TO: Medical Care Advisory Committee
DATE: February 14, 2019
FROM: Rene Cantu, Director, Hospital Rate Analysis

SUBJECT: Inpatient Direct Graduate Medical Education (GME) Reimbursement

Agenda Item No.: 8

Amendments to: §355.8058 concerning Inpatient Direct Graduate Medical Education (GME) Reimbursement

BACKGROUND: ☒ Federal Requirement ☐ Legislative Requirement ☑ Other: Program Initiative

The Texas Health and Human Services Commission (HHSC) proposes an amendment to Texas Administrative Code Title 1, Part 15, Chapter 355, Subchapter J, Division 4, Section 355.8058, concerning Inpatient Direct Graduate Medical Education (GME) Reimbursement.

HHSC currently makes Medicaid GME supplemental payments to only five state-owned teaching hospitals: University of Texas (UT) Medical Branch at Galveston, UT Health Science Center at Tyler, UT MD Anderson, UT Southwestern - Zale Lipshy, and UT Southwestern - Clements. The non-federal share for these GME payments comes from appropriations or patient revenues belonging to the state-owned teaching hospitals that are transferred to HHSC.

The amendment will allow non-state government-owned and operated teaching hospitals to receive GME Medicaid supplemental payments, provided that the non-federal share is provided by intergovernmental transfers (IGTs) from a local governmental entity that owns and operates the hospital. The amendment was adopted and will become effective on January 31, 2019.

ISSUES AND ALTERNATIVES:

None.
STAKEHOLDER INVOLVEMENT:

Stakeholders approached HHSC for an expansion of the GME program for almost two years. Ultimately, HHSC chose to expand the program for a specific sub-group of hospitals. More teaching hospitals approached HHSC about being allowed entry into the expansion. HHSC intends to open the program to all teaching hospitals after the first GME state plan amendment is approved by CMS. In addition, HHSC engaged in discussions with stakeholders regarding the payment methodology.

FISCAL IMPACT:

☐ None  ☒ Yes

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RULE DEVELOPMENT SCHEDULE:

November 16, 2018  Publish proposed rules in *Texas Register*
December 6, 2018  Present to HHSC Executive Council
January 25, 2019  Publish adopted rules in *Texas Register*
January 31, 2019  Effective date
February 7, 2019  Hospital Payment Advisory Committee

REQUESTED ACTION: (Check appropriate box)

☐ The MCAC recommends approval of the proposed rules for publication.
☒ Information Only
The Texas Health and Human Services Commission (HHSC) adopts an amendment to §355.8058, concerning Inpatient Direct Graduate Medical Education (GME) Reimbursement, with a change to the proposed text as published in the November 16, 2018, issue of the Texas Register (43 TexReg 7507).

BACKGROUND AND JUSTIFICATION

Currently, HHSC makes Medicaid GME supplemental payments to only five state-owned teaching hospitals: University of Texas (UT) Medical Branch at Galveston, UT Health Science Center at Tyler, UT MD Anderson, UT Southwestern - Zale Lipshy, and UT Southwestern - Clements. The non-federal share for these GME payments comes from appropriations or patient revenues belonging to the state-owned teaching hospitals that are transferred to HHSC. HHSC draws down the federal match and makes quarterly interim Medicaid GME payments directly to the hospitals based on resident full-time equivalents (FTEs) and inpatient days reported by the hospital. The interim payments are reconciled and cost settled based on audited final cost report data.

The adopted amendment will allow non-state government-owned and operated teaching hospitals to receive GME Medicaid supplemental payments, provided that the non-federal share is provided by the governmental entity that owns and operates the hospital. The payment will be based on the number of unweighted full-time equivalent medical residents and the Medicare per resident amount (PRA) reported on CMS Form 2552-10 and the Medicaid inpatient utilization percentage.

An annual Medicaid GME supplemental payment amount will be calculated for each eligible hospital using data from the hospital cost report most recently submitted to HHSC on October 1 of each year. HHSC proposes to split the annual amount into two payments. HHSC will not propose cost settlement of Medicaid GME supplemental payments for the new class of hospitals covered by this expansion.
HHSC is exploring the addition of hospitals operated by non-governmental entities. HHSC has not proposed adding such hospitals at this time given ongoing discussions with the Centers for Medicare and Medicaid Services (CMS) regarding the sources of the non-federal share of supplemental Medicaid payments.

COMMENTS

The 30-day comment period ended December 16, 2018.

