

**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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March 15, 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 21-0043**

Dear Ms. Stephens:

We have reviewed the proposed Texas State Plan Amendment (SPA) TX 21-0043, which was submitted to the Centers for Medicare and Medicaid Services (CMS) on December 30, 2021. The proposed amendment, transmittal number 21-0043, will allow a physician assistant (PA), certified nurse practitioner (CNP), and clinical nurse specialist (CNS), to the extent allowed by Texas state licensure, to certify eligibility for home health services, as well as establish and periodically review the home health plan of care.

Based upon the information provided by the State, we have approved the amendment with an effective date of October 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,

James G. Scott, Director  
Division of Program Operations

|   |  |                           |
|---|--|---------------------------|
| <b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b><br><b>FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES</b>  | 1. TRANSMITTAL NUMBER:<br><b>21-0043</b>   | 2. STATE:<br><b>TEXAS</b> |
|   | 3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)   |                           |
| TO: REGIONAL ADMINISTRATOR<br>CENTERS FOR MEDICARE AND MEDICAID SERVICES<br>DEPARTMENT OF HEALTH AND HUMAN SERVICES   | 4. PROPOSED EFFECTIVE DATE:<br><b>October 1, 2021</b>  |                           |
| 5. TYPE OF PLAN MATERIAL (Circle One):<br><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:<br><b>Social Security Act §1902(a)(19); Social Security Act §1902(a)(30); CMS-5531-IFC, located at, 42 CFR § 440.70</b>   | 7. FEDERAL BUDGET IMPACT:<br>a. FFY 2022: \$0<br>b. FFY 2023: \$0<br>c. FFY 2024: \$0  |                           |
| 8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:<br><b>See attachment to blocks 8 &amp; 9</b>  | 9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):<br><b>See attachment to blocks 8 &amp; 9</b>            |                           |
| 10. SUBJECT OF AMENDMENT:<br><b>Proposal to allow physician assistant (PA), certified nurse practitioner (CNP), and certified nurse specialist (CNS), in accordance with state law, to certify eligibility for home health services.</b>  |  |                           |
| 11. GOVERNOR'S REVIEW (Check One):<br><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.<br><input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED<br><input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL |  |                           |
| 12. SIGNATURE OF STATE AGENCY OFFICIAL:<br><b>Stephanie Stephens</b><br><small>Digitally signed by Stephanie Stephens<br/>Date: 2021.12.30 14:10:23 -0600</small>   | 16. RETURN TO:<br><b>Stephanie Stephens<br/>State Medicaid Director<br/>Post Office Box 13247, MC: H-100<br/>Austin, Texas 78711</b> |                           |
| 13. TYPED NAME:<br><b>Stephanie Stephens</b>  |  |                           |
| 14. TITLE:<br><b>State Medicaid Director</b>  |  |                           |
| 15. DATE SUBMITTED:<br><b>December 30, 2021</b>   |  |                           |
| <b>FOR REGIONAL OFFICE USE ONLY</b>   |  |                           |
| 17. DATE RECEIVED:<br><b>December 30, 2021</b>  | 18. DATE APPROVED:<br><b>March 15, 2022</b>  |                           |
| PLAN APPROVED – ONE COPY ATTACHED   |  |                           |
| 19. EFFECTIVE DATE OF APPROVED MATERIAL:<br><b>October 1, 2021</b>  | 20. SIGNATURE OF REGIONAL OFFICIAL:  |                           |
| 21. TYPED NAME:<br><b>James G. Scott</b>  | 22. TITLE:<br><b>Director, Division of Program Operations</b>  |                           |
| 23. REMARKS:  |  |                           |

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

**Transmittal Number 21-0043**

**Number of the  
Plan Section or Attachment**

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

Appendix 1 to Attachment 3.1-A  
Page 14  
Page 15  
Page 15a  
Page 15b  
Page 15c

Appendix 1 to Attachment 3.1-A  
Page 14 (TN 12-36)  
Page 15 (TN 09-01)  
Page 15a (TN 07-18)  
Page 15b (TN 10-51)  
Page 15c (TN 13-55)

Appendix 1 to Attachment 3.1-B  
Page 14  
Page 15  
Page 15a  
Page 15b  
Page 15c

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Page 14 (TN 12-36)  
Page 15 (TN 09-01)  
Page 15a (TN 07-18)  
Page 15b (TN 10-51)  
Page 15c (TN 13-55)

## 7. Home Health Care Services

In accordance with the provisions or specifications established by the single state agency, home health care services are as follows:

