Presentation to the Senate Committee on Finance on Long-Term Care

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June 14, 2022

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Overview of Medicaid Long Term Care Services Rate Setting

***Victoria Grady,* Director of Provider Finance**

June 14, 2022

Long Term Services and Supports (LTSS) - Providers

Providers include:

- Nursing Facilities (NFs)
- Assisted Living Facilities (ALFs) and Residential Care (RC)
- Private Intermediate Care Facilities for Persons with Intellectual or Developmental Disabilities (ICF/IDD)
- IDD Community-based waivers – [Home and Community-based Services (HCS), Texas Home Living (TxHmL)]
- Non-IDD Community-based waivers [Community Living Assistance and Support Services (CLASS), Deaf Blind with Multiple Disabilities (DBMD)]
- State plan Community-based services [Primary Home Care (PHC), Day Activity and Health Services (DAHS)]
- State Supported Living Centers (SSLC)
- MH Community-based waivers [Youth Empowerment Services (YES), HCS-Adult Mental Health]

Rate Recommendations for DFPS Programs:

- Child Foster Care including Legacy Foster Care, Community Based Care and Supervised Independent Living (24 RCC)

Frequency of LTSS Rate Updates

- Majority of programs: Updated as a result of appropriations – typically biennially
- Hospice, Veterans NFs, SSLC – annually
- DFPS Community Based Care: when updated forecasts are available

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LTSS – Methodology: Cost Report and Cost Based

Prospective, cost report based:

- Applies to NFs, ALFs and RC, private ICF/IDD, HCS/TxHmL, CLASS, PHC, DAHS, 24 RCC Legacy Foster Care
- Based on historical Medicaid cost report financial information from providers, projected to rate period
- Established in advance of service provision; no retrospective cost settlement
- Typically adjusted at beginning of state biennium and effective for two years based on appropriations
- Associated rate enhancement programs (except for 24 RCC) to incentivize increased direct care worker pay, benefits and, for NFs, staffing ratios.
- Minimum wage requirements for all community care attendants ($8.11 per hour)

Cost based:

- Applies to Veterans NFs and SSLCs
- Interim rates are paid and cost settlement occurs after end of rate year
- Costs determined through cost reports
- Adjusted annually

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LTSS – Methodology: Modeling and Federally Directed

Modeling

- Applies to Adult Foster Care, DBMD, HCBS-AMH, Home Delivered Meals, Emergency Response Services, Prescribed Pediatric Extended Care Center, YES, Community First Choice (CFC), 24 RCC Community Based Care, 24 RCC Supervised Independent Living
- When historical costs are unavailable (new programs, small programs), reimbursement may be based on a pro forma approach. This approach involves using historical costs of delivering similar services, where appropriate data are available and estimating the basic types and costs of products and services necessary to deliver services meeting federal and state requirements

Dictated by Federal Law

- Applies to Hospice (both Hospice-NF and Hospice-Community)
- Hospice-NF – federally required to be at least 95 percent of rate paid to NF for non-Hospice resident; updated whenever NF rates are updated (will not be carved-in to managed care)
- Hospice-Community – federally mandated; updated annually every October

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LTSS – Methodology: Cost Reporting

<u>Rate Setting Cost Reporting:</u>

- LTSS Medicaid cost reports are designed and maintained by HHSC.
- Administered through web-based application.
- Cost report preparers are required to take web-based training every other year.
- Cost reports are collected from both Fee for Service (FFS) and managed care providers.
- Allowable and unallowable costs are regulated by Texas Administrative Code rules that are similar to Medicare and Office of Management and Budget rules:
    - No related-party mark-ups
    - 30-year useful lives; no accelerated depreciation
    - No advertising, luxury vehicles
    - Costs must be related to provision of services
- 100% of cost reports are reviewed by the HHSC Provider Finance Department Cost Report Review Unit.
- Costs are inflated from the reporting period to the rate period.
- Rates are typically based on average costs (for direct care) or median costs (for non-direct care) costs.

