

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
1301 Young Street, Room 833
Dallas, Texas 75202



Division of Medicaid & Children's Health, Region VI

October 29, 2010

Our Reference: SPA TX 10-050

Mr. Billy Millwee
Associate Commissioner for Medicaid & CHIP
Health and Human Services Commission
Post Office Box 13247
Mail Code: H100
Austin, Texas 78711

Dear Mr. Millwee:

We have reviewed the State's proposed amendment to the Texas State Plan submitted under Transmittal Number 10-050, dated August 5, 2010. This amendment adds concurrent hospice care and treatment services for individuals less than 21 years of age, pursuant to Section 2302 of the Affordable Care Act.

Additionally, please note that when the State submits a State Plan Amendment (SPA) that may impact Indians or Indian health providers, CMS will look for evidence of the State's Tribal consultation process for that SPA. Pursuant to the new section 1902(a)(73) of the Act added by section 5006(e) of the American Recovery and Reinvestment Act (ARRA) of 2009, the State must submit evidence to CMS regarding the solicitation of advice prior to submission of the State Plan Amendment. Such consultation must include all federally-recognized tribes, Indian Health Service and Urban Indian Organizations within the State.

Based on the information submitted, we have approved the amendment for incorporation into the official Texas State Plan with an effective date change of August 1, 2010. A copy of the CMS-179 and the approved plan pages are enclosed with this letter.

If you have any questions, please contact Ford J. Blunt at (214) 767-6381.

Sincerely,

/s/

Bill Brooks
Associate Regional Administrator

Enclosures

cc: Emily Zalkovsky, Policy Development Support

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES		1. TRANSMITTAL NUMBER: 10-050	2. STATE: TEXAS
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR CENTERS FOR MEDICARE AND MEDICAID SERVICES DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE: August 1, 2010	
5. TYPE OF PLAN MATERIAL (Circle One):			
<input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: 42 U.S.C. 1396d(o)(1))		7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT a. FFY 2010 \$124,145 b. FFY 2011 \$118,258 c. FFY 2012 \$121,317	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: SEE ATTACHMENT TO BLOCKS 8 AND 9		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): SEE ATTACHMENT TO BLOCKS 8 AND 9	
10. SUBJECT OF AMENDMENT: The proposed amendment adds concurrent hospice care and treatment services for individuals less than 21 years of age. Pursuant to Section 2302 of the Patient Protection and Affordable Care Act (P.L. 111-148), states are required to allow children enrolled in Medicaid to elect hospice care services without waiving their rights to be provided services related to the treatment of a condition for which a diagnosis of terminal illness has been made. This amendment is being submitted to comply with the change in federal law.			
11. GOVERNOR'S REVIEW (Check One):			
<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL		<input checked="" type="checkbox"/> OTHER, AS SPECIFIED: Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt.	
12. SIGNATURE OF STATE AGENCY OFFICIAL:		16. RETURN TO:	
13. TYPED NAME: Billy R. Millwee		Billy R. Millwee State Medicaid Director Post Office Box 13247, MC: H-100 Austin, Texas 78711	
14. TITLE: State Medicaid Director			
15. DATE SUBMITTED: August 5, 2010			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: 11 August, 2010		18. DATE APPROVED: 29 October, 2010	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 1 August, 2010		20. SIGNATURE OF REGIONAL OFFICIAL:	
21. TYPED NAME: BILL BROOKS		22. TITLE: Associate Regional Administrator Division of Medicaid & Children's Health	
23. REMARKS:			

18. Hospice Care.

The Texas Department of Aging and Disability Services (DADS) administers the Texas Medicaid Hospice Program through provider enrollment contracts with hospice agencies. These agencies must be licensed by the DADS and be Medicare certified as hospice agencies by the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services. Coverage of services in the Texas Medicaid Hospice Program follows the amount, duration, and scope of services specified in the Medicare Hospice Program, with the following three exceptions.

4. The Texas Medicaid Hospice Program has unlimited benefit periods of unlimited duration.
5. The Texas Medicaid Hospice Program does not have a maximum number of days for which a recipient can receive hospice services under Medicaid.
6. The Texas Medicaid Hospice Program does not allow cost sharing to be imposed on Medicaid recipients for hospice services rendered to Medicaid recipients.

The recipient must file a Medicaid election statement with a particular Medicaid hospice provider. In doing so, the recipient waives rights to other Medicaid services that are related to the treatment of his or her terminal illness(es) with the exception of individuals less than 21 years of age. Individuals less than 21 years of age may receive concurrent hospice and acute care treatment. The recipient has the right to cancel the election at any time without forfeiting additional Medicaid hospice coverage at a later time. The recipient does not waive rights to Medicaid services for conditions not related to the terminal condition. Dually eligible (Medicare and Medicaid) recipients must participate in the Medicare and Medicaid hospice programs simultaneously in order to receive Medicaid hospice services.

SUPERSEDES: TN- 08-30

STATE	<u>Texas</u>	A
DATE REC'D	<u>8-11-10</u>	
DATE APPV'D	<u>10-29-10</u>	
DATE EFF	<u>8-1-10</u>	
HCFA 179	<u>10-50</u>	

TN No. 10-50

Approval Date 10-29-10

Effective Date 8-1-10

Supersedes TN No. 08-30

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