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State/Territory Name: Texas

State Plan Amendment (SPA) #: TX 21-0036

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 AND HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, MD 21244-1850



Financial Management Group

August 15, 2023

Emily Zalkovsky
State Medicaid/CHIP Director
Health and Human Services Commission
Mail Code: H100
Post Office Box 13247
Austin, Texas 78711

RE: Texas State Plan Amendment (SPA) 21-0036

Dear Director Zalkovsky:

We have reviewed the proposed amendment to Attachment 4.19-A of your Medicaid state plan submitted under transmittal number (TN) 21-0036 effective for services on or after October 1, 2021. This amendment will create a Hospital Augmented Reimbursement Program for private hospitals to preserve the financial resources many Texas hospitals depend on to provide access and quality care to Medicaid clients.

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 regulations at 42 CFR 447 Subpart C. We hereby inform you that Medicaid State plan amendment 21-0036 is approved effective October 1, 2021. This approval letter does not constitute approval of any specific Medicaid financing mechanism used to support the non-federal share of the payments relating to this SPA. All relevant federal laws and regulations apply. CMS reserves its authority to enforce requirements in the Social Security Act and implementing regulations, including by initiating separate deferrals and/or disallowances of federal financial participation. We are enclosing the CMS-179 and the amended plan pages.

If you have any questions, please call Tom Caughey at (517) 487-8598.

Sincerely,

A handwritten signature in cursive script that reads "Rory Howe".

Director
Rory Howe

Enclosure

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES		1. TRANSMITTAL NUMBER: 21-0036	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: 10/01/2021	
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: Social Security Act § 1902(a)(30); 42 CFR §§ 440.10, 440.20, 447.201		7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2022 \$514,823,267 b. FFY 2023 \$526,166,242 c. FFY 2024 \$537,759,133	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: SEE ATTACHMENT TO BLOCKS 8 & 9		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): SEE ATTACHMENT TO BLOCKS 8 & 9	
10. SUBJECT OF AMENDMENT: The proposed amendment will create a Hospital Augmented Reimbursement Program for private hospitals to preserve the financial resources many Texas hospitals depend on to provide access and quality care to Medicaid clients.			
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: Stephanie Stephens <small>Digitally signed by Stephanie Stephens Date: 2021.09.13 21:02:37 -05'00'</small>		16. RETURN TO: Stephanie Stephens State Medicaid Director Post Office Box 13247, MC: H-100 Austin, Texas 78711	
13. TYPED NAME: Stephanie Stephens			
14. TITLE: State Medicaid Director			
15. DATE SUBMITTED: September 17, 2021			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: August 2, 2023		18. DATE APPROVED: August 15, 2023	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: October 1, 2021		20. SIGNATURE OF REGIONAL OFFICIAL: <i>Rory Howe</i>	
21. TYPED NAME: Rory Howe		22. TITLE: Director, FMG	
23. REMARKS:			

Hospital Augmented Reimbursement Program (HARP) Methodology for Private Hospitals

(a) Introduction. Private Hospitals participating in the Texas Medicaid program that meet the conditions of participation and that serve fee-for-service patients are eligible for reimbursement. The non-federal share of the payments is funded through intergovernmental transfer (IGT). The Health and Human Services Commission (HHSC) will establish each hospital's eligibility for an amount of reimbursement using the methodology described in this appendix.

(b) Definitions

(1) Fee-for-Service (FFS)--A system of health insurance payment in which a health care provider is paid a fee by HHSC through the contracted Medicaid claims administrator directly for each service rendered. For Texas Medicaid purposes, fee-for-service excludes any service rendered under a managed care program through a managed care organization.

(2) Inpatient hospital services--Services ordinarily furnished in a hospital for the care and treatment of inpatients under the direction of a physician or dentist, or a subset of these services identified by HHSC. Inpatient hospital services do not include those furnished in a skilled nursing facility, intermediate care facility services furnished by a hospital with swing-bed approval, or any other services that HHSC determines should not be subject to payment.

