

## **Table of Contents**

**State/Territory Name: Texas**

**State Plan Amendment (SPA) #: 13-43**

This file contains the following documents in the order listed:

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

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S2-26-12  
Baltimore, Maryland 21244-1850



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FEB - 5 2014

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

RE: TN 13-43

Dear Ms. Ghahremani:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 13-43. The purpose of this amendment is to include provider qualifications and revise the calculations to a quarterly basis 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-D. Based upon your assurances, Medicaid State plan amendment 13-43 is approved effective October 4, 2013. We are enclosing the HCFA-179 and the new plan pages.



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

Sincerely,

A large black rectangular box redacting the signature of Cindy Mann.

Cindy Mann  
Director

Enclosures

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES</b>		1. TRANSMITTAL NUMBER:  <b>13-043</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>October 4, 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>42 CFR §440.40, §440.155, and 447.272 Sections of 1905(a)(4)(A) and (B) of the Act</b>		7. FEDERAL BUDGET IMPACT: <b>SEE ATTACHMENT</b> a. FFY 2013      \$0 b. FFY 2014      \$0 c. FFY 2015      \$0	
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 revises the methodology for supplemental payments for non-state government-owned nursing facilities.</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: 		16. RETURN TO:  <b>Kay Ghahremani State Medicaid Director Post Office Box 13247, MC: H-100 Austin, Texas 78711</b>	
13. TYPED NAME: <b>Kay Ghahremani</b>			
14. TITLE: <b>State Medicaid Director</b>			
15. DATE SUBMITTED: <b>November 14, 2013</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: <b>November 14, 2013</b>		18. DATE APPROVED: <b>FEB 05 2014</b>	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: <b>OCT 04 2013</b>		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: <b>Penny Thompson</b>		22. TITLE: <b>Deputy Director, Policy &amp; Financial Mgt. CHES</b>	
23. REMARKS:			

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

**Transmittal Number 13-043**

**Number of the Plan  
Section or Attachment**

Attachment 4.19-D, NF

Page 9  
Page 9a  
Page 9b  
Page 9c  
Page 9d

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

Attachment 4.19-D, NF

Page 9 (TN 12-031)  
Page 9a (TN 12-031)  
Page 9b (TN 12-031)  
Page 9c (TN 12-031)  
N/A – new page

STATE	Texas
DATE REC'D	11-14-2013
DATE APPV'D	FEB 05 2014
DATE EFF	10-4-2013
CMS 179	13-043

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**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) HHSC – The Texas Health and Human Services Commission or its designee.
  - (3) Intergovernmental transfer (IGT) – A transfer of public funds from a non-state governmental entity to HHSC.
  - (4) Medicaid supplemental payment limit – The maximum supplemental payment available to a participating non-state government-owned nursing facility for a specific quarterly calculation period.
  - (5) Medicaid supplemental payment limit calculation period – The federal fiscal quarter determined by HHSC for which supplemental payment amounts are calculated based on adjudicated claims for days of service provided in the same quarter 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.
  - (6) Non-state governmental entity – A hospital authority, hospital district, healthcare district, city, or county.
  - (7) Non-state government-owned nursing facility – A nursing facility where a non-state governmental entity holds the license and is party to the facility's Medicaid contract.

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TN: 13-043

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Supersedes TN: 12031

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

- (8) Public funds – Funds derived from taxes, assessments, levies, investments, and other public revenues within the sole and unrestricted control of the non-state governmental entity that holds the license and is party to the Medicaid contract of the nursing facility. Public funds do not include gifts, grants, trusts, or donations, the use of which is conditioned on supplying a benefit solely to the donor or grantor of the funds.
- (9) Upper payment limit – A reasonable estimate of the amount that would be paid for the services furnished by a non-state government-owned nursing facility under Medicare payment principles.
- (10) Upper payment limit calculation period – The federal fiscal quarter prior to the Medicaid supplemental payment limit calculation period. For example, October 1 – December 31, 2011, is the upper payment limit calculation period for the October 1 – December 31, 2012, Medicaid supplemental payment limit calculation period.

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NOFA 179 <u>13-043</u>	

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

- (c) Medicaid supplemental payment limits. A quarterly supplemental payment amount for each non-state government-owned nursing facility is calculated by taking the difference between the upper payment limit from paragraph (1) of this subsection and the Medicaid payment from paragraph (2) of this subsection.

- (1) The upper payment limit for each non-state government-owned nursing facility 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 adjudicated Medicaid days of service provided by the facility during the upper payment limit calculation period multiplied by the Medicare payment rate for that RUG that will be in effect during the associated Medicaid supplemental payment limit calculation period. If the Center for Medicare and Medicaid Services has not adopted Medicare RUG rates for the Medicaid supplemental payment limit calculation period at the time the calculation is performed, the Medicaid days of service by RUG will be multiplied by the Medicare payment rate for that RUG in effect on the last day of the upper payment limit calculation period.

- (2) The Medicaid payment for each non-state government-owned nursing facility prior to supplemental payment will be the sum of the following components calculated for that nursing facility from data derived from the upper payment limit calculation period:

- (A) The sum of Medicaid RUG payments for adjudicated Medicaid days of service provided by the facility during the upper payment limit calculation period adjusted to reflect any changes in Medicaid RUG rates between the upper payment limit calculation period and the Medicaid supplemental payment limit calculation period; and
- (B) Medicaid payments for pharmacy services, specialized services, customized equipment and emergency dental services not included in the Medicaid nursing facility rate in effect during the upper payment limit calculation period.

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

- (i) Medicaid payments for pharmacy services are based on Texas specific pharmacy payment and rebate data for Texas Medicaid nursing facility residents during the upper payment limit calculation period.
  - (ii) Medicaid payments for emergency dental, customized equipment, and specialized services are based on Texas specific emergency dental, customized equipment, and specialized services payment data for Texas Medicaid nursing facility residents during the upper payment limit calculation period.
- (3) Changes of ownership.
- (A) For a nursing facility that changed ownership prior to the first day of the Medicaid supplemental payment limit calculation period but after the first day of the upper payment limit calculation period, the data used for the calculations described in paragraphs (1) and (2) of this subsection will include data from the facility for the entire upper payment limit calculation period including data relating to payments for days of service provided under the prior owner. The inclusion of data relating to payments for days of service provided under the prior owner will ensure that the calculation of the supplemental payment amount for the Medicaid supplemental payment limit calculation period reflects a full quarter of services.
  - (B) For a nursing facility that changes ownership on or after the first day of the Medicaid supplemental payment limit calculation period, the data used for the calculations described in paragraphs (1) and (2) of this subsection will include data from the facility for the entire upper payment limit calculation period relating to payments for days of service provided under the prior owner, pro-rated to reflect only the number of calendar days during the Medicaid supplemental payment limit calculation period that the facility is owned by the new owner.

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TN: 13-043

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Supersedes TN: 12-031



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

- (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 appropriate governmental entity must certify certain facts, representations and assurances regarding program requirements.

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