During this period, HHSC received comments regarding the proposed rule from nine commenters, including the Texas Hospital Association, the Texas Medical Association, Doctors Hospital at Renaissance, Harris Health System, Parkland Hospital, Children’s Health System, Dell Medical School, Central Health, and the Children’s Hospital Association of Texas. A summary of comments relating to the Inpatient Direct Graduate Medical Education (GME) Reimbursement rule amendment and HHSC’s responses follows.

Comment: Multiple commenters stated that HHSC should proceed immediately with a Medicaid GME payment program for hospitals owned and operated by non-governmental entities.

Response: HHSC disagrees and declines to revise the rule in response to this comment. HHSC is considering the addition of a Medicaid GME supplemental payment program for hospitals owned and operated by non-governmental entities. HHSC has not proposed adding such hospitals at this time due to ongoing discussions with the Centers for Medicare and Medicaid Services (CMS) regarding the sources of the non-federal share of supplemental Medicaid payments.

Comment: One commenter recommends a revision to the definition of FTE Residents. The commenter requests that the rule specify that “unweighted” full time equivalent residents are included in the definition.

Response: HHSC agrees to revise §355.8058(b)(2)(B) to specify “unweighted” full time equivalent residents as reported on the Hospital Cost Report; CMS Form 2552-10; Worksheet S-3; Part 1; Column 9; Line 27.

Comment: One commenter recommends an alternative definition of Medicaid Inpatient Utilization Percentage, which excludes observation days and employee discount days.
Response: HHSC disagrees and declines to revise the rule in response to this comment. HHSC considers it appropriate to include observation days and employee discount days, as reported on the Hospital Cost Report, in the total inpatient days of a hospital.

Comment: Multiple commenters recommend an alternate calculation methodology be used for the calculation of the Medicaid GME payments. This method would use Medicaid data from the five teaching hospitals with the highest Medicaid utilization to calculate an “average lump sum per resident amount” and apply this per resident amount to all eligible teaching hospitals.

Response: HHSC disagrees and declines to revise the rule in response to this comment. The State of Texas has a large number of teaching hospitals, with a diverse number of medical residents from many different subspecialties. This results in wide variation in GME total costs and per resident costs across the spectrum of hospitals. Analysis by HHSC staff indicates that applying the same per resident amount to each eligible hospital will not result in equitable and accurate GME reimbursement.

Comment: Two commenters request that urban public hospital districts affiliated with a privately-owned and operated teaching hospital be eligible to participate in the GME program.

Response: HHSC disagrees and declines to revise the rule in response to this comment. HHSC is considering the addition of a Medicaid GME supplemental payment program for hospitals owned and operated by non-governmental entities. HHSC has not proposed adding such hospitals at this time due to ongoing discussions with the Centers for Medicare and Medicaid Services (CMS) regarding the sources of the non-federal share of supplemental Medicaid payments.

Comment: One commenter recommends that HHSC use a calculated actual per resident cost for each hospital, as opposed to the Medicare per resident amount from Worksheet E-4; Line 18 of the Hospital Cost Report.

Response: HHSC disagrees and declines to revise the rule in response to this comment. The per resident amount specified in the current rule amendment language is supported and recognized by CMS, as it appears on the Hospital Cost Report; CMS Form 2552-10. It is regularly inflated with an inflation factor approved by CMS.

Comment: One commenter recommends that HHSC add a one-time statewide per resident amount adjustment to more accurately capture the actual costs of residencies.
Response: HHSC disagrees and declines to revise the rule in response to this comment. The per resident amount specified in the current rule amendment language is supported and recognized by CMS, as it appears on the Hospital Cost Report; CMS Form 2552-10. It is regularly inflated with an inflation factor approved by CMS.

STATUTORY AUTHORITY

The amendment is adopted 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; 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 adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

ADDITIONAL INFORMATION

For further information, please call: (512) 730-7445.
§355.8058. Inpatient Direct Graduate Medical Education (GME) Reimbursement.

(a) The Texas Health and Human Services Commission (HHSC) uses the methodology in this subsection to calculate Inpatient Direct Graduate Medical Education (GME) cost reimbursement for state-owned or state-operated teaching hospitals.

(1) Effective September 1, 2008, HHSC or its designee may reimburse a state-owned or state-operated teaching hospital with an approved medical residency program the hospital's inpatient direct GME cost for hospital cost reports beginning with state fiscal year 2009.

(2) Reimbursement of inpatient direct GME cost for state-owned or state-operated teaching hospitals:

(A) Inpatient direct GME cost, as specified under methods and procedures set out in the Social Security Act, Title XVIII, as amended, effective October 1, 1982, by Public Law 97-248 are calculated under similar methods for each hospital having inpatient direct GME costs on its tentative or final audited cost report.

