



May 1, 2023

Ms. Diona Kristian
Centers for Medicare and Medicaid Services
Center for Medicaid, and CHIP Services
Division of State Demonstrations and Waivers
7500 Security Boulevard
Mail Stop S2-25-26
Baltimore, MD 21244-1850

Dear Ms. Kristian:

The Texas Health and Human Services Commission (HHSC) is requesting to amend the Texas Healthcare Transformation Quality Improvement Program (THTQIP-11-W-00278-6), a Medicaid waiver program operating under the authority of Section 1115 of the Social Security Act.

HHSC is proposing the following change in this amendment:

HHSC proposes amending STC 41(d) to make clear what years and data sources will be used for the reassessment to ensure that the public health emergency does not impact the data utilized. Through this amendment, HHSC clarifies in STC 41(d) that Medicaid payment data from 2025 as determined by the claim and encounter data maintained by Texas will be used to avoid any impacts from the data caused by the public health emergency.

Additionally, HHSC proposes to add a technical correction as a footnote to Table 4a., State Plan Services to clarify for STAR, Personal Care Services and Community First Choice are delivered through a fee-for-service delivery model.

Ms. Diona Kristian

May 1, 2023

Page 2

HHSC requests CMS approve the requested changes in this amendment package by December 31, 2023. Kathi Montalbano, Director of Federal Coordination, Rules and Committees, is the lead staff on this matter and can be contacted by telephone at (512) 438-4299.

Sincerely,

Stephanie Stephens
State Medicaid Director

General Program Requirements

Texas Healthcare Transformation and Quality Improvement Program

Number: 11-W-00278/6

Demonstration Period: January 15, 2021 through September 30, 2030

Amendment Request: 2nd Reassessment of Uncompensated Care Pool Program

Submitted: May 1, 2023

Overview

The Texas Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to amend the Texas Healthcare Transformation and Quality Improvement Program (THTQIP) demonstration under section 1115 of the Social Security Act in compliance with STC 7 and STC 12. The current demonstration is approved through September 2030. The proposed effective date for this amendment is December 31, 2023.

The THTQIP Waiver that was approved on January 15, 2021 includes Special Term and Condition (STC) 41(d), which requires HHSC to reassess the Uncompensated Care (UC) Pool a second time. The approach to reassessment uses a methodology that relies on audited data from the disproportionate share hospital audits to reflect the Medicaid payments, which are offset against cost data from a Medicare cost report. When negotiating the waiver, CMS agreed to use different data sets than the typical methodology would require for the first reassessment of UC due to the potential impact of COVID-19 on the data that would normally have been used.

III. General Program Requirements

- 7) Amendment Process. Requests to amend the demonstration must be submitted to CMS for approval no later than 120 days prior to the planned date of implementation of the change and may not be implemented until approved. CMS reserves the right to deny or delay approval of a demonstration amendment based on non-compliance with the STCs, including but not limited to failure by the state to submit required elements of a complete amendment request as described in this STCs, reports or other deliverables required in the approved STCs in a timely fashion according to the deadlines specified herein. Amendment requests must include, but are not limited to, the following:**
 - a) An explanation of the public process used by the state, consistent with the requirements of STC 12. Such explanation must include a summary of any public**

feedback received and identification of how this feedback was addressed by the state in the final amendment request submitted to CMS.

Pursuant to STC 12 Public Notice, Tribal Consultation, and Consultation with Interested Parties, the public notice for public comment about the changes requested in Amendment 23 was published in the Texas Register on March 10, 2023 (see attachment named TX Reg Public Notice). The public comment period ended on April 10, 2023. The Texas Register is published weekly and is the journal of state agency rulemaking for Texas. In addition to activities related to rules, the Texas Register publishes various public notices including attorney general opinions, gubernatorial appointments, state agency requests for proposals and other documents, and it is used regularly by stakeholders. HHSC publishes all Medicaid waiver submissions in the Texas Register in addition to many other notices. The publication is available online and in hard copy at the Texas State Library and Archives Commission, the State Law Library, the Legislative Reference Library located in the State Capitol building, and the University of North Texas libraries. All of these sites are located in Austin, except for the University of North Texas, which is located in Denton. Printed copies of the Texas Register are also available through paid subscription; subscribers include cities, counties and public libraries throughout the state. In accordance with the requirements included in STC 12, letters were sent on March 8, 2023, to Tribal Governments requesting comments, questions, or feedback on the amendment by April 7, 2023 (see attached copy of one Tribal letter and e mails sent to each Tribe). No comments, questions, or feedback on the project were received from Tribal Governments during the initial Tribal Consultation period.

