

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

March 17, 2022

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

Re: Texas State Plan Amendment (SPA) 21-0004

Dear Ms. Stephens:

The Centers for Medicare & Medicaid Services (CMS) reviewed your Medicaid State Plan Amendment (SPA) submitted under transmittal number (TN) 21-0004. This amendment proposes to add medication-assisted treatment (MAT) as a mandatory benefit in the Medicaid state plan. This letter is to inform you that Texas' Medicaid SPA Transmittal Number 21-0004 is approved effective October 1, 2020 until September 30, 2025, pursuant to 1905(a)(29) of the Social Security Act and Section 1006(b) of the SUPPORT Act.

Section 1006(b) of the SUPPORT for Patients and Communities Act (SUPPORT Act), signed into law on October 24, 2018, amended section 1902(a)(10)(A) of the Act to require state Medicaid plans to include coverage of MAT for all eligible to enroll in the state plan or waiver of state plan. Section 1006(b) also added a new paragraph 1905(a)(29) to the Act to include the new required benefit in the definition of "medical assistance" and to specify that the new required benefit will be in effect for the period beginning October 1, 2020, and ending September 30, 2025.

Section 1006(b) of the SUPPORT Act also added section 1905(ee)(1) to the Act to define MAT, for purposes of the new required coverage, as:

. . . all drugs approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), including methadone, and all biological products licensed under section 351 of the Public Health Service Act (42 U.S.C. 262) to treat opioid use disorders; and[,] . . . with respect to the provision of such drugs and biological products, counseling services and behavioral therapy.

Pursuant to section 1135(b)(5) and/or 1135(b)(1)(C) of the Act, due to the COVID-19 public health emergency (PHE), CMS issued an approval letter on March 12, 2021 allowing Texas to modify

the SPA submission requirements at 42 C.F.R. 430.20, to allow the state to submit a SPA implementing section 1905(a)(29) of the Act by March 31, 2021 that would take effect on October 1, 2020.

Pursuant to section 1135(b)(5) and/or 1135(b)(1)(C) of the Act, due to the COVID-19 PHE, CMS issued an approval letter on March 12, 2021 allowing Texas to modify the public notice time frames set forth at 42 C.F.R. 447.205, in order to obtain an effective date of October 1, 2020 for its SPA implementing statewide methods and standards for setting payment rates for the benefit described at section 1905(a)(29) of the Act. The state issued public notice on March 26, 2021.

CMS conducted our review of your submittal according to statutory requirements in Title XIX of the Act and implementing regulations.

If you have any questions, please contact Ford Blunt at (214)767-6381 or via email at Ford.Blunt@cms.hhs.gov.

Sincerely,

Ruth A. Hughes, Acting Director
Division of Program Operations

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES	1. TRANSMITTAL NUMBER: 21-0004	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: October 1, 2020	
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 §447.201(b); 42 USC § 1396a(a)(10)(A); id. §1396d(a)(29), (ee)	7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2021 \$0 b. FFY 2022 \$0 c. FFY 2023 \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: See Attachment Block 8 & 9	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (<i>If Applicable</i>): See Attachment Block 8 & 9	
10. SUBJECT OF AMENDMENT: The proposed amendment creates new pages to consolidate existing coverage of the items and services as required by the SUPPORT Act for Medication Assisted Treatment.		
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: 2021.03.31 16:45:02 -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: March 31, 2021		
FOR REGIONAL OFFICE USE ONLY		
17. DATE RECEIVED: March 31, 2021	18. DATE APPROVED: March 15, 2022	
PLAN APPROVED – ONE COPY ATTACHED		
19. EFFECTIVE DATE OF APPROVED MATERIAL: October 1, 2020	20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME: Ruth A. Hughes	22. TITLE: Acting Director, Division of Program Operations	
23. REMARKS:		

Attachment to Blocks 8 & 9 of CMS Form 179

Transmittal Number 21-0004

<u>Number of the Plan Section or Attachment</u>	<u>Number of the Superseded Plan Section or Attachment</u>
Supplement 4 to Attachment 3.1-A	Supplement 4 to Attachment 3.1-A
Page 1	N/A
Page 2	N/A
Page 3	N/A
Page 4	N/A
Page 5	N/A
Page 6	N/A
Supplement 4 to Attachment 3.1-B	Supplement 4 to Attachment 3.1-B
Page 1	N/A
Page 2	N/A
Page 3	N/A
Page 4	N/A
Page 5	N/A
Page 6	N/A
Supplement 5 Attachment 4.19-B	Supplement 5 Attachment 4.19-B
Page 1	N/A

State of Texas

1905(a)(29) Medication-Assisted Treatment (MAT)

Citation: 3.1(a)(1) Amount, Duration, and Scope of Services: Categorically Needy
(Continued)

1915(a)(29) _____MAT as described and limited in Supplement 4 to Attachment 3.1-A.

ATTACHMENT 3.1-A identifies the medical and remedial services provided to the categorically needy.

