



TO: Health and Human Services Commission
Executive Council

DATE: February 22, 2018

FROM: Dario Avila, Senior Rate Analyst, HHSC
Rate Analysis for Acute Care Services

AGENDA ITEM: 2.h

SUBJECT: Medicaid Administrative Claiming Program

BACKGROUND: Federal Legislative Other: HHSC Initiative

The Texas Health and Human Services Commission (HHSC) proposes new Title 1, Part 15, Chapter 355, Subchapter J, Division 5, §355.8095, Medicaid Administrative Claiming Program. The proposed rule codifies the requirements for entry into and participation in the Medicaid Administrative Claiming (MAC) program. Establishing a rule for this existing program will increase transparency, reduce confusion among the participating entities regarding the requirements, and reduce compliance issues.

ISSUES AND ALTERNATIVES:

No issues expected with adoption of the proposed rule, as it merely reflects existing policy.

STAKEHOLDER INVOLVEMENT:

This rule will be shared with interested stakeholders, including current MAC participants and vendors, via email prior to the Executive Council meeting. Stakeholders are not expected to challenge or disagree with the proposed rule, as it merely reflects existing policy.

FISCAL IMPACT:

None

SERVICES IMPACT STATEMENT:

There is no direct impact to persons receiving services.

RULE DEVELOPMENT SCHEDULE:

February 15, 2018	Present to the Medical Care Advisory Committee
February 22, 2018	Present to HHSC Executive Council
March 2018	Publish proposed rule in <i>Texas Register</i>
July 2018	Publish adopted rule in <i>Texas Register</i>
July 2018	Effective date

PROPOSED PREAMBLE

The Texas Health and Human Services Commission (HHSC) proposes new §355.8095, concerning the Medicaid Administrative Claiming program.

BACKGROUND AND PURPOSE

The Medicaid Administrative Claiming (MAC) program provides qualified Texas governmental entities, including Early Childhood Intervention (ECI) programs, local health departments (LHDs), local mental health or intellectual and developmental disability (MH/IDD) authorities, and school districts reimbursement for certain costs related to the administration of health activities that support the Medicaid program. MAC activities include outreach, utilization review, eligibility determination, and scheduling or arranging transportation.

Title XIX of the Social Security Act (the Act) authorizes grants to states for a proportion of expenditures for medical assistance under an approved Medicaid State Plan, and for expenditures necessary for administration of the State Plan. This joint federal-state financing of expenditures is described in §1903(a) of the Act, and the statute sets rates for different types of expenditures.

MAC reimbursements can enhance, improve, or expand the level and quality of health and medical services provided to clients of participating governmental entities. This proposed new rule establishes MAC program requirements and ensures that eligible providers follow MAC billing requirements.

SECTION-BY-SECTION SUMMARY

Proposed new §355.8095(a) introduces the MAC program.

Proposed new §355.8095(b) defines terms used in this section.

Proposed new §355.8095(c) provides the prerequisites for governmental entities to be eligible for the MAC program.

Proposed new §355.8095(d) describes the administrative activities eligible for reimbursement.

Proposed new §355.8095(e) lists the responsibilities governmental entities have as participants in the MAC program.

Proposed new §355.8095(f) describes how MAC claims should be prepared, the allowable costs for each eligible governmental entity, and the five percent administrative fee recouped from all MAC reimbursements.

Proposed new §355.8095(g) describes how MAC claims should be submitted.

Proposed new §355.8095(h) presents program specific requirements for school district participants in the MAC program.

FISCAL NOTE

Greta Rymal, HHSC Deputy Executive Commissioner for Financial Services, has determined that during the first five years the new rule is in effect, there will be no fiscal implications to state or local governments as a result of enforcing or administering the section as proposed.

GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years the section will be in effect:

- (1) the proposed rule will not create or eliminate a government program;
- (2) implementation of the proposed rule will not require the creation or elimination of employee positions;
- (3) implementation of the proposed rule will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the proposed rule will not require an increase or decrease in fees paid to the agency;
- (5) the proposed rule will create a new regulation;
- (6) the proposed rule will not expand, limit, or repeal an existing rule;
- (7) the proposed rule will not change the number of individuals subject to the rule; and
- (8) the proposed rule will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Ms. Rymal has also determined that there will be no adverse impact on small businesses, micro-businesses, or rural communities required to comply with the proposed new rule as it merely codifies existing practice.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the section as proposed.

There is no anticipated negative impact on local employment.

COSTS TO REGULATED PERSONS

Texas Government Code, §2001.0045 does not apply to this rule because the rule does not impose a cost on persons required to comply with the rule.

