



September 21, 2021

Jennifer Bowdoin
Division of Community Systems Transformation
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Director Bowdoin:

Thank you for your August 19, 2021, letter notifying the Texas Health and Human Services Commission (HHSC) of the partial approval of Texas's initial spending plan and narrative for enhanced federal medical assistance percentage (FMAP) for home and community-based services (HCBS) under Section 9817 of the American Rescue Plan Act. In your letter, you requested clarification on four components of Texas's spending plan and narrative. Clarification is being provided in both this letter and in updates to the state's spending plan and narrative (attached).

1. You requested the state clearly indicate the providers that will be eligible for retention bonuses are listed in Appendix B of the May 13, 2021 State Medicaid Director Letter (SMDL). I am confirming that the providers eligible for the retention bonuses are direct care attendants delivering: home health care, personal care services, self-directed personal care services, rehabilitative providers (day activity and health services under Texas's state plan), Section 1915(k), and direct care and residential services provided in 1915(c) and 1915(i) programs.
2. You requested the state clearly indicate whether the state plans to pay for ongoing internet connectivity costs as part of the activity "Increase Technology Use by HCBS Providers of Mental Health Services." I am confirming the state does not intend to pay for ongoing internet connectivity. HHSC intends to inform providers about the availability of other funding sources they can share with the recipients they serve.

3. You requested Texas provide additional information about the services described in "Provide HCBS Services to More Texans." HHSC operates 1915(c) waiver programs and one HCBS program under an 1115 waiver authority (STAR+PLUS HCBS). HHSC intends to use these funds for additional waiver slots approved by the state's 87th Legislature, Regular Session, 2021. The slots proposed by Texas are as follows and are starting to be released this month for assessment and enrollment activities to begin.

- Home and Community-based Services- 542
- Texas Home Living- 471
- Community Living Assistance and Support Services- 381
- STAR+PLUS HCBS- 107
- Medically Dependent Children Program- 42
- Deaf-Blind with Multiple Disabilities- 6

This will increase enrollment in each program and the state will submit these changes through the appropriate waiver amendments. Individuals enrolled in these programs must reside in the community; institutional services are not covered through these programs. Program services are included in the descriptions in Appendix B of the SMDL.

4. You requested the state clearly indicate whether the activity to "Expand a Pilot Providing Enhanced Mental Health Services to People with IDD in the Community" includes any services other than those listed in Appendix B of the SMDL. The services delivered in this activity include case management and outpatient mental health services. HHSC believes these services fit under the definition of the rehab option. Further, this activity strengthens HCBS under Medicaid by testing the delivery of services which reduce the need for crisis services or crisis diversion into HCBS programs in the state. As this project proposes to provide these services to individuals with intellectual and developmental disabilities (IDD) in the community who may or may not be eligible for Medicaid, the state will not pursue FMAP for this activity. The findings of the evaluation will be used to inform future work of the state in addressing the mental health needs of Texans who have a co-occurring behavioral health and IDD diagnosis.

In addition, we appreciate your time on September 13, 2021 to address the state's outstanding questions. The Centers for Medicare & Medicaid Services (CMS) provided the following guidance and clarification:

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- States may claim enhanced FMAP on a subset of services described in the May 13, 2021, SMDL or up to a specific dollar amount that is a subset of the total available funding. The maintenance of effort (MOE) requirements described in the SMDL will apply to all services described in Appendix B.
- States may implement one-time and time-limited activities with this funding. The focus on sustainability in the SMDL is meant to caution states from creating a fiscal “cliff” where beneficiaries or providers may experience a sudden reduction in services or reimbursement at the end of the spending period.
- States are in compliance with MOE as long as reimbursement rate for a service is not reduced during the expenditure period. Reductions in aggregate spending due to decreases in utilization do not impact the states compliance with MOE.
- If a state has a temporary rate increase approved under a disaster authority prior to April 1, 2021 with an end date prior to the end of the public health emergency, the state may end the temporary flexibility on the approved end date without jeopardizing compliance with MOE requirements.
- If the state can identify the reinvestment of funds associated with Section 9817 of ARPA, the state can exclude these funds from budget neutrality calculations.

We appreciate the additional information related to general considerations and quarterly spending plan and narrative reporting. Texas will begin reporting 75 days prior to the federal fiscal quarter beginning January 1, 2022. We look forward to continuing to work with you throughout the approval and implementation of Texas’s plan allowable under Section 9817 of ARPA. Please feel free to contact Amanda Dillon should you have any additional questions.

Sincerely,

Stephanie Stephens
State Medicaid Director