



**TO:** Medical Care Advisory Committee

**DATE:** August 24, 2017

**FROM:** Megan Wolfe, Senior Rate Analyst  
HHSC Acute Care Services

## **Agenda Item No.: 6**

**SUBJECT:** Reimbursement Methodology for Certified Registered Nurse Anesthetists

**Amendments to:** Title 1, Part 15, Chapter 355, Subchapter J, Division 12, §355.8221 Reimbursement Methodology

**BACKGROUND:**  Federal Requirement  Legislative Requirement  Other: Program Initiative

The proposed amendment adds Anesthesiologist Assistants (AAs) to the reimbursement methodology and adjusts the percentage payment for a supervised anesthesia service for both Certified Registered Nurse Anesthetists (CRNAs) and AAs. CRNAs and AAs will be reimbursed the lesser of the CRNA's or AA's billed charges or 50 percent of the calculated payment for a supervised anesthesia service. For example, if the calculated payment for a supervised anesthesia service is \$100, the payment to the CRNA or AA would be \$50. Previously, both CRNAs and AAs were reimbursed at the lesser of billed charges or 92 percent of the solo physician's reimbursement. In Texas, CRNAs and AAs may not practice independently and must provide services under the supervision of a physician. While the rule shows a reduction (savings) attributed to the rule change, this is part of a larger initiative which redistributes the rates between services provided within a care team (anesthesiologist and CRNS/AA) as well as between the care team and the same service provided by an anesthesiologist alone. With additional funding provided by the Legislature, the overall reimbursement for anesthesiology is increased to pre-January 1, 2017 levels, and future reductions, to be effective January 1, 2018 are also eliminated.

There is an estimated fiscal impact for the proposed rule change. Additional rate adjustments related to anesthesia conversion factors are anticipated to be effective October 1, 2017.

### **ISSUES AND ALTERNATIVES:**

None.

### **STAKEHOLDER INVOLVEMENT:**

A combined rule and rate hearing will be held to receive comments from stakeholders. These comments will be reviewed by HHSC staff and submitted to executive management for review and consideration.

**FISCAL IMPACT:**

None (if none, delete the table)  Yes (if yes, fill out the following table)

	SFY 2018	SFY 2019	SFY 2020	SFY 2021	SFY 2022
State	(\$2,212,123)	(\$2,422,321)	(\$2,458,771)	(\$2,498,111)	(\$2,538,081)
Federal	(\$2,910,903)	(\$3,255,881)	(\$3,310,283)	(\$3,363,248)	(\$3,417,060)
Total	(\$5,123,026)	(\$5,678,203)	(\$5,769,054)	(\$5,861,359)	(\$5,955,141)

**RULE DEVELOPMENT SCHEDULE:**

August 4, 2017                      Publish proposed rules in *Texas Register*  
 August 24, 2017                    Present to Medical Care Advisory Committee  
 September 5, 2017                Public comment period ends  
 September 7, 2017                Present to Health and Human Services Commission Executive Council  
 September 22, 2017               Publish adopted rules in *Texas Register*  
 October 1, 2017                    Rule effective

**REQUESTED ACTION: (Check appropriate box)**

- The MCAC recommends approval of the proposed rules for publication.
- Information Only

TITLE 1 ADMINISTRATION  
PART 15 TEXAS HEALTH AND HUMAN SERVICES COMMISSION  
CHAPTER 355 REIMBURSEMENT RATES  
SUBCHAPTER J PURCHASED HEALTH SERVICES  
DIVISION 12 CERTIFIED REGISTERED NURSE ANESTHETISTS  
§355.8221. Reimbursement Methodology

#### PROPOSED PREAMBLE

The Texas Health and Human Services Commission (HHSC) proposes amendments to §355.8221, concerning Reimbursement Methodology. HHSC also proposes a change to the title of Division 12, Certified Registered Nurse Anesthetists.

#### BACKGROUND AND PURPOSE

The proposed amendment adds anesthesiologist assistants (AAs) to the reimbursement methodology for Certified Registered Nurse Anesthetists (CRNAs) and adjusts the percentage payment for a supervised anesthesia service for both CRNAs and AAs. In Texas, CRNAs and AAs may not practice independently and must provide services under the supervision of a physician. Currently, both CRNAs and AAs are reimbursed at the lesser of billed charges or 92 percent of the rate listed on the fee schedule. This proposed amendment would provide that CRNAs and AAs be reimbursed the lesser of the CRNA's or AA's billed charges or 50 percent of the calculated payment for a supervised anesthesia service. For example, if the calculated payment for a supervised anesthesia service is \$100, the payment to the CRNA or AA would be \$50.

#### SECTION-BY-SECTION SUMMARY

The title of Division 12 is amended to add Anesthesiologist Assistants to the division.

Proposed §355.8221 is amended to describe the reimbursement methodology for CRNAs and AAs.

#### FISCAL NOTE

Greta Rymal, HHSC Deputy Executive Commissioner for Financial Services, has determined that for each year of the first five years that the section will be in effect, there will be cost savings to state government of \$5,123,026 (\$2,212,123 General Revenue (GR) and \$2,910,903 Federal) for fiscal year (FY) 2018; \$5,678,203 (\$2,422,321 GR and \$3,255,881 Federal) for FY

2019; \$5,769,054 (\$2,458,771 GR and \$3,310,283 Federal) for FY 2020; \$5,861,359 (\$2,498,111 GR and \$3,363,248 Federal) for FY 2021; and \$5,955,141 (\$2,538,081 GR and \$3,417,060 Federal) for SFY 2022.