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LTSS - Nursing Facilities

- NF Rates vary according to the assessed characteristics of the recipient.
- Rates are currently determined for 34 case mix classes of service, based upon the Resource Utilization Group (RUG) of the individual client.
    - CMS in the process of changing from RUGS to Patient Driven Payment Model (PDPM).
    - Nursing Facility Payment Methodology Advisory Committee was convened and is meeting monthly to finalize a payment methodology recommendation to HHSC.
- Reimbursements comprise five cost-related components:
    - direct care staff;
    - other recipient care;
    - dietary;
    - general and administration; and
    - fixed capital asset component.
- Cost information is derived from the NF cost report, which is required to be submitted to HHSC on a biannual basis.

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Rates Over Time

- **Average Methodological Rate** is the calculated average rate needed to fully fund the rate based on the current payment methodology.
  - For NFs, the Average Methodological RUG rate is the non-case mix index (CMI) adjusted base rate.
- **Average Adopted Rate** is the calculated average rate adopted based on available appropriations.
  - For NFs, the average NF Adopted RUG Rate is a non-CMI adjusted base rate.
- **Direct Care Staff and Attendant Compensation (Rate Enhancement) programs** are voluntary. Participating providers receive additional funding and agree to use that funding on compensation for direct care staff. Program providers are subject to recoupment if they do not meet program requirements.
- **Senate Bill (S.B.) 8**, 87th Legislature, 3rd Called Session, 2021, appropriates funds to HHSC for grants to support Texas healthcare providers affected by the COVID-19 pandemic. HHSC is currently planning to release solicitations for the competitive award process beginning in June 2022.

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Nursing Facility Medicaid Rate and Supplemental Funding Overview

	SFY2022		SFY2021	
	Daily Rate	Projected Annual Expenditures	Daily Rate	Estimated Annual Expenditures
Average Methodological NF Rug Rate	$ 181.29	$ 3,103,634,888	$ 179.51	$ 2,911,921,460
Average Adopted NF RUG Rate	$ 118.36	$ 2,026,290,614	$ 118.36	$ 1,919,976,736
COVID-19 Temporary Rate Add-On (Hospice in NF excluded)	$ 19.63	$ 325,696,696	$ 19.63	$ 348,934,115
Direct Care Staff Compensation (Rate Enhancement)*	$ 3.72	$ 62,077,727	$ 3.41	$ 67,280,839
NF Liability Insurance (per day of service)*	$ 1.67	$ 21,238,138	$ 1.67	$ 21,238,138
Quality Incentive Payment Program*	$ 60.41	$ 1,060,125,000	$ 63.11	$ 1,060,125,000
SB 8 COVID-19 Awards*		$ 200,000,000		
Total	**$ 203.79**	**$ 3,695,428,174**	**$ 206.18**	**$ 3,417,554,828**
Methodological Rate Compared to Adopted Rate and Other Funding Sources	**$ (22.50)**	**$ (591,793,286)**	**$ (26.67)**	**$ (505,633,369)**

