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State/Territory Name: Texas

State Plan Amendment (SPA) #: 12-31 NIRT

This file contains the following documents in the order listed:

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

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S3-14-28
Baltimore, Maryland 21244-1850



Center for Medicaid and CHIP Services (CMCS)

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

OCT 23 2012

RE: TN 12-31

Dear Ms. Ghahremani:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 12-31. The purpose of this amendment is to provide for supplemental Medicaid payments to non-state government owned nursing facilities.

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-A. Based upon your assurances, Medicaid State plan amendment 12-31 is approved effective October 1, 2012. We are enclosing the HCFA-179 and the new plan page.



If you have any questions, please call Tamara Sampson at (214) 767-6431.

Sincerely,

A black rectangular box redacting the signature of Cindy Mann.

Cindy Mann
Director, CMCS

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE AND MEDICAID		1. TRANSMITTAL NUMBER: 12-031	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: October 1, 2012	
		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 §440.40, §440.155 and 447.272 Sections 1905(a)(4)(A) and (B) of the Act		7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2013 \$ 9,853,123 b. FFY 2014 \$ 9,944,648 c. FFY 2015 \$ 9,951,305	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: <i>PAGE 9 pgs. 9a 9b 9c</i> SEE ATTACHMENT TO BLOCKS 8 & 9		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): <i>PAGE 9 (04-024)</i> <i>Pgs. 9a 9b 9c NEW PAGES</i> SEE ATTACHMENT TO BLOCKS 8 & 9	
10. SUBJECT OF AMENDMENT: The proposed amendment revises the reimbursement methodology for nursing facilities to add a methodology for supplemental payments for non-state government-owned nursing facilities.			
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 13247 MC:H-100 Austin, Texas 78711-5200	
13. TYPED NAME: Billy R. Millwee			
14. TITLE: State Medicaid Director			
15. DATE SUBMITTED: August 9, 2012			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: 10 August, 2012		18. DATE APPROVED: OCT 23 2012	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: OCT -1 2012		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: <i>Penny Thompson</i>		22. TITLE: <i>Deputy Director, CMCS</i>	
23. REMARKS: <i>see blocks 8 & 9 for plan page revisions</i>			

Attachment to Blocks 8 & 9 to CMS Form 179

Transmittal Number 12-031

**Number of the
Plan Section or Attachment**

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

Attachment 4.19-D, NF

Page 9

Page 9a

Page 9b

Page 9c

Attachment 4.19-D, NF

N/A – New Page

N/A – New Page

N/A – New Page

N/A – New Page

IX. Supplemental payments to qualifying non-state government owned nursing facilities.

- (a) The supplemental payments described in this section will be made in accordance with the applicable regulations regarding Medicaid upper payment limit provisions codified at Title 42 Code of Federal Regulations (CFR) § 447.272.
- (b) Definitions. When used in this section, the following definitions apply.
- (1) Adjudicated claim – A claim for a covered Medicaid nursing facility service that has been paid by the Texas Health and Human Services Commission (HHSC).
 - (2) Aggregate upper payment limit calculation period – The federal fiscal year prior to the Medicaid supplemental payment limit calculation period. For example, federal fiscal year 2011 is the aggregate upper payment limit calculation period for the federal fiscal year 2012 first through fourth quarter Medicaid supplemental payment limit calculation periods.
 - (3) HHSC – The Texas Health and Human Services Commission or its designee.
 - (4) Medicaid supplemental payment limit calculation period – The federal fiscal quarter determined by HHSC for which supplemental payment amounts are calculated based on adjudicated claims processed in the prior federal fiscal year. The earliest possible Medicaid supplemental payment limit calculation period under this section is the first quarter of federal fiscal year 2013.
 - (5) Non-state government-owned nursing facility – A nursing facility that has both its license and Medicaid contract owned by a non-state governmental entity.
- (c) Medicaid supplemental payment limits.
- (1) The aggregate supplemental payment amount for non-state government-owned nursing facilities shall be calculated as follows:

A	
STATE <u>TX</u>	DATE REC'D <u>8-10-2012</u>
DATE APP'VD <u>OCT 23 2012</u>	DATE EFF <u>10-1-2012</u>
FA 179	<u>12-031</u>