During the public comment period, HHSC received one comment from the Texas Hospital Association (THA). THA supports the amendment and agrees that using claims and payment data from the public health emergency could have unintended consequences of overstating expected Medicaid payments while understating expected costs of UC eligible for reimbursement. This shortfall would continue through the end of the THTQIP waiver in 2030. THA hopes to avoid this outcome, by changing the data year used in resizing, to 2025.

b) A detailed description of the amendment, including impact on beneficiaries, with sufficient supporting documentation.

The THTQIP Waiver that was approved on January 15, 2021 includes Special Term and Condition (STC) 41(d), which requires HHSC to reassess the Uncompensated Care (UC) Pool a second time. The approach to reassessment uses a methodology that relies on audited data from the disproportionate share hospital audits to reflect the Medicaid payments, which are offset against cost data from a Medicare cost report. When negotiating the waiver, CMS agreed to use different data sets than the typical methodology would require for the first reassessment of UC due to the potential impact of COVID-19 on the data that would normally have been used.

Waiver and Expenditure Authorities

There are no additional waivers being requested as part of this amendment.

Enrollment, Cost Sharing and Service Delivery

There are no anticipated changes to enrollment, cost sharing or service delivery as part of this amendment.

A data analysis which identifies the specific “with waiver” impact of the proposed amendment on the current budget neutrality agreement. Such analysis must include current total computable “with waiver” and “without waiver” status on both a summary and detailed level through the current approval period using the most recent actual expenditures, as well as summary and detailed projections of the change in the “with waiver” expenditure total as a result of the proposed amendment, which isolates (by Eligibility Group) the impact of the amendment.

There is no impact to the current approved budget neutrality model. UC amounts are included as part of overall budget neutrality room estimates and subsequent UC reassessment is not to be determined until amounts are determined. Please see attached BN workbook.

- c) **An up-to-date CHIP allotment worksheet, if necessary.**

N/A

- d) **The state must provide updates to existing demonstration reporting and quality and evaluation plans. This includes a description of how the Evaluation Design and annual progress reports will be modified to incorporate the amendment provisions, as well as the oversight, monitoring and measurement of the provisions.**

The THTQIP evaluation design CMS approved on May 26, 2022, focusing on DYs 10-19, includes nine evaluation questions and 23 hypotheses spanning three evaluation components. This amendment may impact ‘With Waiver’ Medicaid health care expenditures (Measure 6.1.1) under Hypothesis 6.1, but is not expected to impact any other evaluation measures. The amendment does not impact the timing or type of services available to beneficiaries, only the mechanism through which those services are delivered immediately following approval of Medicaid benefits. As a result, the overall evaluation findings are unlikely to be meaningfully impacted by the amendment. Therefore, HHSC is not proposing adding evaluation questions or hypotheses specific to this amendment, and HHSC is not proposing changes to the evaluation reports, annual progress reports, or oversight, monitoring, and measurement of the provisions outlined in the STCs. However, the state will direct the external evaluator to interpret and present pertinent findings within the context of this amendment as necessary.

Appendix

The following is the list of additional documents included in this amendment package:

- Texas Register Acknowledgement of Receipt
- Cover Letter to CMS
- Public Notice of Intent (PNI)
- Tribal Letter and each email sent to the tribes
- Budget Neutrality Workbook
- STCs

TEXAS HEALTH AND HUMAN SERVICES COMMISSION

Public Notice – Amendment of the Texas Healthcare Transformation and Quality Improvement Program (THTQIP) Waiver

The Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to amend the Texas Healthcare Transformation and Quality Improvement Program (THTQIP) waiver under section 1115 of the Social Security Act. The current waiver is approved through September 2030. The proposed effective date for this amendment is December 31, 2023.

The THTQIP Waiver that was approved on January 15, 2021 includes Special Term and Condition (STC) 41(d), which requires HHSC to reassess the Uncompensated Care (UC) Pool a second time. The approach to reassessment uses a methodology that relies on audited data from the disproportionate share hospital audits to reflect the Medicaid payments, which are offset against cost data from a Medicare cost report. When negotiating the waiver, CMS agreed to use different data sets than the typical methodology would require for the first reassessment of UC due to the potential impact of COVID-19 on the data that would normally have been used.

