



Health Facility Licensing Guidance Letter

Number: GL 23-1001
Title: Emergency Rule for Hospitals Participating in the Centers for Medicare and Medicaid Services Acute Hospital Care at Home Program During the COVID-19 Pandemic
Provider Types: General and Special Hospitals
Date Issued: January 27, 2023

1.0 Subject and Purpose

The Health and Human Services Commission (HHSC) adopted an emergency rule in response to the state of disaster declared in Texas and the United States of America relating to COVID-19. Under the new emergency rule, effective January 29, 2023, currently licensed hospitals are permitted to apply to HHSC to temporarily participate in the Centers for Medicare and Medicaid Services (CMS) hospitals at home program to expand hospital capacity in response to the COVID-19 pandemic.

This letter describes the emergency rules and the application process.

2.0 Policy Details & Provider Responsibilities

Emergency rule §500.4, Participating in the Centers for Medicare and Medicaid Services Acute Hospital Care at Home Program During the COVID-19 Pandemic, was adopted under Texas Administrative Code Title 26, Part 1, Chapter 500, Subchapter A and takes effect on January 29, 2023. Under this emergency rule, general and special hospitals may apply to HHSC for approval to participate in the CMS hospitals at home program to expand hospital capacity in response to the COVID-19 pandemic. Hospitals must follow the operational requirements when providing services under this emergency rule.

2.1 Emergency Rule §500.4, Participating in the Centers for Medicare and Medicaid Services Acute Hospital Care at Home Program During the COVID-19 Pandemic

Under emergency rule §500.4, a hospital licensed under Health and Safety Code Chapter 241 may apply to HHSC for approval to participate in the CMS hospital at home program. The emergency rule is reproduced below:

§500.4. Participating in the Centers for Medicare and Medicaid Services Acute Hospital Care at Home Program During the COVID-19 Pandemic.

(a) Notwithstanding hospital functions and services requirements at 25 TAC §133.41 and hospital physical plant and construction requirements at 25 TAC §§133.161-.169, a hospital may treat an eligible patient at that patient's residence as part of the Centers for Medicare & Medicaid Services (CMS) Acute Hospital Care at Home program if the hospital:

- (1) obtains CMS approval to participate in the Acute Hospital Care at Home program;
- (2) submits an application as specified by HHSC via email at infohflc@hhs.texas.gov to participate in the Acute Hospital Care at Home program;
- (3) provides a copy of the CMS approval and any additional information HHSC requires in its review of the request; and
- (4) receives written approval from HHSC to participate in the CMS Acute Hospital Care at Home program.

(b) HHSC at any time may withdraw its approval for a hospital to participate in the CMS Acute Hospital Care at Home program. Any patient being treated under the program at the time approval is withdrawn shall be safely relocated as soon as practicable according to the hospital's policies and procedures.

(c) A hospital that participates in the CMS Acute Hospital Care at Home program shall comply with the CMS program requirements and with all other applicable statutes and regulations.

(d) To the extent this section may conflict with a requirement of 25 TAC §133.21(c)(4)(B) - (C) (relating to Scope of Hospital License), this section controls.

(e) The hospital shall develop, implement, and enforce policies and procedures to ensure the safety of a patient's residence when participating in the CMS Acute Hospital Care at Home program.

2.2 Application Requirements

Hospitals must submit [Form 3230, Application to Treat Eligible Patients at Their Residence Under the Centers for Medicare and Medicaid Services Acute Hospital Care at Home Program in Response to COVID-19](#), to infohflc@hhs.texas.gov and receive written approval from HHSC prior to participating in the CMS hospitals at home program. HHSC may approve an application at its sole discretion and may require an inspection or additional documentation prior to approval. HHSC may withdraw its approval to participate in the CMS hospitals at home program at any time.

3.0 Background/History

HHSC adopted a previous emergency rule §500.4, Participating in the Centers for Medicare and Medicaid Services Acute Hospital Care at Home Program During the COVID-19 Pandemic on February 3, 2022, and extended it on June 3, 2022. The rule expired on August 1, 2022, and HHSC adopted a new replacement emergency rule on August 2, 2022, and extended it on November 30, 2022. The rule expires on January 28, 2023, and HHSC adopted a new replacement emergency rule effective January 29, 2023.

In accordance with Texas Government Code §2001.034, HHSC adopted emergency rule §500.4, relating to Participating in the Centers for Medicare and Medicaid Services Acute Hospital Care at Home Program During the COVID-19 Pandemic, in 26 TAC, Part 1, Chapter 500, Subchapter A on January 29, 2023, due to imminent peril to the public health, safety, or welfare. The emergency rule may not be effective for longer than 120 days and may not be renewed for longer than 60 days.

4.0 Resources

View emergency rule §500.4 in the *Texas Register* by searching Texas Register Docket Number (TRD ID): **202300312** at [https://texreg.sos.state.tx.us/public/regviewctx\\$.startup](https://texreg.sos.state.tx.us/public/regviewctx$.startup).

View Form 3230 at: <https://hhs.texas.gov/laws-regulations/forms/3000-3999/form-3230-application-treat-eligible-patients-their-residence-under-centers-medicare-medicaid>.

View Governor Abbott's Disaster Declaration at: https://gov.texas.gov/uploads/files/press/DISASTER_covid19_disaster_proclamation_IMAGE_03-13-2020.pdf.

To receive future updates, sign up for GovDelivery at <https://service.govdelivery.com/accounts/TXHHSC/subscriber/new>.

5.0 Contact Information

If you have any questions about this letter, please email the Policies and Rules Unit at: HCR_PRU@hhs.texas.gov.