* Denotes voluntary programs

Nursing Facility Medicaid Rate and Supplemental Funding Overview

	SFY2020		SFY2019		SFY2018	
	Daily Rate	**Estimated Annual Expenditures**	**Daily Rate**	**Estimated Annual Expenditures**	**Daily Rate**	**Estimated Annual Expenditures**
Average Methodological NF Rug Rate	$179.51	$ 3,459,565,906	$ 153.69	$ 3,118,693,067	$ 153.69	$3,068,897,443
Average Adopted NF RUG Rate	$118.36	$ 2,281,066,351	$ 118.36	$ 2,401,773,124	$ 118.36	$2,363,424,434
COVID-19 Temporary Rate Add-On (Hospice in NF excluded)	$ 19.63	$ 159,711,219				
Direct Care Staff Compensation (Rate Enhancement)*	$ 3.49	$ 66,274,733	$ 3.36	$ 67,528,320	$ 3.20	$ 23,114,282
NF Liability Insurance (per day of service)*	$ 1.67	$ 29,513,182	$ 1.67	$ 32,072,428	$ 1.67	$ 31,601,039
Quality Incentive Payment Program*	$ 36.37	$ 578,250,000	$ 39.05	$ 414,780,000	$ 37.84	$ 372,000,000
Total	**$ 179.52**	**$3,114,815,485**	**$ 162.44**	**$ 2,916,153,871**	**$161.07**	**$2,790,139,756**
Methodological Rate Compared to Adopted Rate and Other Funding Sources	**$ (0.01)**	**$ 344,750,421**	**$(14.62)**	**$ 190,156,743**	**$(13.25)**	**$266,565,515**

* Denotes voluntary programs

Nursing Facilities

Daily Rates by Year

$250.00
$200.00
$150.00
$100.00
$50.00
$-

2022 2021 2020 2019 2018

Quality Incentive Payment Program
NF Liabiliy Insurance (per day of service)
Direct Care Staff Compensation (Rate Enhancement)
COVID-19 Temporary Rate Add-On (Hospice in NF excluded)
Average Adopted NF RUG Rate
Average Methodological NF Rug Rate

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Assisted Living Facilities

Assisted Living Medicaid Rate and Supplemental Funding Overview SFY 2022 - SFY 2020

	SFY2022		SFY2021		SFY2020	
	Daily Rate	Projected Annual Expenditures	Daily Rate	Estimated Annual Expenditures	Daily Rate	Estimated Annual Expenditures
Average Methodological AL Rate	$ 80.71	$81,942,608	$ 75.86	$74,861,526	$ 75.86	$79,341,591
Average Adopted AL Rate	$ 44.40	$45,080,022	$ 44.40	$43,810,937	$ 45.17	$47,244,673
S.B. 8 COVID-19 Awards*		$46,149,888				
Total	**$ 44.40**	**$91,229,910**	**$ 44.40**	**$43,810,937**	**$ 45.17**	**$47,244,673**
Methodological Rate Compared to Adopted Rate and Other Funding Sources	**$ 36.31**	**$ (9,287,302)**	**$ 31.46**	**$31,050,589**	**$ 30.69**	**$32,096,918**

* Denotes voluntary programs

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Intermediate Care Facilities

Intermediate Care Facility Medicaid Rate and Supplemental Funding Overview

	SFY2022		SFY2021		SFY2020	
	Daily Rate	Projected Annual Expenditures	Daily Rate	Estimated Annual Expenditures	Daily Rate	Estimated Annual Expenditures
Average Methodological ICF Rug Rate	$ 229.76	$ 384,621,039	$ 213.09	$ 351,959,328	$ 213.09	$ 367,217,311
Average Adopted ICF Rate	$ 209.26	$ 265,601,281	$ 209.26	$ 262,054,709	$ 209.26	$ 257,738,290
ICF Supplemental Payment Program	$ 69.14	$ 7,616,350	$ 70.67	$ 7,616,361	$ 61.16	$ 6,944,319
S.B. 8 COVID-19 Awards*		$ 2,952,861				
Total	**$ 278.40**	**$276,170,492**	**$ 279.93**	**$269,671,070**	**$ 270.42**	**$264,682,609**
Methodological Rate Compared to Adopted Rate and Other Funding Sources	**$ (48.64)**	**$108,450,547**	**$ (66.84)**	**$ 82,288,258**	**$ (57.33)**	**$102,534,703**

