



TO: Medical Care Advisory Committee
DATE: August 24, 2017
FROM: Victor Perez, Director
HHSC & HHS Rate Analysis

Agenda Item No.: 7

SUBJECT: Reimbursement Methodology for Preadmission Screening and Resident Review (PASRR) Specialized Services

New: Texas Administrative Code Title 1, Part 15, Chapter 355, Subchapter C, §355.315, concerning Reimbursement Methodology for Preadmission Screening and Resident Review (PASRR) Specialized Services

BACKGROUND: Federal Requirement Legislative Requirement
Other: Program Initiative

Effective December 1, 2017, HHSC plans to implement an array of PASRR Specialized Services for Medicaid clients who reside in nursing facilities. Federal law requires a state to provide specialized services to a nursing facility resident with mental illness or an intellectual disability who require a nursing facility level of care. See 42 U.S.C. §1396r(e)(7); 42 C.F.R. §§ 483.116(b)(2), 483.120(b). "Specialized services" mean, in short, therapies and activities provided while an individual resides in a nursing facility that go beyond the services normally provided in a nursing facility and that are directed toward improving the individual's level of independent functioning. See 42 C.F.R. §§ 483.120(a), (c), 483.440(a)(1). This rule project proposes the reimbursement methodology for those services.

HHSC will develop the payment rates for PASRR Specialized Services based upon rates for other programs that provide similar services. If payment rates for other programs that provide similar services are not available, HHSC will determine payment rates using a pro forma approach.

ISSUES AND ALTERNATIVES:

None. Federal law requires the state to provide specialized services to all nursing facility residents with mental illness or an intellectual developmental disability who need continuous supervision, treatment and training by qualified personnel.

STAKEHOLDER INVOLVEMENT:

The proposed rule will be shared with external stakeholders for review prior to the Executive Council meeting.

FISCAL IMPACT: None Yes

	SFY18	SFY18	SFY20	SFY21	SFY22
State	7,371,126	9,689,607	9,700,692	9,700,692	9,700,692
Federal	11,809,478	15,884,532	15,873,447	15,873,447	15,873,447
Total	19,180,604	25,574,139	25,574,139	25,574,139	25,574,139

RULE DEVELOPMENT SCHEDULE:

August 2017	Publish proposed rules in <i>Texas Register</i>
August 2017	Present to Medical Care Advisory Committee
September 2017	Present to HHSC Executive Council
November 2017	Publish adopted rules in <i>Texas Register</i>
December 2017	Effective date

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 C REIMBURSEMENT METHODOLOGY FOR NURSING
 FACILITIES
RULE §355.315 Reimbursement Methodology for Preadmission Screening
 and Resident Review (PASRR) Specialized Services

PROPOSED PREAMBLE

The Texas Health and Human Services Commission (HHSC) proposes new §355.315, concerning Reimbursement Methodology for Preadmission Screening and Resident Review (PASRR) Specialized Services.

BACKGROUND AND JUSTIFICATION

Effective December 1, 2017, HHSC plans to add to the array of PASRR Specialized Services available to Medicaid clients who reside in nursing facilities and eligible for federal matching funds. Federal law requires a state to provide specialized services to a nursing facility resident with mental illness or an intellectual disability who requires a nursing facility level of care. See 42 U.S.C. §1396r(e)(7); 42 C.F.R. §§ 483.116(b)(2), 483.120(b). "Specialized services" are, in short, therapies and activities provided while an individual resides in a nursing facility that go beyond the services normally provided in a nursing facility and that are directed toward improving the individual's level of independent functioning. See 42 C.F.R. §§ 483.120(a), (c), 483.440(a)(1). This rule project proposes the reimbursement methodology for those services.

HHSC will develop the payment rates for PASRR Specialized Services based upon rates HHSC has determined for other programs that provide similar services. If payment rates are not available from other programs that provide similar services, HHSC will determine payment rates using a pro forma approach.

SECTION-BY-SECTION SUMMARY

Proposed §355.315(a) specifies that PASRR payment rates for Specialized Services are determined either based on rates for other programs that provide similar services or using a pro forma approach.

Proposed §355.315(b) specifies that §355.101 and §355.105(g), which describe the general cost determination processes, also apply to the rate methodology for PASRR Specialized Services.

FISCAL NOTE

Greta Rymal, HHSC Deputy Executive Commissioner for Financial Services, has determined that, for each year of the first five years the proposed new rule will be in effect, there will be a fiscal impact to the state government of \$7,371,126 General Revenue (GR) (\$19,180,604 All Funds (AF)) for state fiscal year (SFY) 2018, \$9,689,607 GR (\$25,574,139 AF) for SFY 2019, \$9,700,692 GR (\$25,574,139 AF) for SFY 2020, \$9,700,692 GR (\$25,574,139 AF) for SFY 2021, and \$9,700,692 GR (\$25,574,139 AF) for SFY 2022. There are no fiscal implications for local governments as a result of enforcing or administering the new section.

PUBLIC BENEFIT

Pam McDonald, Director of Rate Analysis, has determined that, for each year of the first five years the rule will be in effect, the public benefits expected as a result of adopting the proposed rule will be to allow HHSC to develop and adopt rates to pay for needed services for clients residing in nursing facilities.

Ms. McDonald has also determined that there are no probable economic costs to persons required to comply with the proposed rule.

HHSC has determined that the proposed rule will not affect a local economy. There is no anticipated negative impact on local employment.

SMALL BUSINESS AND MICRO-BUSINESS IMPACT ANALYSIS

HHSC has determined that there will be no economic effect on small businesses and micro-businesses to comply with the proposed rule. The proposed rule does not require any changes in practice or any additional cost to a contracted provider.

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 Texas Government Code §2007.043.

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Victor Perez in the HHSC Rate Analysis Department by telephone at (512) 462-6223. Written comments on this proposal may be submitted to Mr. Perez by mail to the HHSC Rate Analysis Department, Mail Code H-400, P.O. Box 85200, Austin, TX 78705-5200; by fax to (512) 730-7475; or by e-mail to RAD-LTSS@hhsc.state.tx.us within 30 days after publication of this proposal in the *Texas Register*.

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(a) 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-1), 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 Texas Human Resources Code Chapter 32.

The proposed new rule implements 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 the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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 C REIMBURSEMENT METHODOLOGY FOR NURSING
 FACILITIES

§355.315. Reimbursement Methodology for Preadmission Screening and Resident Review (PASRR) Specialized Services.

(a) Payment rate determination. HHSC develops payment rates for Employment Assistance services, Supported Employment services, Independent Living Skills Training services, Behavioral Support services, Habilitation Coordination services, and Day Habilitation services based on rates HHSC has determined for other programs that provide similar services. If payment rates for other programs that provide similar services are not available, HHSC determines payment rates using a pro forma approach in accordance with §355.105(h) of this title (relating to General Reporting and Documentation Requirements, Methods, and Procedures).

(b) Related information. Section 355.101 of this title (relating to Introduction) and §355.105(g) of this title also apply.