- A. Authorized services, supplies, equipment, or appliances must be suitable for treatment and/or related to the medical condition of the recipient. The services provided through home health are intended for the recipient and must be related to the medical condition, rather than primarily for the convenience of the recipient, caregiver/guardian, or the provider. The service, supply, equipment, or appliance must be provided to an eligible recipient in his or her place of residence. The recipient's place of residence does not include a hospital, nursing facility, or intermediate care facility for the mentally retarded. The only exception for services provided in an intermediate care facility for the mentally retarded occurs when the facility is not required to provide services as defined in Subpart I of 42 CFR Part 483. All home health services are provided in accordance with 42 CFR 440.70.
- B. The recipient for whom home health care services are authorized must be under the continuing care and supervision of a licensed physician or allowed practitioner. An allowed practitioner is a licensed physician assistant (PA) or an advanced practice registered nurse, who is licensed as a certified nurse practitioner (CNP) or clinical nurse specialist (CNS). Allowed practitioners, (PAs, CNPs, and CNSs) must maintain a valid and registered prescriptive authority agreement in accordance with state law. Medical necessity criteria include supporting documentation of the medical need and the appropriateness of the equipment, service, or supply prescribed by the physician or allowed practitioner for the treatment of the individual recipient
- C. Services, supplies, equipment, or appliances must be prescribed by a physician or allowed practitioner as medically necessary and appropriate and documented as part of the physician's or allowed practitioner's plan of treatment for the recipient in the written, dated, and signed plan of care and/or order form.
- D. All home health benefits require prior authorization for payment, unless otherwise specified by the Title XIX single state agency and must be furnished by a home health agency or a durable medical equipment/supplier enrolled to provide Title XIX home health services. Insulin syringes and needles are obtained with a physician's or allowed practitioner's prescription from a participating pharmacy and do not require prior authorization.
- E. To become enrolled as a Title XIX home health agency or home health durable medical equipment supplier, the home health agency or durable medical equipment supplier must be approved as a Title XVIII (Medicare) home health services provider or durable medical equipment/supplier and must be enrolled with the Title XIX single state agency.

## 7 Home Health Care Services (continued)

F. Services are limited to:

- (i) Part-time or intermittent professional nursing services provided by a registered nurse or licensed vocational nurse with appropriate supervision furnished through a Title XIX home health agency or by a registered nurse when no home health agency exists in the area.
- (ii) Services of a home health aide who has been assigned by a professional registered nurse and who is under the supervision of a professional registered nurse.
- (iii) Visits by either a nurse or a home health aide as defined under this program.
- (iv) Certain medical supplies, equipment, and appliances suitable for use in the recipient's place of residence.
- (v) Physical therapy services, provided by a physical therapist meeting the criteria defined in §440.110, are available only for treatment of acute musculoskeletal or neuromuscular conditions or acute exacerbations of a chronic musculoskeletal or neuromuscular condition.
- (vi) Occupational therapy services, provided by an occupational therapist meeting the criteria defined in §440.110, are available for the evaluation and function-oriented treatment of individuals whose ability to function in life roles is impaired by recent or current physical illness, injury, or condition. There must be specific goals to achieve a functional level within a reasonable amount of time based on the therapist's evaluation and the physician's or allowed practitioner's assessment and plan of care.

G. Medicare must be utilized as a primary resource for payment of home health benefits for those persons who are enrolled in Medicare.

## 7. Home Health Care Services (cont.)

### **In-Home Services for Total Parenteral Nutrition (TPN)**

- a) **Definition:** In-home Total Parenteral Nutrition (TPN)/Hyperalimentation activities outlined in this section of the State plan are *available* to Medicaid eligible recipients for the treatment of conditions which require long-term nutritional support. TPN/Hyperalimentation is not available when oral/enteral intake will maintain adequate nutrition.
- b) **Services:** Home health services, including in-home Total Parenteral Nutrition (TPN)/hyperalimentation activities, are provided to a recipient on his or her physician's or allowed practitioner's orders as part of a written plan of care that the physician or allowed practitioner reviews every 60 days.

Medically necessary TPN/hyperalimentation services include:

- i) Medical Supplies in accordance with 42 C.F.R. § 440.70(b)(3) including:
- (A) TPN/Hyperalimentation solutions and additives as ordered by the client's physician or allowed practitioner.
  - (B) Supplies and equipment that are required for the administration of prescribed solutions and additives.
  - (C) Enteral supplies, nutritional products, and equipment, if medically necessary, in *conjunction* with TPN/hyperalimentation.
- ii) Nursing Services in accordance with 42 C.F.R. § 440.70(b)(1):
- (A) Visits by a registered nurse appropriately trained in the administration of TPN/Hyperalimentation.
  - (B) Education of the client and/or caregivers regarding the administration of in-home TPN/Hyperalimentation before the service begins. Education also must include the use and maintenance of required supplies and equipment.
- c) **Providers:** In-home TPN/hyperalimentation equipment and supplies must be provided by an enrolled Medicaid durable medical equipment supplier or a medical supply provider who meets the requirements of, and provides the services in accordance with, 42 C.F.R. § 440.70 and other applicable state and federal laws and regulations. Nursing services are delivered by Home Health Agencies meeting requirements for participation in Medicare and requirements at 42 CFR §440.70(d).
- d) **Place of Service:** In home TPN/hyperalimentation services must be delivered in the recipient's place of residence as defined in 42 C.F.R. § 440.70.