* Denotes voluntary programs

Community Attendants

Average Attendant Hourly Wage assumed in the current rates

Program	SFY 2022	SFY 2020	SFY 2018
CLASS	$ 8.83	$ 8.98	$ 8.63
DAHS	$ 9.70	$ 8.99	$ 8.00
DBMD	$ 10.40	$ 9.10	$ 9.25
HCS / TxHmL	$ 10.38	$ 11.23	$ 9.66
PHC	$ 9.19	$ 8.37	$ 8.01
RC	$ 9.59	$ 9.84	$ 8.00
Assisted Living	$ 10.13	$ 10.26	$ 8.11
STAR Kids	$ 8.91	$ 8.11	$ 8.02
STAR+PLUS	$ 8.54	$ 8.89	$ 8.02

The minimum attendant wage is $8.11/hour. The estimated average attendant hourly wage assumed in the applicable rate calculations is based on the even-numbered year's biennial cost reports. The estimated wages are not adjusted for inflation and are based on median values.

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Community Attendants

HHSC adopted time-limited reimbursement increases (temporary rate add-ons), pursuant to HHSC's HCBS American Rescue Plan Act (ARPA) Spending Plan.

HCBS ARPA Provider Retention Payments for Attendant Services and Nursing Services		
	All Funds	General Revenue
Fee For Service	$228,122,130	$89,241,377
Managed Care	$413,648,574	$161,819,322
Total	$641,770,703	$251,060,699

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Community Attendants

S.B. 8, 87th Legislature, 3rd Called Session, 2021, appropriates funds to HHSC for grants to support Texas healthcare providers affected by the COVID-19 pandemic to include providers of community attendant services.

Providers of Community Attendants	Estimated RFA Funding
Non-Consumer Directed Services Request for Application (RFA)	$67,346,403
Consumer Directed Services RFA	$6,918,773

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Community Attendants

Fiscal Impact Summary for 2024 - 2025 Biennium at Multiple Minimum Wage Levels

Minimum Wage	SFY 2024		SFY 2025	
	AFs	GR	AFs	GR
$9.00	$273,288,804	$107,756,783	$287,194,885	$113,219,484
$10.00	$643,391,609	$252,834,549	$675,355,884	$265,363,669
$11.00	$1,064,247,734	$417,026,174	$1,114,845,153	$436,844,907
$12.00	$1,499,717,205	$586,292,040	$1,569,027,565	$613,426,518
$13.00	$1,937,698,265	$756,518,371	$2,025,849,438	$791,018,530
$14.00	$2,374,593,003	$926,280,537	$2,481,509,041	$968,114,353
$15.00	$2,810,965,103	$1,095,862,905	$2,936,617,750	$1,145,020,607
$16.00	$3,247,348,681	$1,265,444,381	$3,391,769,356	$1,321,938,268
$17.00	$3,685,726,614	$1,435,804,310	$3,848,995,831	$1,499,665,601
$18.00	$4,122,612,261	$1,605,585,107	$4,304,645,072	$1,676,780,928
$19.00	$4,559,524,883	$1,775,356,304	$4,760,320,400	$1,853,885,034
$20.00	$4,996,350,025	$1,945,116,611	$5,215,902,636	$2,030,977,484

Fiscal estimates should be considered minimum required fiscals and are subject to change as new data related to wages, trends and case load growth becomes available.

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Home and Community Based Services Waiver

Home and Community Based Services (HCS) Medicaid Rate and Supplemental Funding Overview SFY 2022 - SFY 2020	SFY2022 Projected Annual Expenditures	SFY2021 Estimated Annual Expenditures	SFY2020 Estimated Annual Expenditures
Cost to Fund HCS Methodological Rates	$ 2,341,294,667	$ 2,179,751,025	$ 2,179,751,025
Estimated Annual Expenditures	$ 2,386,226,332	$ 2,229,231,584	$ 2,229,231,584
COVID-19 Temporary Rate Add-On	$ 8,351,784	$ 10,608,206	$ 3,495,485
ARPA HCBS Provider Retention Payments	$ 86,924,046		
Total	**$ 2,394,578,116**	**$ 2,239,839,791**	**$ 2,232,727,070**
Methodological Rate Compared to Adopted Rate and Other Funding Sources	**$ (53,283,449)**	**$ (60,088,765)**	**$ (52,976,044)**

