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State/Territory Name: Texas

State Plan Amendment (SPA) : 22-0013

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
7500 Security Boulevard, Mail Stop S3-14-28
Baltimore, Maryland 21244-1850



Financial Management Group

September 8, 2022

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

RE: Texas TN 22-0013

Dear Ms. Stephens:

We have reviewed the proposed Texas State Plan Amendment (SPA) to Attachments 4.19-A and 4.19-B, TX#22-0013, which was submitted to the Centers for Medicare & Medicaid Services (CMS) on March 31, 2022. The amendment clarifies revisions to the inflation projection methodology for the Day Activity and Health Services (DAHS), 1915(i) Home and Community-Based Services-Adult Mental Health (HCBS-AMH), Intermediate Care Facilities for Individuals with an Intellectual Disability (ICF/IID), Nursing Facility (NF), and Primary Home Care (PHC) programs. A revision will also be made to the nursing wage inflation methodology, which will affect only the DAHS, HCBS-AMH, ICF/IID, and NF programs.

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) 1905(a) and 1915(i) of the Social Security Act and the implementing Federal regulations at 42 CFR 447 Subpart C.

Based upon the information provided by the State, we have approved Medicaid State plan amendment:TX-22-0013 with an effective date of March 1, 2022. The CMS-179 and the amended plan page(s) are attached.

If you have any additional questions or need further assistance, please contact Tom Caughey at Tom.Caughey@cms.hhs.gov and Monica Neiman at: Monica.Neiman@cms.hhs.gov.

Sincerely,

Rory Howe
Director

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL
FOR: CENTERS FOR MEDICARE & MEDICAID SERVICES**

1. TRANSMITTAL NUMBER

2 2 0 0 1 3

2. STATE

T X

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT

TO: CENTER DIRECTOR
CENTERS FOR MEDICAID & CHIP SERVICES
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
March 1, 2022

5. FEDERAL STATUTE/REGULATION CITATION
42 CFR § 440.167
Section 1905(a)(24) of the Social Security Act

6. FEDERAL BUDGET IMPACT (Amounts in WHOLE dollars)

| | |
|-------------|------------|
| a. FFY 2022 | \$ 307,056 |
| b. FFY 2023 | \$ 624,272 |
| c. FFY 2024 | \$ 632,014 |

7. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT

SEE ATTACHMENT TO BLOCKS 7 AND 8

8. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable)

SEE ATTACHMENT TO BLOCKS 7 AND 8

9. SUBJECT OF AMENDMENT

The amendment clarifies revisions to the inflation projection methodology for the Day Activity and Health Services (DAHS), 1915(i) Home and Community-Based Services-Adult Mental Health (HCBS-AMH), Intermediate Care Facilities for Individuals with an Intellectual Disability (ICF/IID), Nursing Facility (NF), and Primary Home Care (PHC) programs. A revision will also be made to the nursing wage inflation methodology, which will affect only the DAHS, HCBS-AMH, ICF/IID, and NF programs.

10. GOVERNOR'S REVIEW (Check One)

- GOVERNOR'S OFFICE REPORTED NO COMMENT
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

OTHER, AS SPECIFIED: Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt.

11. SIGNATURE OF STATE AGENCY OFFICIAL

12. TYPED NAME

Stephanie Stephens

13. TITLE

State Medicaid Director

14. DATE SUBMITTED

March 31, 2022

15. RETURN TO

Stephanie Stephens
State Medicaid Director
Post Office Box 13247, MC: H-100
Austin, Texas 78711