## 7. Home Health Care Services (continued)

### Home Health Supplies Provided by a Pharmacy

- (a) Certain home health supplies that may be provided by a participating pharmacy are specified by the Title XIX single state agency and require a physician's or allowed practitioner's prescription. These supplies do not require prior authorization unless otherwise specified.
- (b) HHSC lists home health supplies that may be provided by a participating pharmacy on its website. This list includes the insulin syringes and needles referenced on Page 14 of **this** Appendix.
- (c) Participating pharmacies are licensed pharmacies enrolled as Title XIX providers with the Vendor Drug Program.

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TN: 21-0043  
Supersedes TN: 10-51

Approval Date: 03-15-22  
Effective Date: 10-01-21

**7. Home Health Care Services (continued)**

**Home Telemonitoring Services**

- (a) Home telemonitoring services are a benefit of the Texas Medicaid Program as provided in this section, are based on medical necessity, and are subject to the specifications, conditions, limitations, and requirements established by the Texas Health and Human Services Commission (HHSC) or its designee.
- (b) Home telemonitoring services require scheduled remote monitoring of data related to a patient's health and transmission of the data to a licensed home health agency or a hospital.
- (c) Home telemonitoring service providers must:
  - (1) comply with all applicable federal, state, and local laws and regulations;
  - (2) be enrolled and approved for participation in the Texas Medicaid Program as home telemonitoring service providers;
  - (3) bill for services covered under the Texas Medicaid Program in the manner and format prescribed by HHSC;
  - (4) share clinical information gathered while providing home telemonitoring services with the patient's physician or allowed practitioner; and
  - (5) not duplicate disease management program services provided by the Texas Medicaid Wellness Program.



## 7. Home Health Care Services

In accordance with the provisions or specifications established by the single state agency, home health care services are as follows:

- A. Authorized services, supplies, equipment, or appliances must be suitable for treatment and/or related to the medical condition of the recipient. The services provided through home health are intended for the recipient and must be related to the medical condition, rather than primarily for the convenience of the recipient, caregiver/guardian, or the provider. The service, supply, equipment, or appliance must be provided to an eligible recipient in his or her place of residence. The recipient's place of residence does not include a hospital, nursing facility, or intermediate care facility for the mentally retarded. The only exception for services provided in an intermediate care facility for the mentally retarded occurs when the facility is not required to provide services as defined in Subpart I of 42 CFR Part 483. All home health services are provided in accordance with 42 CFR 440.70.
- B. The recipient for whom home health care services are authorized must be under the continuing care and supervision of a licensed physician or allowed practitioner. An allowed practitioner is a licensed physician assistant (PA) or an advanced practice registered nurse, who is licensed as a certified nurse practitioner (CNP) or clinical nurse specialist (CNS). Allowed practitioners, (PAs, CNPs, and CNSs) must maintain a valid and registered prescriptive authority agreement in accordance with state law. Medical necessity criteria include supporting documentation of the medical need and the appropriateness of the equipment, service, or supply prescribed by the physician or allowed practitioner for the treatment of the individual recipient
- C. Services, supplies, equipment, or appliances must be prescribed by a physician or allowed practitioner as medically necessary and appropriate and documented as part of the physician's or allowed practitioner's plan of treatment for the recipient in the written, dated, and signed plan of care and/or order form.
- D. All home health benefits require prior authorization for payment, unless otherwise specified by the Title XIX single state agency and must be furnished by a home health agency or a durable medical equipment/supplier enrolled to provide Title XIX home health services. Insulin syringes and needles are obtained with a physician's or allowed practitioner's prescription from a participating pharmacy and do not require prior authorization.
- E. To become enrolled as a Title XIX home health agency or home health durable medical equipment supplier, the home health agency or durable medical equipment supplier must be approved as a Title XVIII (Medicare) home health services provider or durable medical equipment/supplier and must be enrolled with the Title XIX single state agency.

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- (ii) Services of a home health aide who has been assigned by a professional registered nurse and who is under the supervision of a professional registered nurse.
- (iii) Visits by either a nurse or a home health aide as defined under this program.
- (iv) Certain medical supplies, equipment, and appliances suitable for use in the recipient's place of residence.
- (v) Physical therapy services, provided by a physical therapist meeting the criteria defined in §440.110, are available only for treatment of acute musculoskeletal or neuromuscular conditions or acute exacerbations of a chronic musculoskeletal or neuromuscular condition.
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- c) **Providers:** In-home TPN/hyperalimentation equipment and supplies must be provided by an enrolled Medicaid durable medical equipment supplier or a medical supply provider who meets the requirements of, and provides the services in accordance with, 42 C.F.R. § 440.70 and other applicable state and federal laws and regulations. Nursing services are delivered by Home Health Agencies meeting requirements for participation in Medicare and requirements at 42 CFR §440.70(d).
- d) **Place of Service:** In home TPN/hyperalimentation services must be delivered in the recipient's place of residence as defined in 42 C.F.R. § 440.70.

## 7. Home Health Care Services (continued)

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  - (4) share clinical information gathered while providing home telemonitoring services with the patient's physician or allowed practitioner; and
  - (5) not duplicate disease management program services provided by the Texas Medicaid Wellness Program.