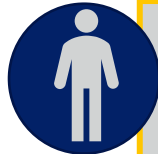
Texas Medicaid Nursing Facility Quality Initiatives

Stephanie Stephens, *State Medicaid Director*

June 14, 2022

Nursing Facilities (NFs) and Medicaid

49,000+ Medicaid nursing facility residents per month in 2021



62% of Texans in nursing facilities are covered by Medicaid

$2.6 billion annual expenditures in 2021

1,200+ facilities are contracted to provide Medicaid services

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Source: HHSC Forecasting, May 2021
2021 expenditures are not final

Medicaid Nursing Facility Quality Initiatives

HHSC monitors the quality of nursing facility service delivery in three primary ways:

1. Quality Incentive Payment Program (QIPP)
2. Quality Monitoring Program
3. Managed Care Quality Measures

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QIPP Quality Measures

Four Components

- Quality Assurance and Performance Improvement (QAPI) Meetings
- Workforce Development
- Centers for Medicare & Medicaid Services (CMS) Quality Measures: pressure ulcers, antipsychotic medications, independent mobility, urinary tract infections
- Infection Control

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QIPP Performance Improvement Projects

Two components require NFs to develop facility-specific Performance Improvement Projects (PIPs)

Component 1

Requires NFs to pursue improvement on a CMS quality measure

Component 2

Requires NFs to pursue improvement in an area of focus related to workforce development

Varied areas of focus for PIPs

Examples:

- *Pressure ulcers*
- *Antipsychotic medication*
- *Independent movement*
- *Staff turnover*
- *Recruitment*
- *Resident satisfaction*

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Measuring QIPP Results

Core Quality Measures

- Program includes facility-specific and program-wide performance targets
- NFs earn payment by improving upon their baseline each quarter, or by reaching a program-wide threshold and then maintaining high-performance

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Infection Control Performance

- Only a subset of participating facilities are eligible for these measures
- Eligible NFs earn payments by:
  - Meeting a program-wide benchmark in a quality measure related to residents' pneumococcal vaccination and seasonal influenza vaccination status
  - Demonstrating defined elements of a facility-wide infection control program

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QIPP State Fiscal Year (SFY) 2021 Q4 Results

Core Quality Measures

Measures: % of residents	Met Target	Did Not Meet Target
With a pressure ulcer	**555** (63.9%)	280
Who received an antipsychotic medication	**640** (73.6%)	201
Whose ability to move independently worsened	**600** (69.0%)	233
Subset of nursing facilities participate in this measure With a urinary tract infection	**465** (85.5%)	71

0 100 200 300 400 500 600 700 800 900

Met Target   Did Not Meet Target

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Small percentage of nursing facilities with insufficient data not represented.

QIPP SFY 2021 Results

Infection Control Performance

Measures	Met Target	Did Not Meet Target
Facility has an infection control program	**514** (94.5%)	30
% of residents w/pneumococal vaccine up to date	**496** (91.2%)	48

100 200 300 400 500

Met Target ■ Did Not Meet Target

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QIPP Payments By Year

Year	Payments (Million)
SFY 2018	$199.8
SF 2019	$423.9
SFY 2020	$634.8
SFY 2021	$974.9
SFY 2022	$1,100.0

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Quality Monitoring Program (QMP)

Helps detect conditions in nursing facilities that could be detrimental to the health, safety, and welfare of residents

Who does the monitoring

- Nurses
- Dietitians
- Pharmacists
- Qualified intellectual disability professionals

Type of activities

- Early warning system identifies medium to high-risk facilities
- Visits by quality monitors and rapid response teams
- Evaluate quality of care and life
- Provide technical assistance, training, and education