Proposed Changes

HHSC proposes amending STC 41(d) to make clear what years and data sources will be used for the reassessment to ensure that the public health emergency does not impact the data utilized. HHSC proposes adding the language italicized below to STC 41(d).

HHSC and CMS will collaborate on the reassessment, which will be based on information reported by hospitals for periods beginning in federal fiscal year 2025 on schedule S-10 of the CMS 2552-10 hospital cost report, with adjustment to ensure that demonstration pool payments do not enter the calculation, *and Medicaid payment data from 2025 as determined by the claim and encounter data maintained by Texas*, following a methodology approved by CMS. For non-S-10 hospitals, costs will be based on the CMS-approved cost reports described in Attachment H for the most recent available year. The results of the reassessment will be used to revise the UC Pool limits for demonstration years (DY) 17-19. *CMS and Texas are using 2025 Medicaid claim and encounter data to avoid any impact to data caused by the public health emergency that was in effect in 2020 and after.*

Requested Waivers

There are no additional waivers being requested as part of this amendment.

Financial Analysis

There is no impact to the current approved budget neutrality model. UC amounts are included as part of overall budget neutrality room estimates and subsequent UC reassessment is not to be determined until amounts are determined.

Evaluation Design

The THTQIP evaluation design CMS approved on May 26, 2022, focusing on DYs 10-19, includes nine evaluation questions and 23 hypotheses spanning three evaluation components. The CMS-approved evaluation design already addresses potential impacts of reassessment of the UC funding pool. This amendment clarifies the data and time periods which may be used in the UC funding pool reassessment but does not change the impact of the reassessment on the evaluation design. Therefore, the amendment does not require additional considerations beyond what is already included in the evaluation design. As a result, HHSC is not proposing any changes to the evaluation design as a result of this amendment.

Enrollment, Cost Sharing and Service Delivery

There are no anticipated changes to enrollment, cost sharing or service delivery as part of this amendment.

An individual may obtain a free copy of the proposed waiver amendment, ask questions, obtain additional information, or submit comments regarding this amendment by, April 10, 2023, by contacting Jayasree Sankaran by U.S. mail, telephone, fax, or email. The addresses are as follows:

U.S. Mail

Texas Health and Human Services Commission

Attention: Jayasree Sankaran, Waiver Coordinator,
Federal Coordination, Rules and Committees
701 W. 51st Street
Mail Code: H310
Austin, Texas 78751

Email

TX_Medicaid_Waivers@hhsc.state.tx.us.

Telephone

(512) 438-4331

Fax

512-323-1905



March 8, 2023

Ms. Linda Austin
Chief Operations Officer
Ysleta Del Sur Pueblo
119 S. Old Pueblo Road
El Paso, Texas 79907

Dear Ms. Austin:

The purpose of this letter is to notify members of the Ysleta Del Sur Pueblo that the Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to amend the Texas Healthcare Transformation and Quality Improvement Program (THTQIP) waiver under section 1115 of the Social Security Act. The current waiver is approved through September 2030. The proposed effective date for this amendment is December 31, 2023.

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Enrollment, Cost Sharing and Service Delivery

There are no anticipated changes to enrollment, cost sharing or service delivery as part of this amendment.

Feedback from Tribal Governments

CMS requires the State to seek advice from the tribal governments regarding any changes to the State's waivers that are likely to have a direct effect on Indians, Indian health programs, or Urban Indian Organizations. To allow sufficient time for consideration of the tribal government's comments or questions, HHSC requests your feedback by April 7, 2023.

Ms. Austin
March 8, 2023
Page 3

To obtain a free copy of the proposed waiver amendment, provide comments, ask questions, or request additional information regarding this amendment, please contact Shaneqwea James by April 7, 2023 by phone at (512) 438-2264, by mail at John H. Winters Building, 701 W. 51st Street, East Tower, Fourth Floor, Austin, TX 78751, or by e-mail at [TX Medicaid Waivers@hhs.texas.gov](mailto:TX_Medicaid_Waivers@hhs.texas.gov)

Sincerely,

A black rectangular redaction box covering the signature of Kathi Montalbano.

Kathi Montalbano
Director of Federal Coordination, Rules, and Committees
Medicaid/CHIP Division, HHSC