State of Texas

1905(a)(29) Medication-Assisted Treatment (MAT)

Amount, Duration, and Scope of Medical and Remedial Care Services Provided to the Categorically Needy (continued)

i. General Assurance

MAT is covered under the Medicaid state plan for all Medicaid beneficiaries who meet the medical necessity criteria for receipt of the service for the period beginning October 1, 2020 and ending September 30, 2025.

ii. Assurances

- a. The state assures coverage of Naltrexone, Buprenorphine, and Methadone and all of the forms of these drugs for MAT that are approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and all biological products licensed under section 351 of the Public Health Service Act (42 U.S.C. 262).
- b. The state assures that Methadone for MAT is provided by Opioid Treatment Programs that meet the requirements in 42 C.F.R. Part 8.
- c. The state assures coverage for all formulations of MAT drugs and biologicals for opioid use disorder (OUD) that are approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and all biological drugs licensed under section 351 of the Public Health Service Act (42 U.S.C. 262).

iii. Service Package

The state covers the following counseling and behavioral health therapies as part of MAT.

- a) Please set forth each service and components of each service (if applicable), along with a description of each service and component service.

MAT for treatment of OUD is covered exclusively under section 1905(a)(29) of the Act from October 1, 2020, through September 30, 2025.

The state covers substance use disorder (SUD) counseling for MAT for the treatment of OUD consistent with the requirements of 1905(a)(29).

1. SUD counseling

- a. SUD counseling is available on a group or individual basis.

State of Texas

1905(a)(29) Medication-Assisted Treatment (MAT)

Amount, Duration, and Scope of Medical and Remedial Care Services Provided to the Categorically Needy (continued)

- b. Counseling for SUDs is designed to assist a person in developing a better understanding of their SUD, help to establish treatment goals and plans for achieving those goals, and provide interventions to assist the person in accordance with the plan. SUD counseling assists a person in developing the skills and supports needed to address their SUD over time.

- b) Please include each practitioner and provider entity that furnishes each service and component service.

SUD counseling is provided by:

- Qualified credentialed counselors (QCCs)
- Counselor interns under the supervision of a QCC

SUD counseling is payable to state-licensed and Medicaid-enrolled chemical dependency treatment facilities and opioid treatment programs that employ QCCs or counselor interns, but QCCs and counselor interns cannot directly bill Medicaid for their services.

- c) Please include a brief summary of the qualifications for each practitioner or provider entity that the state requires. Include any licensure, certification, registration, education, experience, training and supervisory arrangements that the state requires.

Qualified credentialed counselor (QCC)

All QCCs must be licensed and in good standing in the State of Texas, and act within the scope of the individual's license. The credentialing requirement minimums for a QCC is a licensed chemical dependency counselor (LCDC) or one of the following practitioners who have at least 1,000 hours of documented experience treating substance-related disorders:

- Licensed professional counselor (LPC)
- Licensed master social worker (LMSW)

State of Texas

1905(a)(29) Medication-Assisted Treatment (MAT)

Amount, Duration, and Scope of Medical and Remedial Care Services Provided to the Categorically Needy (continued)

- Licensed marriage and family therapist (LMFT)
- Licensed psychologist
- Licensed physician
- Licensed physician assistant (PA)
- Certified addictions registered nurse (CARN) - Registered nurse with current certification in addictions nursing by a nationally recognized certification entity.
- Advanced practice registered nurse licensed by the Texas Board of Nurse Examiners as a clinical nurse specialist or nurse practitioner with a population focus area in psychiatric/mental health (APRN – P/MH)

Counselor Intern

A person in good standing seeking a license as a chemical dependency counselor who is registered with the state and pursuing a course of training in chemical dependency counseling. The counselor intern performing SUD counseling must be under the supervision of a QCC. Counselor interns must:

1. Be at least 18 years old.
2. Have a high school diploma or its equivalent
3. Have successfully completed 270 classroom hours, or 18 semester hours (or 27 quarter hours) of chemical dependency curricula*
4. Have completed 300 hours of approved supervised field work practicum*
5. Have passed the criminal history standards
6. Have signed a written agreement to abide by the state ethical standards
7. Be worthy of public trust and confidence.

*Applicants holding at least a baccalaureate degree in chemical dependency counseling, sociology, psychology, or a major approved by the Texas Department of State Health Services as one related to human behavior and development are exempt from the 270 hours of education and the 300-hour practicum.

State of Texas

1905(a)(29) Medication-Assisted Treatment (MAT)

Amount, Duration, and Scope of Medical and Remedial Care Services Provided to the Categorically Needy (continued)

iv. Utilization Controls

The state has drug utilization controls in place. (Check each of the following that apply)

Generic first policy

Preferred drug lists

Clinical criteria

Quantity limits

The state does not have drug utilization controls in place.

v. Limitations

Describe the state's limitations on amount, duration, and scope of MAT drugs, biologicals, and counseling and behavioral therapies related to MAT.

