



Medicaid Behavioral Health In-Lieu-of Services Annual Report

**As Required by
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Regular Session, 2019**

**Texas Health and Human Services
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TEXAS
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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.

This annual report provides background information and status updates about implementation activities to date. Utilization data is not included in this report because the in-lieu-of services have not been implemented. While the original expected date of implementation was March 1, 2021, HHSC is still awaiting approval from the Centers for Medicare and Medicaid Services (CMS) and therefore implementation has been delayed. Once CMS approval is received, HHSC will amend MCO contractual requirements outlined in the Uniform Managed Care Manual (UMCM) to include the approved in-lieu-of services.

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 Texas 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 phases for 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

The Texas Medicaid State Plan describes the nature and scope of the Medicaid program, including administration, client eligibility, benefits, and provider reimbursement. State plans must be approved by CMS. Under managed care, HHSC contracts with MCOs to provide Medicaid services to members. Members have a choice of at least two MCOs in each Texas Medicaid managed care service area. After choosing a plan, members receive Medicaid services through the health plan's network of providers.¹

In-lieu-of services are services offered by MCOs that substitute for Medicaid state plan services or settings, as allowed by 42 Code of Federal Regulations (CFR) § 438.3(e)(2). Per federal policy, in-lieu-of services must be a medically appropriate and cost-effective substitute for the covered service or setting under the state plan. The Medicaid member must not be required by the MCO to use the in-lieu-of service.

Federal regulations also state that the CMS must review and approve Medicaid MCO contracts, and allow the state to offer agreed upon in-lieu-of services. The state must take the actual utilization and cost of the in-lieu-of services into account in developing the capitation rate paid to the MCOs.

Currently, Texas Medicaid allows two in-lieu-of services:

1. MCOs may provide inpatient services for acute psychiatric conditions in a free-standing psychiatric hospital in lieu of an acute care inpatient hospital setting.²
2. MCOs may provide substance use disorder treatment services in a chemical dependency treatment facility in lieu of an acute care inpatient hospital setting.

¹ The STAR Health program is the only exception and has one single statewide MCO.

² Per federal policy in 42 CFR § 438.6 (e), this in-lieu-of service is available for up to 15 days per calendar month for Medicaid members in managed care, ages 21-64. Inpatient admission in free-standing psychiatric hospitals is a Medicaid state plan benefit for members ages 20 years and younger and 65 years and older.

3. Evaluation Plan/Project Overview

In accordance with the requirement under S.B. 1177 for SMMCAC to approve the list of in-lieu-of services, the committee developed a list of recommendations for additional in-lieu-of services with input from the public. SMMCAC submitted the committee-approved in-lieu-of service recommendations to HHSC in December 2019.

HHSC divided SMMCAC's recommendations into three 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. Phase three services include a mix of in-lieu-of services which apply to specific populations, need further review to determine the appropriate corresponding state plan service, and/or contain components that are already covered by Medicaid.

Phase one – services in lieu of inpatient services:

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

Status update on Phase one services:

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 all Phase one proposed services are evidence-based.

HHSC staff also completed the cost-effectiveness review for Phase one in-lieu-of services. The cost-effectiveness review determined whether the service being considered for inclusion in the Medicaid managed care contracts would 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. In order to conduct the cost-effectiveness review, HHSC used standard rate setting methodology to develop proxy rates for the proposed in-lieu-of services. HHSC

projected costs and savings using the proxy rate information and utilization assumptions based on recent trends from general revenue services and literature review. Since some of the proposed in-lieu-of-services are currently provided by HHSC outside of Medicaid, and funded by general revenue and other sources, the Clinical Management for Behavioral Health Services (CMBHS) system was used to gather data on the delivery of these services.³ HHSC also used information from peer-reviewed articles and a review of other states' payment rates for utilization assumptions.

The cost-effectiveness review determined that all Phase one services and settings are medically appropriate and cost-effective substitutes for services covered under the Texas Medicaid State Plan.

HHSC had been working toward a March 1, 2021, implementation date for the Phase one in lieu of services. HHSC drafted an amendment to add Phase one services to the UMCM, which defines and interprets the procedures that MCOs in Texas Medicaid must follow to meet certain contractual requirements. HHSC posted the proposed UMCM amendment for MCO comment in December 2020.

In February 2021, CMS raised questions about the Phase one services and requested additional time to render a decision regarding the approval of all Phase one services and the availability of federal financial participation for the services. HHSC informed SMMCAC members and other stakeholders at the SMMCAC meeting held on February 24, 2021. CMS has not yet rendered a decision about the proposed Phase one services. HHSC continues to work with CMS.

MCOs may begin offering in-lieu-of services upon receipt of CMS approval and adoption of corresponding UMCM amendments. MCOs reported that three to six months are needed to implement these changes, including system changes, training staff, updating materials, identifying service providers, and educating providers and members.

Phase two – services in lieu of outpatient services:

- Cognitive rehabilitation

³ CMBHS is used across the state with the HHSC-contracted substance use and mental health treatment service providers, and others who qualify, to collect data on services provided by HHSC. CMHBS does not readily separate Medicaid from non-Medicaid data.

- Multisystemic therapy
- Functional family therapy

Status update on Phase two services:

Phase two services in lieu of outpatient services are currently being reviewed for cost-effectiveness. HHSC has determined all Phase two proposed services are evidence-based. Phase two services are scheduled for implementation by September 2022, pending approval by CMS.

HHSC used standard rate setting methodology to develop proxy rates for the proposed Phase two in-lieu-of services. HHSC is currently working on the cost and savings projections, using the proxy rate information and utilization assumptions based on a literature review of peer-reviewed articles.

Phase three – Additional in lieu of services:

- Collaborative care model
- Integrated Pain Management Day Program
- Health and behavior assessment and intervention (HBAI)
- Systemic, therapeutic, assessment, resources, and treatment
- Treatment/therapeutic foster care
- Mobile crisis outreach team (MCOT)

Status update on Phase three services:

Phase three services require additional analysis for various reasons and therefore will be analyzed after Phase one and Phase two services are analyzed and implemented, if approved.

Some Phase three 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 and confirm assumptions with CMS. 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.

S.B. 672, 87th Legislature, 2021, Regular Session, directs HHSC to reimburse applicable providers for collaborative care model activities under Medicaid. HHSC will be adding the collaborative care model benefit to the Medicaid service array, rather than considering implementing the benefit as an in-lieu-of service. Implementation will require federal authorization through a Medicaid state plan amendment. HHSC is currently working to develop a policy for the services and to establish reimbursement rates for this service with an anticipated implementation date of summer 2022.

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.

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 and UMCM to allow MCOs to provide the approved in-lieu-of services. Utilization of these services may begin once CMS approves the proposed services, the UMCM amendments become effective and MCOs implement systems and other changes. Utilization data will be provided in future annual reports once the data is available.

List of Acronyms

Acronym	Full Name
CFR	Code of Federal Regulations
CMBHS	Clinical Management for Behavioral Health Services
CMS	Centers for Medicare & Medicaid Services
DSM	Diagnostic and Statistical Manual of Mental Disorders
HBAI	Health and Behavior Assessment and Intervention
HHSC	Health and Human Services Commission
MHR	Mental Health Rehabilitation
MCO	Managed Care Organization
MCOT	Mobile Crisis Outreach Team
MED	Medicaid Evidence Based Decisions Project
S.B.	Senate Bill
SMMCAC	State Medicaid Managed Care Advisory Committee
UMCM	Uniform Managed Care Manual