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**State Plan Amendment (SPA) #: 18-0007 ICF Cost Report Reform** *(Effective March 1, 2018)*

This file contains the following documents in order listed:

1. CMS Approval Letter
2. CMS Form 179
3. Superseding Page Listing (Attachment to Blocks 8 & 9 of CMS Form 179)
4. Approved SPA Pages
DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard, Mail Stop S3-14-28  
Baltimore, Maryland 21244-1850

Financial Management Group

Ms. Stephanie Muth  
State Medicaid/CHIP Director  
Health and Human Services Commission  
Mail Code: H100  
Post Office Box 13247  
Austin, Texas 78711

RE: TN 18-0007

Dear Ms. Muth:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 18-0007. The proposed amendment modifies the reimbursement methodology for non-state Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs) by requiring only even-year cost reports beginning with providers' 2018 fiscal year cost reports. Additionally, the amendment will require providers to submit an Attendant Compensation Report for odd years beginning with the providers' 2017 fiscal year. Also, the proposed amendment will repeal the Medicaid Spending Requirement.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2), 1902(a)(13), 1902(a)(30), 1903(a), and 1923 of the Social Security Act and the implementing Federal regulations at 42 CFR 447 Subpart C.

We are pleased to inform you that Medicaid State plan amendment 18-0007 is approved effective March 1, 2018. We are enclosing the CMS-179 and the new plan pages.

If you have any questions, please call Tamara Sampson at (214) 767-6431.

Sincerely,

Kristin Fan
Director

Enclosures
**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**FORM APPROVED**

**OMB NO. 0938-0193**

1. **TRANSMITTAL NUMBER:**
   - 18-0007

2. **STATE:**
   - TEXAS

3. **PROGRAM IDENTIFICATION:**
   - TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

4. **PROPOSED EFFECTIVE DATE:**
   - March 1, 2018

5. **TYPE OF PLAN MATERIAL (Circle One):**
   - NEW STATE PLAN
   - AMENDMENT TO BE CONSIDERED AS NEW PLAN
   - AMENDMENT

6. **FEDERAL STATUTE/REGULATION CITATION:**
   - 42 CFR §§ 440.167, 440.225
   - Section 1905(a)(24) of the Social Security Act

7. **FEDERAL BUDGET IMPACT:**
   - a. FFY 2018
     - $54,815
   - b. FFY 2019
     - $75,155
   - c. FFY 2020
     - $77,222

8. **PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:**
   - SEE ATTACHMENT TO BLOCKS 8 & 9

9. **PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (if Applicable):**
   - SEE ATTACHMENT TO BLOCKS 8 & 9

10. **SUBJECT OF AMENDMENT:**
    The proposed amendment will modify the reimbursement methodology in the State Plan for non-state operated Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) by requiring only even-year cost reports beginning with providers' 2018 fiscal year cost reports. Additionally, the amendment will also require providers to submit an Attendant Compensation Report for odd years beginning with the providers' 2017 fiscal year. Lastly, the amendment will repeal the Medicaid Spending Requirement beginning September 1, 2017.

11. **GOVERNOR’S REVIEW (Check One):**
    - OTHER, AS SPECIFIED: Sent to Governor's Office this date. Comments, if any, will be forwarded upon receipt.

12. **SIGNATURE OF STATE AGENCY OFFICIAL:**

13. **TYPED NAME:**
    - Stephanie Muth

14. **TITLE:**
    - State Medicaid Director

15. **DATE SUBMITTED:**
    - March 26, 2018

16. **RETURN TO:**
    - Stephanie Muth
    - State Medicaid Director
    - Post Office Box 13247, MC: H-100
    - Austin, Texas 78711

17. **DATE RECEIVED:**
    - March 26, 2018

18. **DATE APPROVED:**
    - MAY 23, 2018

19. **EFFECTIVE DATE OF APPROVED MATERIAL:**
    - March 1, 2018

20. **SIGNATURE OF REGIONAL OFFICIAL:**

21. **TYPED NAME:**

22. **TITLE:**
    - Director

23. **REMARKS:**
Attachment to Blocks 8 & 9 of CMS Form 179

Transmittal Number 18-0007

<table>
<thead>
<tr>
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<th>Number of the Superseded Plan Section or Attachment</th>
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State: Texas
Date Received: March 26, 2018
Date Approved: MAY 23 2018
Date Effective: March 1, 2018
Transmittal Number: 18-0007
Reimbursement Methodology for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)*

1. Authority. The Texas Health and Human Services Commission (HHSC), the Single State Medicaid Agency, has final approval authority of Medicaid payment rates. HHSC determines ICF/IID Medicaid payment rates after consideration of analysis of financial and statistical information, and the effect of the payment rates on the achievement of program objectives, including economic conditions and budgetary considerations.