Pharmacy Benefits:

Texas applies limits to quantities and Morphine Milligram Equivalents for buprenorphine prescriptions through the pharmacy benefit. A quantity limit is applied to naltrexone. The MME limits vary depending on whether the opioid prescription is used for OUD treatment. Under the state's opioid prescription policy, an opioid prescription cannot exceed 90 MME. However, exceptions can be made to bypass the limit of 90 MME for beneficiaries with an OUD through the safety-related prior authorization process.

Texas applies prospective drug utilization review alerts for concurrent use of certain drugs with opioids, including buprenorphine. Texas utilizes a preferred drug list, and drug utilization review safety-related prior authorization is applied to buprenorphine.

State of Texas

1905(a)(29) Medication-Assisted Treatment (MAT)

Amount, Duration, and Scope of Medical and Remedial Care Services Provided to the Categorically Needy (continued)

Medical Benefits:

When obtained as a medical benefit, methadone and buprenorphine are limited to a certain quantity per day, as specified in the state's medical policy, for any provider. Take-home doses of methadone or buprenorphine may be dispensed but are limited to one per date of service and no more than 30 per 30 days, by any provider.

PRA Disclosure Statement - This information is being collected to assist the Centers for Medicare & Medicaid Services in implementing section 1006(b) of the SUPPORT for Patients and Communities Act (P.L. 115-271) enacted on October 24, 2018. Section 1006(b) requires state Medicaid plans to provide coverage of Medication-Assisted Treatment (MAT) for all Medicaid enrollees as a mandatory Medicaid state plan benefit for the period beginning October 1, 2020, and ending September 30, 2025. Under the Privacy Act of 1974 any personally identifying information obtained will be kept private to the extent of the law. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number for this project is 0938-1148 (CMS-10398 # 60). Public burden for all of the collection of information requirements under this control number is estimated to take about 80 hours per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to CMS, 7500 Security Boulevard, Attn: Paperwork Reduction Act Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

State of Texas

1905(a)(29) Medication-Assisted Treatment (MAT)

Citation: 3.1(b)(1) Amount, Duration, and Scope of Services: Medically Needy
(Continued)

1915(a)(29) ___MAT as described and limited in Supplement 4 to Attachment 3.1-B.

ATTACHMENT 3.1-B identifies the medical and remedial services provided to the medically needy.

State of Texas

1905(a)(29) Medication-Assisted Treatment (MAT)

Amount, Duration, and Scope of Medical and Remedial Care Services Provided to the Medically Needy (continued)

i. General Assurance

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- a. The state assures coverage of Naltrexone, Buprenorphine, and Methadone and all of the forms of these drugs for MAT that are approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and all biological products licensed under section 351 of the Public Health Service Act (42 U.S.C. 262).
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State of Texas

1905(a)(29) Medication-Assisted Treatment (MAT)

Amount, Duration, and Scope of Medical and Remedial Care Services Provided to the Medically Needy (continued)

- b. Counseling for SUDs is designed to assist a person in developing a better understanding of their SUD, help to establish treatment goals and plans for achieving those goals, and provide interventions to assist the person in accordance with the plan. SUD counseling assists a person in developing the skills and supports needed to address their SUD over time.

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State of Texas

1905(a)(29) Medication-Assisted Treatment (MAT)

Amount, Duration, and Scope of Medical and Remedial Care Services Provided to the Medically Needy (continued)

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State of Texas

1905(a)(29) Medication-Assisted Treatment (MAT)

Amount, Duration, and Scope of Medical and Remedial Care Services Provided to the Medically Needy (continued)

iv. Utilization Controls

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- v. Describe the state's limitations on amount, duration, and scope of MAT drugs, biologicals, and counseling and behavioral therapies related to MAT.

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State of Texas

1905(a)(29) Medication-Assisted Treatment (MAT)

Amount, Duration, and Scope of Medical and Remedial Care Services Provided to the Medically Needy (continued)

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1905(a)(29) Medication-Assisted Treatment (MAT)

Medicaid providers of MAT are reimbursed based on fee schedules as follows:

- a) Payment for covered Medication Assisted Treatment Services provided by eligible providers is limited to the lesser of the customary charge or the allowable rates per established fee schedule by the single state agency.
- b) The reimbursement for unbundled prescribed drugs and biologicals used to treat opioid use disorder will be reimbursed using the same methodology as described for prescribed drugs located in Attachment 4.19-B, pages 2b, 2c, 2c.1, 2c.2, 2c.3, and 2c for drugs that are dispensed or administered.
- c) The fee schedule established by HHSC is based on (1) the published Medicare reimbursement rate; (2) the average wholesale price (AWP) or provider invoice cost; (3) a medically comparable code; and/or some combination or percentage thereof.
- d) Except as otherwise noted in the plan, state-developed fee schedule rates are the same for both governmental and private providers of Medication-Assisted Treatment Services
- e) All fee schedules are available through the agency's website as outlined on Attachment 4.19-B, Page 1.
- f) The agency's fee schedule was revised with new fees for providers of rehabilitative substance abuse and dependency treatment services effective for services on or after November 1, 2019. The fee schedule was posted on the agency's website on November 15, 2019.