



Date: May 3, 2021

To: Home and Community-based Services Program Providers

Subject: Information Letter No. 2021-21 Retainer Payments

The Health and Human Services Commission (HHSC) has received approval from the Centers for Medicare and Medicaid to make retainer payments to HCS program providers. A retainer payment is a payment made by HHSC to an HCS program provider for supervised living (SL) or residential support (RSS) for a day during the period of March 20, 2020 through October 23, 2020 that an individual did not receive SL or RSS because the individual was temporarily living away from the three-person residence or four-person residence to reduce the risk of COVID-19 transmission. HHSC makes retainer payments for up to 90 days per individual.

HHSC has adopted an emergency rule at 40 TAC §9.193 that allows an HCS program provider to submit an electronic service claim for a retainer payment. The rule emergency rule can be found by entering the TRD#: 202101714 into the search criteria at [https://texreg.sos.state.tx.us/public/regviewctx\\$.startup](https://texreg.sos.state.tx.us/public/regviewctx$.startup). The rule lists the conditions that must exist for such a service claim to be submitted. One of the conditions is that a program provider must complete [HHSC Retainer Payment Attestation Form 1598](#) and submit it to HHSC.

A program provider must do the following in complying with the requirements in §9.193:

- using the form submission button, send a completed [Form 1598](#) to RetainerPayments.HCS.ICF@hhs.texas.gov;
- if requesting an alternative date for the payment comparison as described in 40 TAC §9.193(i), email the request to Kalioppe.Schmidt@hhs.texas.gov; and
- enter an electronic service claim for a retainer payment into the CARE system on new CARE screen C22R using "KX" as the second RSS and SL modifier.

CARE screen C22R allows a program provider to enter a service claim for a retainer payment on a date on or before June 30, 2021. The date for which the retainer payment is requested may be more than 365 calendar days before the date the service claim is entered.

HHSC Provider Fiscal Compliance will conduct a retainer payment review, as described in [Appendix IV](#) of the HCS Billing Guidelines, for each program provider that submits a service claim for a retainer payment. If HHSC Provider Fiscal Compliance determines that a program provider is not in compliance with 40 TAC §9.193 or the program provider makes an attestation described in §9.193(g) that is inaccurate, HHSC will recoup retainer payments from the program provider.

Questions about retainer payments may be sent to RetainerPayments.HCS.ICF@hhs.texas.gov.

Sincerely,

[signature on file]

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