PUBLIC BENEFIT

Selvadas Govind, Director of Rate Analysis, has determined that for each year of the first five years the proposed new rule is in effect, the anticipated public benefit will be increased transparency as a result of codifying program requirements.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that this proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under §2007.043 of the Government Code.

PUBLIC COMMENT

Written comments on the proposal may be submitted to Dario Avila, Rate Analyst of Acute Care, Rate Analysis Department, Texas Health and Human Services Commission, P.O. Box 149030, MC-H400, Austin, Texas 78714-9030; by fax to (512) 730-7475; or by e-mail to RADAcuteCare@hhsc.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

To be considered, comments must be submitted no later than 30 days after the date of this issue of the *Texas Register*. Comments must be: (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) faxed or e-mailed by midnight on the last day of the comment period. When faxing or e-mailing comments, please indicate "Comments on Proposed Rule 355.8095" in the subject line.

STATUTORY AUTHORITY

The new rule is proposed under Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; Texas Human Resources Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and Texas Government Code §531.021(b), which establishes HHSC as the agency responsible for adopting reasonable rules governing the determination of fees, charges, and rates for medical assistance (Medicaid) payments under the Human Resources Code, Chapter 32.

The new rule implements Texas Human Resources Code, Chapter 32, and Texas Government Code, Chapter 531. No other statutes, articles, or codes are affected by this proposal.

This agency hereby certifies that this proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

TITLE 1 ADMINISTRATION
PART 15 TEXAS HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 355 REIMBURSEMENT RATES
SUBCHAPTER J PURCHASED HEALTH SERVICES
DIVISION 5 GENERAL ADMINISTRATION

§355.8095. Medicaid Administrative Claiming Program.

(a) Introduction. Medicaid Administrative Claiming (MAC) is a joint federal-state funded health care program which provides reimbursement for the costs of Medicaid administrative activities that refer eligible or potentially eligible Medicaid recipients to appropriate Medicaid and health-related services.

(b) Definitions. The following definitions apply when the terms are used in this section.

(1) CMS--Centers for Medicare & Medicaid Services. The federal agency within the United States Department of Health and Human Services responsible for overseeing and directing Medicare and Medicaid, or its successor.

(2) FFY--Federal fiscal year. Begins October 1 and ends September 30 of the following calendar year.

(3) Governmental entity--A state agency or a political subdivision of the state. A governmental entity includes a city, county, school district, special district, community mental health center, or other unit of government.

(4) HHSC--The Texas Health and Human Services Commission or its designee.

(5) MAC Financial Claim--The claim for reimbursement submitted to HHSC by a governmental entity each federal fiscal quarter.

(6) Participant--A governmental entity employee or contractor position, including a federally funded position, responsible for performing MAC activities in support of Medicaid or medical services as a weekly part of the position's job duties. These activities must directly support efforts to identify, enroll, and maintain Medicaid eligibility for eligible and potentially-eligible children and adults.

(7) PL--Participant list. A comprehensive list of all participants eligible for inclusion in the Random Moment Time Study, as defined in paragraph (9) of this subsection.

(8) OSI--Quarterly Summary Invoice. An invoice of costs reimbursable to a MAC participating governmental entity.

(9) RMTS--Random Moment Time Study. A federally-approved, statistical sampling technique administered by HHSC to identify the percentage of time that is reimbursable under the MAC program versus the percentage of time that is directly or indirectly related to covered services and other activities.

(10) STAIRS--State of Texas Automated Information Reporting System. HHSC's online application for submitting cost reports and accountability reports.

(c) Eligible providers. A governmental entity is eligible to be reimbursed for MAC activities if it meets the following criteria:

(1) It has entered into a written provider agreement with HHSC.

(2) It operates one of the following provider types or programs:

(A) Early Childhood Intervention (ECI);

(B) local health department (LHD);

(C) local mental health authority or local intellectual and developmental disability authority (MH/IDD authority); or

(D) school district, public charter school, or state school (school district).

(3) The provider or program is enrolled in Medicaid.

(d) Eligible activities.

(1) To be claimed through the MAC program, administrative activities must:

(A) directly support efforts to identify, enroll, and maintain Medicaid eligibility for eligible and potentially-eligible children and adults; and

(B) directly support the provision of services covered under the Texas Medicaid State Plan.

(2) The following activities have been identified by CMS as eligible for reimbursement:

(A) outreach;

(B) utilization review;

(C) eligibility determination;

(D) Medicaid referral, coordination, and monitoring;

(E) scheduling or arranging transportation to Medicaid covered services;

(F) translation services;

(G) program planning;

(H) development and interagency coordination;

(I) training;

(J) provider relations; and

(K) activities that determine a consumer's need for direct medical care.