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Managed Care Quality Measures

Quality measures are reviewed to assess improved outcomes for managed care organizations (MCOs)

STAR+PLUS serves nursing facility members. Example measures:

- Care for chronic illness like diabetes, respiratory care
- Potentially Preventable events like hospital admissions, emergency room visits
- Prevention and screening

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Upcoming Quality Initiatives

Minimum Performance Standards *House Bill 2658, 87th Legislative Session, Regular Session, 2021*		
Summary	**Target Date**	**Key Activity**
Requires HHSC to: • Adopt rules establishing minimum performance standards • Monitor provider performance in accordance with the standards and require corrective actions • Share data with STAR+PLUS Medicaid MCOs as appropriate	January 2023	• Adopt rules regarding establishment and monitoring of minimum performance standards • Update the managed care manual to reflect the minimum performance standards and related processes • Notify NFs of minimum performance standards through a provider notice and on the HHS website

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Upcoming Quality Initiatives

Staff Improvement Ratio *House Bill 2658, 87th Legislative Session, Regular Session, 2021*		
Summary	**Target Date**	**Key Activity**
Requires HHSC to revise policies in QIPP to require improvements to staff-to-patient ratios in nursing facilities participating in QIPP by January 2025	September 2023	• Develop quality measures • Publish associated performance requirements by December 2022 for public comment • Incorporate new measures into QIPP for SFY 2024

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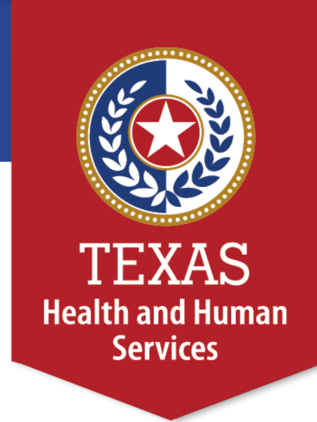

Long-Term Care Workforce Challenges

Michelle Dionne-Vahalik

Associate Commissioner, Long-Term Care Regulation

Staffing Requirements for Long-Term Care Facilities

Nursing Facilities (NFs)

"Sufficient nursing staff"

- At a minimum, the facility must maintain a ratio (for every 24-hour period) of one licensed nursing staff person for each 20 residents or a minimum of .4 licensed-care hours per resident day. A registered nurse (RN) must be onsite 8 consecutive hours a day, 7 days a week.
- Must have an RN serve as a Director of Nursing (DON) for 40 hours/week.
- Charge nurse must be a licensed nurse, and the facility must have one on duty on each shift. The DON cannot also serve as the charge nurse if the facility has an average daily occupancy of more than 60 residents.
- Nurses must have specific competencies and skill sets necessary to care for residents' needs, as identified through resident assessments and described in the plan of care.

Other Direct Care Staff [Certified Nurse Aides (CNAs)]

- Must ensure CNAs complete training and demonstrate competency within 4 months of employment.
- Must ensure CNAs meet ongoing training requirements.

Assisted Living Facilities (ALFs)

Attendants must be 18 years old or a high school graduate and must be in the facility at all times when residents are present.

A facility must have sufficient staff to:

- Maintain order, safety, and cleanliness;
- Assist with medication regimens;
- Prepare and serve meals that meet the daily nutritional and special dietary needs of each resident, in accordance with each resident's service plan;
- Assist with laundry;
- Assure that each resident receives the kind and amount of supervision and care required to meet his basic needs; and
- Ensure safe evacuation of the facility in the event of an emergency.

Facility must have staffing policies, which require staffing ratios based upon residents' needs.

Night shift staff must be immediately available and depending on the type and size of the facility, awake also.

