

## **Table of Contents**

**State/Territory Name: Texas**

**State Plan Amendment (SPA) #: 21-0046**

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

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February 3, 2022

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

**Re: TX SPA 21-0046**

Dear Ms. Stephens:

We have reviewed the proposed Texas State Plan Amendment (SPA) TX 21-0046, which was submitted to the Centers for Medicare and Medicaid Services (CMS) on November 24, 2021. The purpose of the amendment is to ensure that the Texas Medicaid State Plan complies with the Bipartisan Budget Act (BBA) of 2018 and the Medicaid Services Investment and Accountability Act (MSIAA) of 2019, affecting the BBA of 2013, that modified third party liability (TPL) requirements related to special treatment of certain types of care and payment.

Based upon the information provided by the State, we have approved the amendment on February 2, 2022, with an effective date of December 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](mailto:Ford.Blunt@cms.hhs.gov).

Sincerely,

A black rectangular box redacting the signature of James G. Scott.

Digitally signed by  
James G. Scott -S  
Date: 2022.02.03  
15:39:18 -06'00'

James G. Scott, Director  
Division of Program Operations

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b> <b>FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES</b>		1. TRANSMITTAL NUMBER: <b>21-0046</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>December 1, 2021</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>Title XIX of the SSA</b> <b>42 CFR §433.138</b> <b>42 USC §433.139</b>		7. FEDERAL BUDGET IMPACT: <b>SEE ATTACHMENT</b> a. FFY 2022 - \$116,674 b. FFY 2023 - \$99,173 c. FFY 2024 - \$84,297	
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 will ensure that the Texas Medicaid State Plan is in compliance with the Bipartisan Budget Act (BBA) of 2018 and the Medicaid Services Investment and Accountability Act (MSIAA) of 2019, affecting the BBA of 2013, that modified third party liability (TPL) requirements related to special treatment of certain types of care and payment.</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: <b>Emily Zalkovsky</b> Digitally signed by Emily Zalkovsky Date: 2021.12.01 10:50:34 -06'00'		16. RETURN TO: <b>Stephanie Stephens</b> <b>State Medicaid Director</b> <b>Post Office Box 13247, MC: H-100</b> <b>Austin, Texas 78711</b>	
13. TYPED NAME: <b>Emily Zalkovsky</b>			
14. TITLE: <b>Deputy State Medicaid Director (on behalf of Stephanie Stephens, State Medicaid Director)</b>			
15. DATE SUBMITTED: <b>November 24, 2021</b>			
<b>FOR REGIONAL OFFICE USE ONLY</b>			
17. DATE RECEIVED: November 24, 2021		18. DATE APPROVED: February 2, 2022	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: December 1, 2021		20. SIGNATURE OF REGIONAL OFFICIAL:  Digitally signed by James G. Scott -S Date: 2022.02.03 15:41:17 -06'00'	
21. TYPED NAME: James G. Scott		22. TITLE: Director, Division of Programs Operations	
23. REMARKS:			

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

**Transmittal Number 21-0046**

**Number of the  
Plan Section or Attachment**

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

Attachment 4.22-A

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Attachment 4.22-A

(TN 15-0007)  
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(TN 15-0007)

Attachment 4.22-B

Page 1  
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Page 2a-m delete page  
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Page 5 delete page

Attachment 4.22-B

(TN 15-0007)  
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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE/TERRITORY: TEXAS

Requirements for Third Party Liability  
Identifying Liable Resources

(a) The Texas Medicaid agency meets all requirements of 42 CFR 433.138 for identification of liable third parties.(1) Section 433.138(d) -- The Texas Medicaid agency is apprised of potential third party resources from various sources. These referrals are used to identify and verify legally liable third party resources. Information regarding third party resources is incorporated into the eligibility case file.

The Texas Medicaid agency performs data matches with third parties in order to identify health insurance coverage. This information, including information for individuals on whose behalf medical child support enforcement is being carried out by the Texas State title IV-D agency, is entered into the State's third-party database and used to process claims in accordance with third party payment procedures.

(2) Section 433.138(d)(1) -- The responsibilities of the State Wage Information Collection Agency (SWICA) as defined in 42 CFR 435.4 are administered by the Texas Workforce Commission (TWC). The State Medicaid eligibility data base is matched against the TWC wage file and against the TWC monthly unemployment pay file at least quarterly. Medicaid accretions that occur between the quarterly scheduling are periodically run against the TWC files. Worker-initiated wage and unemployment inquiries are run against the TWC files as needed, and Medicaid eligibility files are matched monthly against the Social Security Administration (SSA) wage and earnings files as specified in 42 CFR 435.948(a). The TWC and SSA matches provide information on Medicaid recipients that are employed and their employers. These matches include employed absent or custodial parents of recipients and their employers.

(3) Section 433.138(d)(3) -- The Texas State IV-A Program determines Title XIX eligibility and secures information on Medicaid recipients that are employed and their employer(s) on a continuous basis.

(4) Section 433.138(d)(4) -- The Texas Medicaid agency contracts with a vendor that conducts weekly and monthly data matching by utilizing a national data warehouse where multi-state casualty claims are recorded. If a match is made, the vendor notifies the responsible casualty insurance carrier of the State's intent to recover from the insurance settlement.

