



Medicaid Behavioral Health In Lieu of Services Annual Report

As Required By

Senate Bill 1177, 86th

Legislature, Regular Session,

2019

Health and Human Services

Commission

November 2020



TEXAS
Health and Human
Services

Table of Contents

Executive Summary	1
1. Introduction	2
2. Background	3
3. Evaluation Plan/Project Overview	4
4. Conclusion	6

Executive Summary

In accordance with Senate Bill (S.B.) 1177, 86th Texas Legislature, Regular Session, 2019, the Texas Health and Human Services Commission (HHSC) must implement contract provisions to permit Medicaid managed care organizations (MCOs) to offer medically appropriate, cost-effective, evidence-based behavioral health services in lieu of specified Medicaid State Plan services. The list of services is to be approved by the State Medicaid Managed Care Advisory Committee (SMMCAC). Government Code Section 533.005(g), as amended by S.B. 1177, also requires HHSC to prepare and submit an annual report on the number of times during the preceding year a service from the list included in the contract is used.

At the time of this report, utilization data are not available as the service recommendations are undergoing analysis for cost-effectiveness. Once finalized, HHSC will amend MCO contracts to include the selected services. This report provides background and status updates about implementation activities thus far.

1. Introduction

S.B. 1177 (86th Texas Legislature, Regular Session, 2019) amended Government Code § 533.005(g), which requires HHSC to implement contract provisions allowing MCOs to offer their members certain medically appropriate, cost-effective, evidence-based services in lieu of mental health or substance use disorder services specified in the Medicaid State Plan. The list of services is to be approved by the SMMCAC. HHSC must consider the actual cost and use of these services when setting the capitation rates under the managed care contracts. Furthermore, HHSC must annually report to the Legislature on the number of times during the preceding year a service from the approved in lieu of services list included in the MCO contracts was utilized.

HHSC divided the recommended services into a phased implementation. Phase one services include services in lieu of inpatient hospitalization. Phase two services include services in lieu of outpatient services. A third group of services proposed by SMMCAC requires further consideration. This report provides an update on HHSC's implementation of S.B. 1177.

2. Background

In lieu of services are services substituted for Medicaid State Plan services or settings, as allowed by 42 Code of Federal Regulations (CFR) § 438.3(e). Federal regulations also state that the Centers for Medicare & Medicaid Services (CMS) must review and approve Medicaid MCO contracts, and allow the state to offer agreed upon in lieu of services and take the actual cost of services into account in developing the capitation rate paid to the MCOs.

Currently, Texas Medicaid allows two in lieu of services:

MCOs may provide inpatient services for acute psychiatric conditions in a free-standing psychiatric hospital in lieu of an acute care inpatient hospital setting.

MCOs may provide substance use disorder treatment services in a chemical dependency treatment facility in lieu of an acute care inpatient hospital setting.

SMMCAC created a list of recommendations for additional in lieu of services with input from the public. SMMCAC submitted the in lieu of service recommendations approved by the committee to HHSC in December 2019.

3. Evaluation Plan/Project Overview

HHSC divided SMMCAC's recommendations into phases for evaluation and implementation. Phase one services are comprised of services in lieu of inpatient services. Phase two services are comprised of services in lieu of outpatient services. A third group of services proposed by SMMCAC requires further consideration.

Phase one – services in lieu of inpatient services:

- Coordinated specialty care
- Crisis respite
- Crisis stabilization units
- Extended observation units
- Partial hospitalization
- Intensive outpatient program

Phase two – services in lieu of outpatient services:

- Cognitive rehabilitation
- Multisystemic therapy
- Functional family therapy

HHSC reviewed data from peer-reviewed articles and information about the in-lieu-of services allowed by other state Medicaid programs. Based on this research, HHSC has determined the proposed services are evidence-based.

Currently, services in both phases are being reviewed for cost-effectiveness. The cost-effectiveness review assists in indicating whether the service being considered for inclusion in the contract will cost the Medicaid program less than or the same amount as the state plan service it would be offered in lieu of, including consideration of projected cost offsets.

HHSC is utilizing information on payment rates and historical service utilization data as the basis for cost projections. HHSC is also incorporating information from peer-reviewed articles and a review of other states' Medicaid payment rates. Phase one services in lieu of inpatient services are scheduled for implementation in March 2021. Phase two services in lieu of outpatient services are scheduled for implementation no later than September 2022.

As mentioned above, a third group of services did not fit easily into either phase and requires additional analysis for various reasons. Some services only apply to specific populations, such as children in foster care and individuals with co-

occurring intellectual and developmental disabilities and serious mental illness. For other services in this third group, HHSC needs to identify which state plan services they could be offered in lieu of. Finally, some of the services contain components that are already covered by Medicaid as part of another benefit or service or could be implemented in an alternate way, which requires additional analysis. Services that require additional analysis are:

- Collaborative care model

- Integrated pain management day program

- Health and behavior assessment and intervention

- Systemic, therapeutic, assessment, resources, and treatment

- Treatment/therapeutic foster care

- Mobile crisis outreach team

4. Conclusion

Government Code § 533.005(g), as amended by S.B. 1177, requires HHSC to give MCOs the flexibility to offer certain medically appropriate, cost-effective, evidence-based behavioral health services in lieu of covered Medicaid State Plan services. HHSC anticipates that implementation of in lieu of services will enhance the behavioral health care available to Medicaid members and be cost effective. This aligns with HHSC's mission of improving the health, safety and well-being of Texans through good stewardship of public resources.

Phase one services in-lieu-of inpatient services are scheduled for implementation in 2021. Phase two services in-lieu-of outpatient services will implement no later than September 2022. HHSC will continue to research services approved and recommended by the SMMCAC and collect cost-effectiveness data for the evaluation of in-lieu-of services. HHSC will amend the managed care contracts to allow MCOs to provide the approved in-lieu-of services. Utilization of these services may begin once managed care contracts become effective, and data will become available the following year. HHSC anticipates the 2021 annual report will provide a status update as MCOs will need time to implement these services and to allow sufficient time for data collection.¹ Utilization data will not be available for the 2021 report. HHSC anticipates the 2022 report will include utilization data.

¹ Because of retroactivity in the claims and encounters, data analysis is conducted at least eight months after the service is delivered to ensure the data are complete and final.

List of Acronyms

Acronym	Full Name
CFR	Code of Federal Regulations
CMS	Centers for Medicare & Medicaid Services
HHSC	Health and Human Services Commission
MCO	Managed Care Organization
MED	Medicaid Evidence Based Decisions Project
S.B.	Senate Bill
SMMCAC	State Medicaid Managed Care Advisory Committee