

TITLE 1                   ADMINISTRATION  
PART 15                 TEXAS HEALTH AND HUMAN SERVICES COMMISSION  
CHAPTER 355           REIMBURSEMENT RATES  
SUBCHAPTER I         REPORTING

ADOPTION PREAMBLE

The Texas Health and Human Services Commission (HHSC) adopts an amendment to §355.7201, concerning Novel Coronavirus (COVID-19) Fund Reporting. The amendment to §355.7201 is adopted without changes to the proposed text as published in the November 24, 2023, issue of the *Texas Register* (48 TexReg 6813). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

The amendment is necessary to comply with the 2024-25 General Appropriations Act, House Bill (H.B.) 1, 88th Legislature, Regular Session, 2023 (Article II, HHSC, Rider 150), which requires that HHSC develop a report detailing the total value and uses of COVID-19-related Federal Funds, including Provider Relief Funds, provided directly to nursing facilities and hospitals contracting with HHSC since the beginning of the public health emergency.

COMMENTS

The 31-day comment period ended December 27, 2023.

During this period, HHSC received a comment regarding the proposed rule from one commenter - the Texas Organization of Rural and Community Hospitals. A summary of the comment relating to the rule and HHSC's response follows.

Comment: One commenter, who is commenting on behalf of 157 rural Texas hospitals, expressed their support for the amendment. The commenter expressed their appreciation for the move from monthly to semi-annual reporting and the update that allows an organization or authorized person to report on behalf of a hospital.

Response: HHSC appreciates the comment. No changes are made in response to this comment.

STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §531.0055, which provides that the Executive Commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies.; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.021(b-1), which

establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance payments under the Texas Human Resources Code Chapter 32; 2024-25 General Appropriations Act, H.B. 1, 88th Legislature, Regular Session, 2023 (Article II, HHSC, Rider 150), which requires HHSC to establish procedures for hospitals and nursing facilities to report required information. This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

#### ADDITIONAL INFORMATION

For further information, please call: (512) 424-6637.

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§355.7201. Novel Coronavirus (COVID-19) Fund Reporting.

(a) Introduction. The Texas Health and Human Services Commission (HHSC) collects semi-annual reports from hospitals and nursing facilities to compile legislatively-mandated reports. This section outlines the reporting requirements related to novel coronavirus (COVID-19) federal fund reporting. This section also describes the circumstances in which penalties and recoupments will be necessary for certain provider types for failure to submit required semi-annual reports.

(b) Definitions. Unless the context clearly indicates otherwise, the following words and terms, when used in this section, are defined as follows.

(1) Authorized representative--An organization or person authorized to report on behalf of a hospital or nursing facility.

(2) HHSC--The Texas Health and Human Services Commission, or its designee.

(3) Hospital--A licensed public or private institution as defined in Chapter 241 of the Texas Health and Safety Code or licensed under Chapter 577 of the Texas Health and Safety Code.

(4) Nursing facility--A licensed public or private institution to which Chapter 242, Texas Health and Safety Code, applies.

(c) Reporting requirements. Hospitals and nursing facilities are required to report COVID-19 related Federal Funds received, including funds under the Coronavirus Aid, Relief, and Economic Security Act (15 U.S.C. §9001 et seq.), the Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260), and the American Rescue Plan Act of 2021 (Pub. L. No. 117-2). HHSC may also request additional information related to direct or indirect costs associated with COVID that have impacted the provider's business operation and any other information HHSC deems necessary to appropriately contextualize the moneys received as described in this subsection. HHSC will collect information based on legislative direction.

(d) Designation of authorized representative. A hospital or nursing facility may designate an authorized representative to report on behalf of that hospital or nursing facility. A document, which may take the format of a consolidated list such as a spreadsheet, must be submitted to HHSC and must:

(1) identify that the institution has designated the authorized representative;

(2) identify all institutions that have designated the authorized representative to serve in that capacity; and

(3) contain the name of the representative of the institution that designated the

authorized representative.

(e) Report submission and consolidation options. An authorized representative for a hospital or nursing facility may submit the required reports to HHSC in the following manner.

(1) For institutions that received no COVID-19 related Federal Funds during the reporting period, the authorized representative must submit a consolidated report for all institutions reflecting \$0 received; or

(2) For institutions that received COVID-19 related Federal Funds during the reporting period, the authorized representative must submit an individual report for each institution that received funding.

(f) Frequency of reporting.

(1) Submission of data will be required on a semi-annual basis.

(2) The first semi-annual report is due by March 1, 2024, and will be for the period of September 1, 2023, through January 31, 2024.

(3) Subsequent semi-annual reports will be due on September 1, 2024, and March 1, 2025.

(g) HHSC legislatively-mandated reports. HHSC will compile reports based on submitted data and submit the reports on a semi-annual basis to the Governor, Legislative Budget Board, and any appropriate standing committee in the Legislature. Semi-annual reports will be submitted June 1, 2024; December 1, 2024; and June 1, 2025.

(h) Penalties for failure to report. Specified providers are required to report information as requested on a semi-annual basis to HHSC.

(1) A hospital or nursing facility that does not report the requested information will be identified by name, including a unique identifying number, such as a National Provider Identification number, Facility Identification Number, or License Number, in HHSC's legislatively-mandated reports.

(2) Appropriations in the 2024-25 General Appropriations Act, House Bill 1, 88th Legislature, Regular Session, 2023 (Article II, HHSC, Rider 150), Strategy A.2.4, Nursing Facility Payments, for fiscal year 2025 are contingent on the submission of the report due June 1, 2024. If HHSC is unable to utilize appropriations for nursing facilities from Strategy A.2.4 as a result of insufficient reporting from nursing facilities, HHSC will suspend all payments to nursing facilities until such a time as HHSC is authorized to continue making expenditures under Strategy A.2.4.

(i) Duration. This reporting requirement ends on August 31, 2025, or as specified by HHSC.