Section 433.138(d)(5) -- Documentation has been submitted to the Centers for Medicare and Medicaid Services (CMS) Regional Office VI that demonstrates the agency has made a

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reasonable attempt to perform a match with the State Motor Vehicle Accident Report files that are maintained by the Texas Department of Public Safety (DPS). No match is conducted with the State Motor Vehicle Accident Report files because neither the names nor the social security numbers (SSNs) are maintained by the DPS for conducting such a match.

(5) Section 433.138(e) -- The Texas Medicaid agency takes action monthly to identify paid claims of \$1.00 or more for Medicaid recipients that were involved in an accident where there is a potential liable third party. Research is performed to determine the legal liability of third parties in order to pursue recovery.

(b) The Texas Medicaid agency meets all requirements of 42 CFR 433.138(g) for follow-up procedures for identification of liable third parties.

(1) Section 433.138(g)(1)(i) — Within 45 days from the date the data exchange is received, or as otherwise specified in 42 CFR 435.952(d), the Texas Medicaid agency follows up (if appropriate) on such information to identify legally liable third party resources and incorporates such information into the eligibility case file and into its third party database and third party recovery unit so that claims may be processed under the third party liability payment procedures specified in 433.139(b) through (f).

(2) Section 433.138(g)(2) — Within 60 days, the Texas Medicaid agency will follow up on health insurance information to identify legally liable third party resources and incorporate this information into the eligibility case file and into its third party database and third party recovery unit so the agency may process claims under the third party liability payment procedures specified in 433.139(b) through (f).

(3) All health insurance updates are entered into the Medicaid Management Information System (MMIS) within ten (10) work days of receipt and into the Texas Automated Recovery System (TARS) for post payment recovery monthly.

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE/TERRITORY: TEXAS

Requirements of Third Party Liability  
Payment of Claims

The Texas Medicaid agency or designee meets all requirements of 42 CFR 433.139.

(1) Section 1902(a)(25)(E) -- Claims for prenatal services, including labor and delivery and postpartum care are processed using standard coordination of benefits cost avoidance.

(2) 42 CFR 433.139(b)(3)(i) -- Claims related to preventive pediatric services, including early and periodic screening, diagnosis and treatment services will be paid and not denied due to the existence of a third party unless the Medicaid agency has made a determination related to cost-effectiveness and access to care that warrants cost avoidance for up to 90 days.

(3) Section 433.139(b)(3)(ii) -- Claims related to individuals on whose behalf medical child support enforcement is known to be carried out by the State title IV-D agency will be paid and not denied due to the existence of a third party. The Texas Medicaid agency retains the flexibility to make payments without regard to potential third party liability for up to 100 days for claims related to child support enforcement beneficiaries.

(4) Reimbursement for paid claims related to preventive pediatric services and to individuals on whose behalf medical child support enforcement is known to be carried out by the State title IV-D agency will be pursued through the Texas Automated Recovery System (TARS) process. Procedures for seeking reimbursement will be initiated within sixty (60) days after the end of the month in which the health insurance carrier is identified, or within sixty (60) days after the end of the month in which payment was made.

(5) Section 433.139(a) and (b)(1) -- Providers are required to seek reimbursement from a liable third party that the provider knows about before billing the Texas Medicaid agency. When a provider submits a claim to the Texas Medicaid agency when probable liability of third party insurance exists, the claim is cost avoided. Through this process, the claim is denied and returned to the provider to determine the amount of liability. Once third party liability has been determined, the claim will be paid to the extent that payment is allowed under the Texas Medicaid agency's payment schedule.

(6) Section 433.139(a) and (f) -- Post payment recovery of claims paid by the Texas Medicaid agency prior to the establishment of third party liability is pursued through the TARS process.

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Procedures for seeking reimbursement will be initiated within sixty (60) days after the end of the month in which the health insurance carrier is identified, or within sixty (60) days after the end of the month in which payment was made.

Requests for reimbursement will be initiated on all claims meeting cost effectiveness criteria. Claims for \$100.00 or more will be pursued within sixty (60) days following the month of Medicaid payment. Claims for less than \$100.00 will be accumulated until the amount reaches \$100.00 or until six (6) months have elapsed (whichever comes first). If after six (6) months the accumulation has not reached \$100.00, all accumulated claims will be billed. Initiation of post payment recovery activity of all claims will, however, begin during the month cycle when the \$100.00 accumulation is reached.

A minimum dollar amount to be accumulated and minimum dollar amounts for follow-up on unresolved recovery attempts will be applied to ensure reasonable cost effectiveness of the third party reimbursement effort.

If no response is received by the twelfth (12th) month after the date of initial billing, the case will be closed and no further action taken.

When the provider has billed a third party prior to billing Medicaid and certifies that payment has not been received within 110 days after billing the third party, Medicaid will consider the claim for reimbursement.

(7) Section 433.139(a) -- When Medicare eligibility is established retroactively, claims that were paid by Medicaid are also identified. Eligible Medicaid claims are adjusted to deny the service and an Account Receivable is set up to recoup the Medicaid payment from the provider. The provider is notified to bill Medicare for the services. Medicaid services not covered by Medicare are not included in this process.

(8) Section 42 CFR 447.20 -- The Medicaid agency ensures that the provider furnishing a service for which a third party is liable follows the restrictions specified in 42 CFR 447.20.

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Supersedes TN: 15-0007 Effective Date: 12-01-2021