(3) Intergovernmental transfer (IGT)--A transfer of public funds from another state agency or a non-state governmental entity to HHSC.

(4) Medicare payment gap--The difference between what Medicare is estimated to pay for the services and what Medicaid actually paid for the same services from the most recent FFS upper payment limit (UPL) demonstration.

(5) Outpatient hospital services--Preventive, diagnostic, therapeutic, rehabilitative, palliative services or a subset of these services identified by HHSC that are furnished to outpatients of a hospital under the direction of a physician or dentist.

(6) Private hospital-- Any hospital that is not government-owned and operated.

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(7) Program period--Each program period is equal to a federal fiscal year beginning October 1 and ending September 30 of the following year.

(8) Sponsoring governmental entity--A state or non-state governmental entity that agrees to transfer to HHSC some or all of the non-federal share of program expenditures.

(c) Participation requirements. As a condition of participation, all hospitals participating in the program must allow for the following.

(1) The hospital must submit a properly completed enrollment application by the due date determined by HHSC. The enrollment period must be no less than 15 business days, and the final date of the enrollment period will be at least nine days prior to the intergovernmental transfer (IGT) notification.

(2) If a provider has changed ownership in the past five years in a way that impacts eligibility for this program, the provider must submit to HHSC, upon demand, copies of contracts it has with third parties with respect to the transfer of ownership or the management of the provider and which reference the administration of, or payment from, this program.

(d) Payments for private hospitals.

(1) Eligible hospitals. Payments under this subsection will be limited to hospitals defined as a "private hospital" in subsection (b) that are enrolled in Medicare and participate in Texas Medicaid fee-for-service.

(2) Non-federal share of program payments. The non-federal share of the payments is funded through IGTs from sponsoring governmental entities. No state general revenue is available to support the program.

(A) HHSC must receive the non-federal portion of reimbursement for HARP through a method approved by HHSC and Centers for Medicare & Medicaid Services (CMS) for reimbursement through this program.

(B) A hospital under this subsection must designate a single local governmental entity to provide the non-federal share of the payment through a method determined by HHSC. If the single local governmental entity transfers less than the full non-federal share of a hospital's payment amount calculated under this subsection, HHSC will recalculate that specific hospital's payment based on the amount of the non-federal share transferred.

(C) HHSC will communicate suggested IGT responsibilities. Suggested IGT responsibilities will be based on the maximum dollars to be available under the program for the program period as determined by HHSC. HHSC will also communicate estimated

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revenues each enrolled hospital could earn under the program for the program period with those estimates based on HHSC's suggested IGT responsibilities.

(D) HHSC will issue an IGT notification to specify the date that IGT is requested to be transferred not fewer than 14 business days before IGT transfers are due. HHSC may post the IGT deadlines and other associated information on HHSC's website, send the information through the established Medicaid notification procedures used by HHSC's fiscal intermediary, send through other direct mailings, send through GovDelivery, or provide the information to the hospital associations to disseminate to their member hospitals.

(3) Payment Methodology. To determine each participating private hospital's payment, HHSC will sum the hospital's inpatient FFS Medicare payment gap and the hospital's outpatient FFS Medicare payment gap.

(e) Changes in operation. If an enrolled hospital closes voluntarily or ceases to provide hospital services in its facility, the hospital must notify the HHSC Provider Finance Department by hand delivery, United States (U.S.) mail, or special mail delivery within 10 business days of closing or ceasing to provide hospital services. Notification is considered to have occurred when the HHSC Provider Finance Department receives the notice.

(f) Reconciliation. HHSC will reconcile the amount of the non-federal funds expended under this section during the program period with the amount of funds transferred to HHSC by the sponsoring governmental entities for that same period. If the amount of non-federal funds expended under this section is less than the amount transferred to HHSC, HHSC will refund the balance proportionally to how it was received.

(g) Payments under this section will be made on a semi-annual basis.