## SMALL BUSINESS AND MICRO-BUSINESS IMPACT ANALYSIS

HHSC has determined that the proposed addition of a rate methodology for CRNAs and AAs under §355.8221 will have an economic effect on small businesses and micro-businesses. The proposed rate methodology indicates that reimbursement for services provided by a CRNA or AA will be equal to the fee paid to the supervising physician anesthesiologist. Each will be reimbursed 50 percent of the calculated anesthesiology reimbursement rate.

Under §2006.002 of the Texas Government Code, a state agency proposing an administrative rule that may have an adverse economic effect on small businesses must prepare an economic impact statement and a regulatory flexibility analysis. The economic impact statement estimates the number of small businesses subject to the rule and projects the economic impact of the rule on small businesses. The regulatory flexibility analysis describes the alternative methods the agency considered to achieve the purpose of the proposed rule while minimizing adverse effects on small businesses. The purpose of the proposed rule is to align the reimbursement for services provided by CRNAs and AAs with current market costs.

Based on available Medicaid claims data for SFY2016, HHSC estimates that approximately 38 percent of the total Medicaid expenditures for anesthesia services were for services provided by CRNAs or AAs, with 10 percent of those services billed by CRNAs or AAs individually. The estimated fiscal impact of this rule change is based on this claims data. There are approximately 750 CRNA and AA Texas Medicaid providers who may be affected by this rule change. However, HHSC does not know each individual small or micro-business that chooses to employ CRNAs or AAs to provide Medicaid services.

HHSC considered four alternatives to establish a reimbursement methodology for CRNAs and AAs.

Alternative 1: Alternative 1 proposes that CRNAs and AAs be reimbursed the lesser of the CRNA's or AA's billed charges or 50 percent of the calculated payment for a supervised anesthesia service.

Alternative 2: Under Alternative 2, HHSC would adjust the conversion factor in the payment calculation to allow for these small and micro business to be reimbursed at a higher rate.

Alternative 3: Under Alternative 3, HHSC would allow for small or micro businesses of less than 20 employees to be exempted from the proposed reimbursement methodology.

Alternative 4: Under Alternative 4, HHSC would make no change to existing reimbursement structure.

HHSC selected the Alternative 1 methodology for the proposed rules. Alternative 1 more closely aligns the reimbursement rates for other services within Texas Medicaid. Alternatives 2 and 3 were not selected due to the inability of the Medicaid claims processing system to identify and pay small or micro businesses differently. Alternative 4 was not selected due to HHSC's obligation to set economically efficient Medicaid payment rates. Providers will not be required to alter their business practices as a result of the amendment.

#### 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.

#### PUBLIC BENEFIT

Pam McDonald, Director of Rate Analysis, has determined that for each year of the first five years the amendment is in effect, the public will benefit from adoption of the amendment. The public benefit anticipated as a result of enforcing or administering the amendment will be the determination of appropriate reimbursement for CRNAs and AAs.

#### TAKINGS IMPACT ASSESSMENT

HHSC has determined that the 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 Government Code, §2007.043.

#### PUBLIC HEARING

A combined public rule and rate hearing is scheduled for August 31, 2017, at 1:30 p.m. (Central Time) in the Brown-Heatly Public Hearing Room, 4900 North Lamar Boulevard, Austin, Texas. Comments will be accepted on the

proposed rule and proposed rates at the hearing. Entry is through security at the main entrance of the building, which faces Lamar Boulevard. A rate hearing packet will be posted on the Health and Human Services Commission (HHSC) Rate Analysis website at <http://legacy-hhsc.hhsc.state.tx.us/rad/rate-packets.shtml> under the proposed effective date of October 1, 2017. Persons requiring further information, special assistance, or accommodations should contact Amy Chandler at 512-487-3419.

## PUBLIC COMMENT

Written comments on the proposal may be submitted to Dan Huggins, Director 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](mailto: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*. If the last day to submit comments falls on a Sunday; 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 1R054" in the subject line.

## STATUTORY AUTHORITY

The amendment is proposed under Texas Government Code §531.033, which authorizes the Executive Commissioner of HHSC to adopt rules necessary to carry out HHSC's duties; 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 payments under the Texas Human Resources Code, Chapter 32.

The amendment affects Texas Government Code Chapter 531 and Texas Human Resources Code Chapter 32. 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 a valid exercise of the agency's legal authority.

Legend:

Single underline = Proposed new language

~~[Strikethrough and brackets]~~ = Current language proposed for deletion

Regular print = Current language

(No change.) = No changes are being considered for the designated subdivision

TITLE 1                   ADMINISTRATION  
PART 15                   TEXAS HEALTH AND HUMAN SERVICES COMMISSION  
CHAPTER 355            REIMBURSEMENT RATES  
SUBCHAPTER J          PURCHASED HEALTH SERVICES  
DIVISION 12            CERTIFIED REGISTERED NURSE ANESTHETISTS AND  
                                  ANESTHESIOLOGIST ASSISTANTS  
§355.8221                Reimbursement Methodology.

Effective for services delivered on and after October 1, 2017 ~~[March 1, 2006]~~, covered anesthesia services provided by a certified registered nurse anesthetist (CRNA) or an anesthesiologist assistant (AA) are reimbursed the lesser of the CRNA's or AA's billed charges or 50 percent ~~[92%]~~ of the calculated payment for a supervised anesthesia service. For example, if the calculated payment for a supervised anesthesia service is \$100, the payment to the CRNA or AA would be \$50 ~~[reimbursement for the same anesthesia service paid to a physician (M.D. or D.O.) anesthesiologist]~~.