FOR CMS USE ONLY

16. DATE RECEIVED

March 31, 2022

17. DATE APPROVED

September 8, 2022

PLAN APPROVED - ONE COPY ATTACHED

18. EFFECTIVE DATE OF APPROVED MATERIAL

March 01, 2022

19. SIGNATURE OF APPROVING OFFICIAL

20. TYPED NAME OF APPROVING OFFICIAL

Rory Howe

21. TITLE OF APPROVING OFFICIAL
Director Financial Management Group

22. REMARKS

Attachment to Blocks 7 & 8 of CMS Form 179

Transmittal Number 22-0013

| <u>Number of the Plan Section or Attachment</u> | <u>Number of the Superseded Plan Section or Attachment</u> |
|--|---|
| Attachment 4.19-B HCBS Page 84 | Attachment 4.19-B HCBS Page 84 (TN 20-0003) |
| Attachment 4.19-B HCBS Page 1 | Attachment 4.19-B HCBS Page 1 (TN 20-0018) |
| Attachment 4.19-B PHC Page 6 (a) | Attachment 4.19-B PHC Page 6 (a) (TN 00-15) |
| Attachment 4.19-B DAHS Page 7 (a) | Attachment 4.19-B DAHS Page 7 (a) (00-16) |
| Attachment 4.19-D NF Page 1 | Attachment 4.19-D NF Page 1 (TN 01-17) |
| Attachment 4.19-D NF Page 3a | Attachment 4.19-D NF Page 3a (TN 00-07) |
| Attachment 4.19-D NF Page 3b | Attachment 4.19-D NF Page 3b (TN 96-18) |
| Attachment 4.19-D ICF/IDD Page 3 | Attachment 4.19-D ICF/IDD Page 3 (TN 15-003) |

| | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | Other Services (specify below) |
| | <p><u>General Rate Setting</u></p> <p>The rates for all services in the HCBS-AMH program are available on the agency's website, as outlined on Attachment 4.19-B, Page 1. Unless otherwise specified, all rates are effective as of January 1, 2015.</p> <p>HHSC determines payment rates every two years for each service. The rates for services are prospective and uniform statewide. HHSC determines payment rates after analysis of financial and statistical information, and the effect of the payment rates on the achievement of program objectives, including economic conditions and budgetary considerations. Payment rates are developed as described below.</p> <p><u>Cost Reports</u></p> <p>The rates for certain services are set using cost report data. Providers of these services are required to submit cost reports to HHSC every other year. Providers are responsible for eliminating all unallowable expenses from the cost report prior to submission of the cost report. HHSC reviews all cost reports and a sample of cost reports are reviewed on-site. HHSC removes any unallowable costs and corrects any errors detected on the cost report during the review or on-site audit. Audited cost reports are used in the determination of statewide prospective rates.</p> <p>The recommended unit of service rates for each service are determined as follows: (1) total allowable costs for each provider are determined from the audited cost report; (2) each provider's total allowable costs are projected from the historical cost reporting period to the prospective reimbursement period using the appropriate inflationary factors outlined below; (3) payroll taxes and benefits are allocated to each salary item; (4) total projected allowable costs are divided by the number of units of service to determine the projected cost per unit of service; (5) the allowable costs per unit of service for each contracted provider are arrayed and weighted by the number of units of service and the median cost per unit of service is calculated; and (6) the median cost per unit of service for each service is multiplied by 1.044.</p> <p>Additionally, for the HCS and TxHmL programs, the initial model-based rates for these services were determined using cost, financial, statistical, and operational information collected during site visits performed by an independent consultant. The data was collected from cost reports and the service providers' accounting systems. Additionally, the state fiscal year (SFY) 1996 state wage data, the SFY 1994 cost data, and the SFY 1995 data from service providers was reviewed and analyzed. The base model rate year was calendar year 1997. Data from SFY 1994-1996 were used to develop the current rate structure; rates are rebased every biennium from the most recent projected cost report data, within available appropriations.</p> <p>For general inflation adjustments, HHSC uses the Personal Consumption Expenditures (PCE) chain-type price index published by the Bureau of Economic Analysis of the U.S. Department of Commerce. HHSC uses a PCE forecast published by IHS Markit or its successor. HHSC uses specific indices in place of the general inflation index when appropriate item- or program-specific inflation indices are available from cost reports or other surveys, other Texas state agencies, nationally recognized public agencies, or independent private firms or sources, and HHSC has determined that these specific inflation indices are derived from information that adequately represents the program(s) or cost(s) to which the specific index is to be applied.</p> <p>For inflation adjustments of costs pertaining to wages and salaries of licensed vocational nurses and nurse aides, HHSC uses an employment cost index of wages and salaries for private industry workers in nursing and residential care facilities published by the U.S. Bureau of Labor Statistics. HHSC uses a forecast of this inflation index published by IHS Markit or its successor. Periodic reviews of the chosen inflation index will be performed based on cumulative cost report data on nursing wages and salaries.</p> <p>HHSC includes Federal Insurance Contributions Act (FICA) payroll tax rates, such as for Social Security taxes and Medicare taxes, and federal and state unemployment tax rates in its projected costs of non-contracted staff salaries and wages. When a FICA tax rate or unemployment tax rate is amended per federal or state statute, HHSC adjusts its cost projections in accordance with the amended tax rate.</p> |

Rates and fees can be found by accessing

<http://public.tmhp.com/FeeSchedules/Default.aspx> or <https://pfd.hhs.texas.gov/>.