TN: TX 12-031

Approval Date: OCT 23 2012

Effective Date: 10-1-2012

Supersedes TN: 04-24

IX. Supplemental payments to qualifying non-state government owned nursing facilities (continued).

A	
STATE <u>TX</u>	DATE REC'D <u>8-10-2012</u>
DATE APP'D <u>OCT 23 2012</u>	DATE EFF <u>10-1-2012</u>
179	12031

- (A) The aggregate upper payment limit for non-state government-owned nursing facilities will be calculated based on Medicare payment principles and in accordance with the Medicaid upper payment limit provisions codified at Title 42 Code of Federal Regulations (CFR) §447.272. A total Medicare-equivalent payment is determined for each non-state government-owned nursing facility as the sum of the products of Medicaid days of service by resource utilization group (RUG) for Medicaid claims adjudicated for the facility during the aggregate upper payment limit calculation period multiplied by the Medicare payment rate for that RUG in effect on the last day of the aggregate upper payment limit calculation period. The aggregate upper payment limit is equal to the sum of the Medicare-equivalent payments for all non-state government-owned nursing facilities.
- (B) The aggregate Medicaid payment for non-state government-owned nursing facilities prior to supplemental payment will be the sum of the following components calculated for all non-state government-owned nursing facilities from data derived from the aggregate upper payment limit calculation period:
- (i) The sum of Medicaid RUG payments for all non-state government-owned nursing facility claims adjudicated during the aggregate upper payment limit calculation period; and
 - (ii) Medicaid payments for pharmacy services, specialized services, and emergency dental services for non-state government-owned nursing facilities not included in the Medicaid nursing facility rate in effect during the aggregate upper payment limit calculation period.

TN: TX 12031

Approval Date: OCT 23 2012

Effective Date: 10-1-2012

Supersedes TN: NONE

IX. Supplemental payments to qualifying non-state government owned nursing facilities (continued).

A	
STATE <u>TX</u>	
DATE REC'D <u>8-10-2012</u>	
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- (I) Medicaid payments for pharmacy services are based on Texas specific pharmacy payment and rebate data for Texas Medicaid nursing facility residents during the aggregate upper payment limit calculation period. The portion of the estimated nursing facility pharmacy payments related to the non-state government-owned nursing facilities is based on the ratio of the total Medicaid days for non-state government-owned nursing facilities to total Medicaid days for all nursing facilities during the aggregate upper payment limit calculation period.
- (II) Medicaid payments for emergency dental and specialized services are based on Texas specific emergency dental and specialized services payment data for Texas Medicaid nursing facility residents during the aggregate upper payment limit calculation period. The portion of the estimated nursing facility emergency dental and specialized services payments related to the non-state government-owned nursing facilities is based on the ratio of the total Medicaid days for non-state government-owned nursing facilities to total Medicaid days for all nursing facilities during the aggregate upper payment limit calculation period.
- (C) The aggregate supplemental payment amount will be determined by calculating the difference between the aggregate upper payment limit from subparagraph (A) of this paragraph and the aggregate Medicaid payment from subparagraph (B) of this paragraph.

TN: TX 12-031

Approval Date: OCT 23 2012

Effective Date: 10-1-2012

Supersedes TN: NONE

IX. Supplemental payments to qualifying non-state government owned nursing facilities (continued).

- (2) The Medicaid supplemental payment limit for each participating non-state government-owned nursing facility for each Medicaid supplemental payment limit calculation period will be determined by dividing that facility's Medicaid days of service during the Medicaid supplemental payment limit calculation period by the total Medicaid days of service during the Medicaid supplemental payment limit calculation period for all non-state government-owned nursing facilities, multiplying the resulting percentage by the aggregate supplemental payment amount from paragraph (1) of this subsection, and dividing the resulting product by four.
- (d) Payment frequency. HHSC will distribute Medicaid supplemental payments to participating non-state government-owned nursing facilities on a quarterly basis subsequent to the Medicaid supplemental payment limit calculation period.
- (e) Required application. Before a non-state government-owned nursing facility may receive supplemental payments under this section, the non-state governmental entity that is party to the nursing facility's Medicaid contract must submit a properly completed "Medicaid Supplemental Payment Program Certification of Nursing Facility Participation." The non-state governmental entity will use this form to certify that it is a party to the nursing facility's Medicaid contract.

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TN: TX 12-031 Approval Date: OCT 23 2012 Effective Date: 10-1-2012
Supersedes TN: N062