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State/Territory Name: Texas

State Plan Amendment (SPA) #: 21-0011

This file contains the following documents in the order listed:

- 1) Approval Letter
- 2) CMS 179 Form/Summary Form (with 179-like data)
- 3) Approved SPA Pages

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services
601 E. 12th St., Room 355
Kansas City, Missouri 64106



Medicaid and CHIP Operations Group

November 1, 2021

Stephanie Stephens
State Medicaid Director
Texas Health and Human Services Commission
Mail Code: H100
Post Office Box 13247
Austin, TX 78711

Re: TX SPA 21-0011


Dear Ms. Stephens:

We have reviewed the proposed Texas State Plan Amendment (SPA) TX 21-0011, which was submitted to the Centers for Medicare and Medicaid Services (CMS) on September 3, 2021. This state plan amendment (SPA) expands the community-based provider agency options for Medicaid recipients who have been found through the Preadmission Screening and Resident Review (PASRR) process to need specialized add-on services. The community-based provider agency can be a local intellectual and developmental disability authority or must be licensed or certified by HHSC to provide program services for a specified waiver program. Additionally, amendments were made to behavioral support and day habilitation services descriptions to be consistent with state administrative rule language and to update language about setting locations.

Based upon the information provided by the State, we have approved the amendment with an effective date of September 1, 2021. We are enclosing the approved CMS-179 and a copy of the new state plan pages.


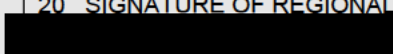
If you have any additional or need further assistance, please contact Ford Blunt of my staff at (214) 767-6381 or by email at Ford.Blunt@cms.hhs.gov.

Sincerely,

 Digitally signed by James G. Scott -S
Date: 2021.11.01 10:20:11 05'00'

James G. Scott
Division of Program Operations

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES		1. TRANSMITTAL NUMBER: 21-0011	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: September 01, 2021	
5. TYPE OF PLAN MATERIAL (<i>Circle One</i>): <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 (<i>Separate Transmittal for each amendment</i>)			
6. FEDERAL STATUTE/REGULATION CITATION: 42 U.S.C. §1396d(a)(4)(A); 42 U.S.C. §1396r; 42 C.F.R. §483.120; 42 C.F.R. §440.40(a); 42 C.F.R. §440.155; and 42 C.F.R. §447.201(b).		7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2021 \$2,261,622 b. FFY 2022 \$4,186,806 c. FFY 2023 \$4,043,717	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Appendix 1 to Attachment 3.1-A Page 5e, Page 5g, Page 5h Appendix 1 to Attachment 3.1 -B Page 5e, Page 5g, Page 5h		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): See attachment: Block 8 & 9	
10. SUBJECT OF AMENDMENT: The purpose of this amendment is to expand the community-based provider agency options for Medicaid recipients who have been found through the Preadmission Screening and Resident Review (PASRR) process to need specialized add on services. The community-based provider agency can be a local intellectual and developmental disability authority or must be licensed or certified by HHSC to provide program services for a specified waiver program. Additionally, amendments were made to behavioral support and day habilitation services descriptions to be consistent with state administrative rule language and to update language about setting locations.			
11. GOVERNOR'S REVIEW (<i>Check One</i>): <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: Stephanie Stephens State Medicaid Director Post Office Box 13247, MC: H-100 Austin, Texas 78711	
13. TYPED NAME: 			
14. TITLE: State Medicaid Director			
15. DATE SUBMITTED: 09/03/2021			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: September 3, 2021		18. DATE APPROVED: November 1, 2021	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: September 1, 2021		20. SIGNATURE OF REGIONAL OFFICIAL:  Digitally signed by James G. Scott -S Date: 2021.11.01 10:20:46 -05'00'	
21. TYPED NAME: James G. Scott		22. TITLE: Director, Division of Program Operations	
23. REMARKS:			

Attachment to Blocks 8 & 9 of CMS Form 179

Transmittal Number 21-0011

<u>Number of the Plan Section or Attachment</u>	<u>Number of the Superseded Plan Section or Attachment</u>
Appendix 1 to Attachment 3.1-A Page 5e Page 5g Page 5h	Appendix 1 to Attachment 3.1-A Page 5e (TN 17-0020) Page 5g (TN 17-0020) Page 5h (TN 17-0020)
Appendix 1 to Attachment 3.1-B Page 5e Page 5g Page 5h	Appendix 1 to Attachment 3.1-B Page 5e (TN 17-0020) Page 5g (TN 17-0020) Page 5h (TN 17-0020)

4.a Nursing Facility Services for Individuals 21 years or Age or Older (continued)

Specialized Add-on Services for Certain NF Residents

Covered specialized add-on services include habilitative services. Habilitative services are medically necessary services intended to assist the individual in partially or fully attaining, maintaining, or improving developmental-age appropriate skills that were not fully acquired as a result of a congenital, genetic, or early acquired health condition. Specialized add-on services are habilitative services available to individuals residing in a Medicaid-certified nursing facility ("resident"). Preauthorization is required.