(e) Governmental Entity's Responsibilities.

(1) Designated contacts. A governmental entity that participates in MAC must:

(A) designate an employee to serve as an RMTS contact who:

(i) ensures that the entity's PL is verified and updated quarterly;

(ii) attends the RMTS training required in paragraph (2) of this subsection;

(iii) provides RMTS training to sampled participants;

(iv) provides ongoing technical assistance to entity participants;

(v) ensures entity compliance with 85% required time study response rate; and

(vi) ensures all contact information recorded in STAIRS is current and accurate; and

(B) designate an employee to serve as a MAC financial contact who:

(i) serves as the main point of contact between the entity and HHSC for all MAC financial-related issues;

(ii) maintains the accuracy of all contacts in STAIRS;

(iii) communicates with all key stakeholders to ensure all participants claimed engaged in eligible activities during the claiming period on a weekly basis;

(iv) attends the MAC financial training required in paragraph (3) of this subsection;

(v) certifies the accuracy of the MAC Financial Claim and the availability of matching funds;

(vi) ensures that the QSI is signed by an entity employee with signature authority and is notarized; and

(vii) ensures that all supporting documentation described in paragraph (4) of this subsection is maintained.

(2) RMTS training. Annual training conducted by HHSC is mandatory for all RMTS contacts who certify a PL for an entity.

(3) MAC financial training. HHSC provides annual training to participating governmental entities.

(A) Each primary MAC financial contact must attend and receive credit for training for each FFY in which the governmental entity chooses to participate.

(B) Training is provided for each FFY and is not retroactive.

(C) A governmental entity that does not have a trained MAC financial contact who is an employee of the entity is prohibited from submitting a MAC Financial Claim. Governmental entity-contracted vendors are not permitted to enter an entity's data into STAIRS for any entity that does not have a trained MAC financial contact who is an employee of the entity.

(4) Documentation. A governmental entity that participates in MAC must maintain documentation that supports the MAC activities performed by the entity and all costs submitted for reimbursement.

(A) A governmental entity must collect and maintain MAC participation documents in a readily-accessible location and format, including:

(i) financial data used to develop the expenditures and revenues for the claim calculations, including the state and local match used for certification;

(ii) copies of computations used to calculate financial costs;

(iii) all revenues offset from the claim, by source; and

(iv) all signed and certified OSIs.

(B) Participation documents must be maintained for a period of no less than three years. In the case of an audit during the first three retention years, the records must be retained three years after the close of the audit. A school district must retain participation documents for a period of no less than five years, but in the case of an audit during the first five retention years, the records must be retained five years after the close of the audit.

(f) Claim calculation.

(1) Preparers of MAC Financial Claims must apply the cost principles outlined in:

(A) 2 CFR part 200; and

(B) §355.102 of this chapter (relating to General Principles of Allowable and Unallowable Costs), §355.103 of this chapter (relating to Specifications for Allowable and Unallowable Costs), §355.104 of this chapter (relating to Revenues); and §355.105 of this chapter (relating to General Reporting and Documentation Requirements, Methods, and Procedures).

(2) The costs allowable for submission through a MAC Financial Claim are:

(A) for an ECI, LHD, MH/IDD authority, or school district:

(i) salary, payroll taxes, and benefits; and

(ii) contracted staff expenses; and

(B) for an ECI, LHD, or MH/IDD authority:

(i) materials and supplies;

(ii) equipment and other allowable costs; and

(iii) time study positions left off the PL, unless the positions are clerical.

(3) HHSC reserves the right to retain five percent of the federal share of actual and reasonable costs for HHSC's own administrative costs.

(g) Claim submission.

(1) To claim reimbursement for eligible activities, eligible providers must:

(A) have an active written provider agreement with HHSC executed on or before the first day of the quarter in which reimbursement is being claimed;

(B) have participated in the HHSC-administered RMTS;

(C) have a MAC financial contact who is an entity employee and who has received credit for the MAC training for the FFY in which the governmental entity wishes to submit a claim;

(D) submit a certified PL for the quarter in which reimbursement is being claimed;

(E) submit a MAC Financial Claim; and

(F) submit a certified QSI.

(2) The MAC Financial Claim and other required documents are submitted to HHSC through STAIRS.

(h) Program specific requirements for school districts. Participating school districts must:

(1) have an approved MAC Program Operating Plan on file with the HHSC Rate Analysis Department; and

(2) when contracting with a vendor for which the school district will be held accountable, incorporate the authorization to enter and certify the school district's quarterly financial information into the contract and provide the contract upon HHSC request.