(B) Definitions.

(i) Base year average per resident amount—the hospital’s Medicaid allowable inpatient direct GME cost as reported on CMS Form 2552-96, Hospital Cost Report ending in state fiscal year 2007; Worksheet B; Part I; Column 26; Line 95, divided by the un-weighted FTE residents from Worksheet S-3; Part I; Line 25.

(ii) Current FTE residents—the hospital’s number of full time equivalent (FTE) interns, residents, or fellows who participate in a program that is determined by HHSC to be a properly approved medical residency
program including a program in osteopathy, dentistry, or podiatry, as required in order to become certified by the appropriate specialty board, as reported on CMS Form 2552-96, Hospital Cost Report; Worksheet S-3; Part I; Line 25.

(iii) GME Medicaid inpatient utilization percentage--the hospital’s proportion of paid Medicaid inpatient days, including managed care days, as reported on CMS Form 2552-96, Hospital Cost Report adjusted to Medicaid Claim Summary Report; Worksheet S-3; Part 1; Line 12; Column 5, divided by the hospital's total inpatient days, as reported on Worksheet S-3; Part 1; Column 6, Lines 12, 14 (subprovider days), and 26 (observation days). Medicaid inpatient days and total inpatient days will include inpatient nursery days.

(C) HHSC calculates the total GME payments for each hospital as follows:

(i) multiplies the base year average per resident amount by the applicable Centers for Medicare and Medicaid Services (CMS) Prospective Payment System Hospital Market Basket index;

(ii) multiplies the results in clause (i) of this subparagraph by the number of current full-time equivalent (FTE) residents; and

(iii) multiplies the results in clause (ii) of this subparagraph by the GME Medicaid inpatient utilization percentage, which results in the total GME payments.

(D) Inpatient direct GME costs are removed from the reimbursement methodology and not used in the calculation of the provider's inpatient cost settlement.

(E) The GME interim payments will be reimbursed on a quarterly basis only after hospital services have been rendered. The interim payments are payable within 90 days of the receipt of the hospital's quarterly resident FTE data. Each hospital's quarterly resident FTE data will be divided by 4 to determine the average resident FTEs for each quarter. The interim payments will be reconciled and settled based on audited final cost report data.

(F) To receive GME payments from HHSC, a state-owned or state-operated teaching hospital must be enrolled as a Medicaid provider with HHSC and provide intergovernmental transfers to HHSC to fund the non-federal portion of reimbursement for GME costs.
(b) HHSC uses the methodology in this subsection to calculate reimbursement for GME cost reimbursement for non-state government-owned and operated teaching hospitals.

(1) Effective October 1, 2018, HHSC or its designee may reimburse a non-state government-owned and operated teaching hospital with an approved medical residency program the hospital's estimated inpatient direct GME cost.

(2) Definitions.

(A) Non-state government-owned and operated teaching hospital--a hospital with a properly approved medical residency program that is owned and operated by a local government entity, including but not limited to, a city, county, or hospital district.

(B) FTE residents--the hospital’s number of unweighted full time equivalent (FTE) interns, residents, or fellows who participate in a program that is determined by HHSC to be a properly approved medical residency program including a program in osteopathy, dentistry, or podiatry, as required in order to become certified by the appropriate specialty board, as reported on the Hospital Cost Report; CMS Form 2552-10; Worksheet S-3; Part 1; Column 9; Line 27.

(C) Medicare per resident amount (PRA)--average direct cost per medical resident, as reported on the Hospital Cost Report; CMS Form 2552-10; Worksheet E-4; Line 18.

(D) GME Medicaid inpatient utilization percentage--the hospital’s proportion of paid Medicaid inpatient days, including managed care days, divided by the hospital's total inpatient days, as reported on Hospital Cost Report; CMS Form 2552-10; Worksheet S-3; Part 1; columns 7 and 8.

(3) HHSC calculates the total annual GME payment for each hospital as follows:

(A) multiplies the FTE residents by the Medicare per resident amount;

(B) multiplies the results in subparagraph (A) of this paragraph by the GME Medicaid inpatient utilization percentage.

(4) On October 1 of each year, the cost report most recently submitted to HHSC or its designee, will be used for the annual GME payment calculation.
(5) To receive GME payments from HHSC, a non-state government-owned and operated teaching hospital must be enrolled as a Medicaid provider with HHSC and provide intergovernmental transfers to HHSC to fund the non-federal portion of reimbursement for GME costs.

(6) Payments under this subchapter will be made on a semi-annual basis.