Long-Term Care Workforce Challenges

State of Texas Assistance Request Requests for Long-Term Care Facility Staffing FY 2020 – FY 2022

Facility Type	Number of Staffing Requests Deployed
Nursing Facilities	177
Assisted Living Facilities	26
TOTAL	**203**

HHSC Regulatory Citations – Staffing Related

FY 2020 - FY 2022

Facility Type	FY 2020	FY 2021	FY 2022	TOTAL
Nursing Facility	226	184	139	549
Assisted Living Facility	427	346	319	1,092
TOTAL	653	530	458	1,641

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HHSC Response to Long-Term Care Workforce Challenges

HHSC is providing the following flexibilities for CNAs by allowing:

- More options to sit for the nurse aide examinations and become CNAs.
- Work training and experience gained in a nursing facility during the public health emergency to count towards the 100 hours of required training needed to be eligible to sit for the exams.
- Many parts of the traditional CNA training to be conducted virtually, which reduces some of the challenges nurse aides face when obtaining the necessary education and training.

HHSC Response to Long-Term Care Workforce Challenges

HHSC has provided flexibilities for nursing facility administrators by permitting:

- Greater reciprocity for administrators licensed in another state to receive a license in Texas;
- More nursing facility locations where an administrator-in-training can conduct their internship; and
- Waived fees for military veterans and their spouses.

HHSC Response to Long-Term Care Workforce Challenges

HHSC has issued two surveys to providers to assess the current state of the CNA workforce in nursing facilities.

- The first survey was to gauge how many temporary nurse aides would be moving on through the testing process to receive full certification.
- The second survey was to gather data on how many nurse aides nursing facilities are short in general.

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Rider 146: Nursing Facility Workforce Study

Rider 146, Senate Bill 1, 87th Legislature, Regular Session directed HHSC to report on the workforce shortage in nursing homes and delivery of care in Texas nursing facilities. HHSC is required to:

- Evaluate the current workforce shortage;
- Consult with numerous stakeholder groups, including other state agencies;
- Develop recommendations for legislation, policies, and short-term and long-term strategies for the retention and recruitment of direct care staff to ensure an adequate workforce; and
- Examine and develop recommendations for nursing home reforms.

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Rider 146: Implementation Activities

- HHSC Regulatory Services has engaged and had productive conversations with the following stakeholders to collect ideas and recommendations for the report:
  - Provider associations;
  - The Long-Term Care Ombudsman;
  - Resident advocacy organizations; and
  - Texas Workforce Commission.

- HHSC also recently participated in a nursing facility workforce town hall hosted by the Texas Health Care Association.

- Upcoming meetings include the Texas Education Agency and the Board of Nursing.

- The report is on target to be submitted by the November 1st deadline.

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Appendix

Rates Overview

- HHSC Provider Finance Department (PFD) develops fee-for-service (FFS) reimbursement rates for most Health and Human Services (HHS) programs (primarily Medicaid), and coordinates with program staff and other agencies.
- PFD coordinates with Actuarial Analysis (AA) as FFS rates and rate changes are incorporated into the calculation of managed care capitation rates. FFS rates are also used by managed care organizations and providers as benchmarks in their contract negotiations.
- In 2017, the Sunset Commission recommended that rate setting for the HHS system be consolidated from other agencies. After transformation, consolidation of rate setting functions from other agencies and programs has continued in an effort to promote consistency in rates across the HHS system.

Rates Overview

- Responsibilities include:
  - Development of the following:
    - Texas Administrative Code Rules
    - State plan amendments; and
    - Waiver applications/Preprints
  - Conducting rate and rule hearings
  - Reviewing of all rates at least once every two years
  - Preparation of requests for approval by the Governor and Legislative Budget Board (LBB) of rate increases that meet a certain cost threshold.
  - Support the Department of Family and Protective Services (DFPS) via interagency contract by providing subject matter expertise and technical support for various rates. The authority to determine such rates is held by the Commissioner of DFPS.