The rates accessed at these websites contain all annual or periodic adjustments to the fee schedule.

Except as otherwise noted in the plan, state developed fee schedules and rates are the same for both governmental and private providers.

To ensure access to care and prompt provider reimbursement, the Texas Health and Human Services Commission (HHSC) will establish reimbursement rates for nondiscretionary items or services, to include: new Healthcare Common Procedure Coding System Updates, federally mandated reimbursement rates, and/or physician-administered drugs or biological products.

For new Healthcare Common Procedure Coding System Updates, reimbursement will be established based on:

1. the Medicare RVU multiplied by the state defined conversion factor(s);
2. in the absence of a Medicare RVU, a percentage of the Medicare fee;
3. in the absence of the Medicare fee, the established Medicaid rate for a similar service;
4. in the absence of the established Medicaid rate for a similar service, the Medicaid rate for other states; or
5. in the absence of the Medicaid rates for other states, a percentage of commercial payor rates.

For physician-administered drugs or biological products, reimbursement will be established based on:

1. a percentage of the published Medicare reimbursement rate;
2. in the absence of a Medicare reimbursement rate, a percentage of the average wholesale price (AWP),
3. in the absence of AWP, a percentage of the Manufacturer's Suggested Retail Price (MSRP),
4. in the absence of MSRP, the established Medicaid rate for a similar service, or
5. in the absence of a Medicaid rate for a similar service, the Medicaid rate for other states.

For federally mandated reimbursement rates, reimbursement will be established based on the federally mandated rate.

TN: 22-0013 Approval Date: September 8, 2022
Supersedes TN: 20-0018 Effective Date: 03-01-2022

VIII. Projected Costs. HHSC projects PHC providers' costs by accounting for changes in cost-related conditions anticipated to occur between the base period and the prospective rate period. Such changes include, but are not limited to, wage-and-price inflation or deflation, changes in program utilization, modifications of federal or state regulations and statutes, and implementation of federal court orders and settlement agreements. The base period is a single state fiscal year spanning from September 1 through August 31, and the prospective rate period is two state fiscal years beginning with the first day of a state fiscal year which is at least one fiscal year after the base period year. Inflation factors and multipliers that HHSC uses to project costs from the base period to the prospective rate period are determined per VIII (1) through VIII (4).

- (1) General Inflation Index. For general inflation adjustments, HHSC uses the Personal Consumption Expenditures (PCE) chain-type price index published by the Bureau of Economic Analysis of the U.S. Department of Commerce. HHSC uses a PCE forecast published by IHS Markit or its successor.
- (2) Item-specific and Program-specific Inflation Indices. HHSC uses specific indices in place of the general inflation index when appropriate item- or program- specific inflation indices are available from cost reports or other surveys, other Texas state agencies, nationally recognized public agencies, or independent private firms, and HHSC has determined that these specific inflation indices are derived from information that adequately represents the program(s) or cost(s) to which the specific index is to be applied.
- (3) For inflation adjustments of costs pertaining to nursing wages and salaries, HHSC uses an employment cost index of wages and salaries for private industry workers in nursing and residential care facilities published by the U.S. Bureau of Labor Statistics. HHSC uses a forecast of this inflation index published by IHS Markit or its successor. Periodic reviews of the chosen inflation index will be performed based on cumulative cost report data on nursing wages and salaries.
- (4) Adjustment of Tax Rates. HHSC includes Federal Insurance Contributions Act (FICA) payroll tax rates, such as for Social Security taxes and Medicare taxes, and federal and state unemployment tax rates in its projected costs of non-contracted staff salaries and wages. When a FICA tax rate or unemployment tax rate is amended per federal or state statute, HHSC adjusts its cost projections in accordance with the amended tax rate.

VIII. Projected Costs. HHSC projects DAHS providers' costs by accounting for changes in cost-related conditions anticipated to occur between the base period and the prospective rate period. The base period is a single state fiscal year spanning from September 1 through August 31, and the prospective rate period is two state fiscal years beginning with the first day of a state fiscal year which is at least one fiscal year after the base period year. Inflation factors and multipliers that HHSC uses to project costs from the base period to the prospective rate period are determined per VIII(1) through VIII(4).