2. General. Payment rates are uniform statewide for the same class of service and provider type. Payment rates are determined prospectively with retrospective adjustments as outline in this plan. The unit of service is a day of care provided to a Medicaid client. Payment rates will be determined for a period of two years for non-state operated facilities and for a period of one year to coincide with the state fiscal year for state-operated facilities.

3. Pro Forma Costing. When historical costs are unavailable, such as in the case of changes in program requirements, payment rates may be based on a pro forma approach. This approach involves using historical costs of delivering similar services, where appropriate data are available, and determining the types and costs of products and services necessary to deliver services meeting federal and state requirements.

4. Adjusting Payment Rates. HHSC may adjust payment rates to compensate for anticipated changes in laws, rules, regulations, policies, guidance, economic factors, or implementation of federal or state court orders or settlement agreements. Should HHSC adjust payment rates for these purposes, a state plan amendment will be submitted.

5. Cost Reports. In order to ensure adequate financial and statistical information upon which to base payment rates, each contracted provider is required to submit a cost report every other year and, if necessary, (a) supplemental report(s). It is the responsibility of the provider to submit accurate and complete information in accordance with all pertinent cost report rules and cost report instructions.

* "Intellectual disability" has the same meaning as “mental retardation” as used in other sections of the Texas Medicaid State Plan
Reimbursement Methodology for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID), continued

(C) An individual must meet the following criteria to be eligible to receive the add-on rate:

(i) be assigned a RUG-III 34 classification in Group 1, Group 2, or Group 3;

(ii) be a resident of a large state-operated facility for at least six months immediately prior to referral; and

(iii) have a level of need which includes a medical level of need increase as described in (4)(B) above, but not be assessed a level of need of pervasive plus.

(D) The add-on for each Group is determined based on date and costs from the most recent nursing facility cost reports accepted by HHSC.

(i) For each Group, compute the median direct care staff per diem base rate component for all facilities as specified in the Nursing Facility State Plan Attachment 4.19-D(IV)(B)(3); and

(ii) Subtract the average nursing portion of the current recommended modeled rates as specified in 10(b)(3) of this attachment.

(E) Until such time as HHSC has received, verified and evaluated adequate cost data from participating ICF/IID providers, the add-on rate for each Group will be adjusted each time that HHSC adjusts the Nursing Facility RUG-III rate upon which it is based.

(F) The add-on rates can be found at httpsad.hhs.texas.gov/
Reimbursement Methodology for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) (continued)

15. Effective September 1, 2015, payment rates for non-state operated facilities, including both private and non-state government owned facilities, will be equal to the rates in effect on August 31, 2015, plus 2.02 percent. This payment rate increase uses the allowable/unallowable costs that are currently defined in the approved plan pages at Attachment 4.19-D, ICF/IID. These rates were posted on the agency's website at https://rad.hhs.texas.gov/ on September 1, 2015.
Reimbursement Methodology for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID), continued

18. Medicaid Spending Requirement and Recoupment Process

(a) Effective for costs and revenues accrued on or after September 1, 2015, all non-state operated ICF/IID facilities (including both private and non-state government owned facilities) that did not opt out of the rate increase as described under section (15) are required to spend at least 90 percent of revenues received through the ICF/IID daily Medicaid payment rates on Medicaid allowable costs under the ICF/IID program.

(b) Accountability period. Each accountability period begins the first day of September and ends on the last day of August of the following year.

(c) Providers that fail to meet the 90 percent spending requirement for an accountability period are subject to a recoupment of the difference between 90 percent of the revenues they received through the ICF/IID daily Medicaid payment rate for services provided during the accountability period and their accrued Medicaid allowable ICF/IID costs for the accountability period. At no time will a provider's payments for an accountability period after recoupment be less than the payments the provider would have received if it had opted out of the rate increase.

(d) Compliance with the spending requirement will be determined on an annual basis through an analysis of the provider's Medicaid revenues and expenditures for the accountability period as gathered through the provider's audited Medicaid cost report.

All submitted cost reports are audited for completeness, accuracy and compliance with cost reporting rules. The review process takes approximately six months to complete. Once a cost report is reviewed, the provider is given an opportunity to request an informal review and, if desired, a formal appeal of any changes made to its cost report by HHSC. Once a cost report is finalized, HHSC will analyze the cost report data to determine if the provider owes a recoupment and any recoupment will be submitted to the Department of Aging and Disability Services to be entered into the claims management system. Once entered into the claims management system, recoupments are automatically collected through reductions to the provider's outgoing payments, and the federal share of the recoupment is returned to the federal government.