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Overview of Medicaid Provider Finance

Rate Setting Areas

- Acute Care
- Hospitals
- Long Term Services and Supports (LTSS)

Supplemental Payments (> $11B Annually in FY2022)

- Acute Care: Behavioral Health Services, Public Health Provider – Charity Care Program, School Health and Related Services (school districts), Medicaid Administrative Claiming, Texas Incentives for Physicians and Professional Services
- Hospitals: Uncompensated Care, Disproportionate Share Hospital, Network Access Improvement Program, Graduate Medical Education, Comprehensive Hospital Increase Reimbursement Program, Rural Access to Primary and Preventive Services
- LTSS: Quality Incentive Payment Program, Intermediate Care Facility -Upper Payment Limit
- Hospital Augmented Reimbursement Program State Plan Amendment and Request for Additional Information is pending with the Centers for Medicare & Medicaid Services

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Factors that Impact Rates

- Legislative Direction: appropriations or cost containment
- Revolutionary advancements in medical technology or treatments
- Changes in clinical standards
- Access-to-care issues
- Attempts to change provider/ consumer behavior through rate methodologies (Long-Acting Reversible Contraception or Emergency Services)
- Medicare changes
- Litigation *(i.e. Frew, Steward, Texas Children's Hospital, Children's Hospital Association of Texas*)
- Federal policy changes (Affordable Care Act or Department of Labor Fair Labor Standards Act rule, American Rescue Plan Act and Public Health Emergency)
- Market forces (Drug Average Wholesale Price, laboratory costs, Durable Medical Equipment Costs, etc.)

TEXAS
Health and Human Services

Rate Hearing and Rule Hearing Public Process

- **Hearing Required**: State law requires that HHSC hold a public rate hearing prior to the adoption of any Medicaid rate change regardless of whether the rate is increased or decreased. Notice is published in the *Texas Register,* posted on HHSC's website, and GovDelivery notification at least 10 days prior to the public rate hearing.
- **Opportunity to Comment**: Any interested parties are given the opportunity to comment on the proposed rate changes at the public rate hearing or via U.S. mail or e-mail. Due to COVID, hearings were held virtually as webinars, HHSC is continuing with a hybrid rate hearing model to allow both virtual and in-person testimony as of January 2022.
- **Presentation to Committees**: If rate changes require changes to agency rules, the proposed rules are presented to the Hospital Payment Advisory Committee (HPAC) (if related to hospital reimbursement), and the agency's Executive Council for input. All of these meetings have additional opportunity for public comment.

TEXAS
Health and Human Services

General Appropriations Rate Limitations and Reporting Requirements - Section 12 (b-c)

- (b) Orphan Drugs Notifications
  - Drugs that are required to be added
  - FFS General Revenue >$500,000
  - Or capitation rate adjustment
  - Must be sent within 60 days of being made payable
- (c) Semi-Annual Notification- Exceptions to required approval:
  - Rates for new procedure codes required to conform to Federal Healthcare Common Procedure Coding System (HCPCS) updates;
  - Revised rates occurring as a result of routine fee review;
  - Any rate change estimated to have an annual fiscal impact of less than $500,000 in General Revenue and the managed care capitation rates will not be adjusted.
  - Orphan drug not subject to subsection (b)

TEXAS
Health and Human Services

General Appropriations Rate Limitations and Reporting Requirements - Section 12 (d-e)

- (d) Limitation on Rates that Exceed Appropriated Funding
  - Requires LBB and Governor approval for any rate that would result in expenditures that exceed, in any fiscal year, the amounts appropriated to a strategy for the services to which the rate applies.
  - Request includes:
    - List of new rates/rates with proposed changed rate
    - Estimate of fiscal impacts
    - Amount rate would exceed appropriated funding
  - Requests for approval are considered approved unless the LBB or the Governor issues a written disapproval within 15 business days of the date on which the staff of the LBB concludes its review of the request for authorization for the rate.
- (e) Additional information requested by LBB or Governor.

TEXAS
Health and Human Services