- (1) General Inflation Index. For general inflation adjustments, HHSC uses the Personal Consumption Expenditures (PCE) chain-type price index published by the Bureau of Economic Analysis of the U.S. Department of Commerce. HHSC uses a PCE forecast published by IHS Markit or its successor.
- (2) Item-specific and Program-specific Inflation Indices. HHSC uses specific indices in place of the general inflation index when appropriate item- or program- specific inflation indices are available from cost reports, other Texas state agencies, nationally recognized public agencies, or independent private firms or sources, and HHSC has determined that these specific inflation indices are derived from information that adequately represents the program(s) or cost(s) to which the specific index is to be applied.
- (3) For inflation adjustments of costs pertaining to wages and salaries of licensed vocational nurses and nurse aides, HHSC uses an employment cost index of wages and salaries for private industry workers in nursing and residential care facilities published by the U.S. Bureau of Labor Statistics. HHSC uses a forecast of this inflation index published by IHS Markit or its successor. Periodic reviews of the chosen inflation index will be performed based on cumulative cost report data on nursing wages and salaries.
- (4) Adjustment of Tax Rates. HHSC includes Federal Insurance Contributions Act (FICA) payroll tax rates, such as for Social Security taxes and Medicare taxes, and federal and state unemployment tax rates in its projected costs of non-contracted staff salaries and wages. When a FICA tax rate or unemployment tax rate is amended per federal or state statute, HHSC adjusts its cost projections in accordance with the amended tax rate.

REIMBURSEMENT METHODOLOGY FOR NURSING FACILITIES

The Texas Health and Human Services Commission (HHSC), the Single State Medicaid Agency has final approval authority of Medicaid rates. HHSC determines nursing facility (NF) Medicaid payment rates after consideration of analysis of financial and statistical information, and the affect of the reimbursement on achievement of program objectives, including economic conditions and budgetary considerations.

(I) General

- (A) Uniform Rates. Reimbursement rates are uniform statewide for the same class of service.
- (B) Prospective Rates with a Retrospective Adjustment. Reimbursement rates are determined prospectively with a retrospective adjustment for failure to meet staffing and/or spending requirements.
- (C) Unit of Service. The unit of service reimbursed is a day of care provided to a Medicaid client by a Medicaid contracted NF. A day is defined as a 24-hour period extending from midnight to midnight.
- (D) Frequency of Rate Determination. Rates are determined for a period of two years based upon odd-year cost reports.
- (E) References in the text to the Texas Department of Human Services (DHS) should be considered to be references to HHSC or its designee.

- (C) Adjustments to certain reported expenses. HHSC makes adjustments to the expenses reported by providers to ensure that expenses used in rate determination are required for long term care, derived from the market place and incurred from economic and efficient use of resources.
- (1) Limits on certain administration costs. To ensure that the results of cost analyses accurately reflect the costs that an economic and efficient provider must incur, related-party facility administrator and owner salaries, wages, and/or benefits are limited to the 90th percentile of nonrelated-party administrator salaries, wages and/or benefits adjusted for inflation using the Personal Consumption Expenditures (PCE) chain-type price index. Related-party assistant administrator salaries, wages, and/or benefits are limited to the 90th percentile of nonrelated-party assistant administrator salaries, wages, and/or benefits adjusted for inflation using the PCE chain-type price index.
 - (2) Occupancy adjustments. HHSC adjusts the facility and administration costs of providers with occupancy rates below a target occupancy rate. The target occupancy rate is the lower of (a) 85 percent or (b) the overall average occupancy rate for contracted beds in facilities included in the rate base during the cost-reporting periods included in the rate base. For each provider whose occupancy falls below the target occupancy rate, an adjustment factor is calculated as follows: adjustment factor = $1.00 - (\text{provider's occupancy rate} / \text{appropriate target occupancy rate})$. This adjustment factor is then multiplied by each cost line item in the facility and administration cost areas of the cost reports, and the result of this calculation is subtracted from the line item amount.
- (D) Projected Costs. HHSC projects NF providers' costs by accounting for changes in cost-related conditions anticipated to occur between the base period and the prospective rate period. Such changes include, but are not limited to, wage and price inflation or deflation, changes in program utilization, modifications of federal or state regulations and statutes, and implementation of federal court orders and settlement agreements. The base period is a single state fiscal year spanning from September 1 through August 31, and the prospective rate period is two state fiscal years beginning with the first day of a state fiscal year which is at least one fiscal year after the base period year. Inflation factors and multipliers that HHSC uses to project costs from the base period to the prospective rate period are determined per (D)(1) through (D)(4).
- (1) General Inflation Index. For general inflation adjustments, HHSC uses the Personal Consumption Expenditures (PCE) chain-type price index published by the Bureau of Economic Analysis of the U.S. Department of Commerce. HHSC uses a PCE forecast published by IHS Markit or its successor.

