 4-29-11

Effective Date 2-3-11

Supersedes TN 08-30