Preauthorization is granted when the individual's need for specialized add-on services is identified, recommended by the individual's interdisciplinary team, and included in the resident's habilitative service plan, which is coordinated with the resident's comprehensive care plan and determined to be medically necessary. Specialized add-on services are provided by community-based providers, not the nursing facility. Each allowable specialized add-on service includes transportation between the nursing facility and the service site. HHSC may reimburse a provider agency for delivering specialized add-on services described below, as set out in Attachment 4.19-D, Page 16.

Services will not be paid as specialized add-on services if the services are included in the nursing facility's per diem rate and include expanded interactions, skills training activities, and programs of greater intensity or frequency than provided under the nursing facility's per diem rate.

Allowable specialized add-on services are behavioral support, employment assistance, supported employment, day habilitation, and independent living skills training.

I. Behavioral Support, Employment Assistance, Supported Employment, Day Habilitation, and Independent Living Skills Training

(a) Definitions

(1) Behavioral support - Assistance provided to a resident to increase adaptive behaviors and to replace or modify maladaptive behaviors that prevent or interfere with the resident's interpersonal relationships across all services and social settings delivered by a community-based provider of behavioral support.

Behavioral support consists of:

(A) assessing the behavior(s) to be targeted necessary to design an appropriate behavioral support plan and analyzing those assessment findings;

(B) developing an individualized behavioral support plan that reduces or eliminates the target behaviors, thereby assisting the resident in achieving the outcomes identified in the resident's habilitative service plan;

4.a Nursing Facility Services for Individuals 21 years of age or Older Specialized Add-On Services (continued)

I. Behavioral Support, Employment Assistance, Supported Employment, Day Habilitation, and Independent Living Skills Training (continued)

(a) Definitions (continued)

- (4) Day habilitation -Assistance provided to a resident to acquire, retain, or improve self-help, socialization, and adaptive skills necessary to live successfully and actively participate in all service and social settings. Day habilitation will be delivered by a community-based provider of day habilitation in a setting other than a nursing facility. Service provider qualifications are listed on Appendix 1 to Attachment 3.1-A on page 5j. Day habilitation does not include services provided under the Day Activity and Health Services (DAHS) program. Day habilitation consists of expanded interactions, skills training activities, and programs of greater intensity or frequency beyond those 42 CFR §483.24 requires a nursing facility to provide. Day habilitation services include:
- (A) individualized activities consistent with achieving the outcomes identified in a resident's habilitative service plan to attain, learn, maintain, or improve skills;
 - (B) activities necessary to reinforce therapeutic outcomes targeted by other support providers and other specialized services;
 - (C) services in a group setting at a location other than a resident's nursing facility for up to five days per week, six hours per day, on a regularly scheduled basis;
 - (D) personal assistance for a resident who cannot manage personal care needs during the day habilitation activity; and
 - (E) transportation between the nursing facility and the day habilitation site, as well as during the day habilitation activity necessary for a resident's participation in day habilitation activities.
- (5) Independent living skills training - Assistance provided to a resident with a disability, that is consistent with the resident's habilitative service plan and provided in the resident's nursing facility or at community locations by a community-based provider of independent living skills training listed on Appendix 1 to Attachment 3.1-A on page 5h. Service provider qualifications are listed on Appendix 1 to Attachment 3.1-A page 5j. Independent living skills training consists of expanded interactions, skills training activities, and programs of greater intensity or frequency beyond those 42 CFR §483.24 requires a nursing facility to provide. Independent living skills training includes:

4.a. Nursing Facility Services for Individuals 21 years of age or Older Specialized Add-On Services (continued)

I. Behavioral Support, Employment Assistance, Supported Employment, Day Habilitation, and Independent Living Skills Training (continued)

(b) Provider Agency Qualifications- A provider agency of a specialized add-on service is a community-based provider agency with experience in delivering services to individuals with intellectual disabilities or developmental disabilities. The community-based provider agency must be a local intellectual and developmental disability authority or licensed or certified by HHSC to provide specified waiver program services for at least one of the following programs:

- (1) Home and Community-based Service (HCS) waiver;
- (2) Texas Home Living (TxHmL) waiver;
- (3) Community Living Assistance and Support Services (CLASS) waiver; or
- (4) Deaf Blind and Multiple Disabilities (DMBD) waiver.

(c) Provider Qualifications for Individual Services

(1) Behavior support- An employee or contractor of a fee-for-service provider agency who provides behavioral support must:

- (A) Be licensed as a psychologist in accordance with State law;
- (B) Be licensed as a psychological associate in accordance with State law;
- (C) Have been issued a provisional license to practice psychology in accordance with State law;
- (D) Be licensed as a clinical social worker in accordance with State law;
- (E) Be licensed as a professional counselor in accordance with State law; or
- (F) Be licensed as a behavior analyst in accordance with State law.

4.a Nursing Facility Services for Individuals 21 years or Age or Older (continued)

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