- (2) Item-specific and Program-specific Inflation Indices. HHSC uses specific indices in place of the general inflation index when appropriate item- or program-specific inflation indices are available from cost reports or other surveys, other Texas state agencies, nationally recognized public agencies, or independent private firms or sources, and HHSC has determined that these specific inflation indices are derived from information that adequately represents the program(s) or cost(s) to which the specific index is to be applied.
- (3) For inflation adjustments of costs pertaining to wages and salaries of licensed vocational nurses and nurse aides, HHSC uses an employment cost index of wages and salaries for private industry workers in nursing and residential care facilities published by the U.S. Bureau of Labor Statistics. HHSC uses a forecast of this inflation index published by IHS Markit or its successor. Periodic reviews of the chosen inflation index will be performed on cumulative cost report data on nursing wages and salaries.
- (4) Adjustment of Tax Rates. HHSC includes Federal Insurance Contributions Act (FICA) payroll tax rates, such as Social Security taxes and Medicare taxes, and federal and state unemployment tax rates in its projected costs of non-contracted staff salaries and wages. When a FICA tax rate or unemployment tax rate is amended per federal or state statute, HHSC adjusts its cost projections in accordance with the amended tax rate.

TN: 22-0013 Approval Date: September 8, 2022
Supersedes TN: 96-18 Effective Date: 03-01-2022

Reimbursement Methodology for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID), continued

- 9.** Projected Costs. HHSC projects ICF/IID providers' costs by accounting for changes in cost-related conditions anticipated to occur between the base period and the prospective rate period. Such changes include, but are not limited to, wage-and-price inflation or deflation, changes in program utilization, modifications of federal or state regulations and statutes, and implementation of federal court orders and settlement agreements. The base period is a single state fiscal year spanning from September 1 through August 31, and the prospective rate period is two state fiscal years beginning with the first day of a state fiscal year which is at least one fiscal year after the base period year. Inflation factors and multipliers that HHSC uses to project costs from the base period to the prospective rate period are determined per 9(a) through 9(d).
- (a)** General Inflation Index. For general inflation adjustments, HHSC uses the Personal Consumption Expenditures (PCE) chain-type price index published by the Bureau of Economic Analysis of the U.S. Department of Commerce. HHSC uses a PCE forecast published by IHS Markit or its successor.
- (b)** Item-specific and Program-specific Inflation Indices. HHSC uses specific indices in place of the general inflation index when appropriate item- or program-specific inflation indices are available from cost reports or other surveys, other Texas state agencies, nationally recognized public agencies, or independent private firms or sources, and HHSC has determined that these specific inflation indices are derived from information that adequately represents the program(s) or cost(s) to which the specific index is to be applied. The item-specific index that HHSC uses for ICF/IID providers' costs is specified in (9)(c).
- (c)** For inflation adjustments of costs pertaining to wages and salaries of licensed vocational nurses and nurse aides, HHSC uses an employment cost index of wages and salaries for private industry workers in nursing and residential care facilities published by the U.S. Bureau of Labor Statistics. HHSC uses a forecast of this inflation index published by IHS Markit or its successor. Periodic reviews of the chosen inflation index will be performed based on cumulative cost report data on nursing wages and salaries.
- (d)** Adjustment of Tax Rates. HHSC includes Federal Insurance Contributions Act (FICA) payroll tax rates, such as for Social Security taxes and Medicare taxes, and federal and state unemployment tax rates in its projected costs of non-contracted staff salaries and wages. When a FICA tax rate or unemployment tax rate is amended per federal or state statute, HHSC adjusts its cost projections in accordance with the amended tax rate.
- (e)** State-operated facility costs used in the interim payment rate determination are adjusted in accordance with 10(a)(2)(A).

TN: 22-0013 Approval Date: September 8, 2022

Supersedes TN: 15-003 Effective Date: 03-01-2022