



COMMISSIONER
Jon Weizenbaum

August 21, 2013

To: Financial Management Services Agencies

Subject: Information Letter 13-51
Attendant Compensation for Certain Consumer Directed Services

The purpose of the letter is to inform Financial Management Services Agencies (FMSAs) and Consumer Directed Services (CDS) employers that effective September 1, 2013, CDS employers must pay at least \$7.50 per hour to employees who provide the following services:

- Primary Home Care (PHC) Services, including Community Attendant Services (CAS) and Family Care (FC);
- Personal Assistance Services in Community Based Alternatives (CBA); and
- Respite and Flexible Family Support Services in the Medically Dependent Children Program (MDCP).

FMSAs are required to pay CDS employers who provide the services listed above at or above \$7.50 per hour beginning September 1, 2013. DADS recognizes that FMSAs may not have a new service authorization for PHC, FC or CAS that reflects the new rate by September 1, 2013. DADS will not penalize the FMSA for paying the new wage rate without the documentation required by 40, Texas Administrative Code, Chapter 41 for the month of September 2013.

Adoption of New Rates

Senate Bill 1, General Appropriations Act, 83rd Legislature, Regular Session, 2013, Article II, Special Provisions Relating to All Health and Human Services Agencies, Section 61, appropriated funds to support increases in the base wage of personal attendants to \$7.50 per hour in fiscal year 2014, and to \$7.86 per hour in fiscal year 2015.

The Texas Health and Human Services Commission (HHSC) approved a new payment rate, effective September 1, 2013, for non-priority PHC, CAS and FC. Additional information can be found on the HHSC Rate Analysis website at the following address:
<http://www.hhsc.state.tx.us/rad/long-term-svcs/phc/index.shtml>.

Before September 1, 2104, HHSC will propose new fiscal year 2015 rates for CBA personal attendant services and MDCP respite and flexible family support services, provided by an attendant.

Service Authorization Changes for Non-Priority PHC, CAS, FC

The rate change for non-priority PHC, CAS and FC requires a service authorization change for *all* employers using these services. DADS case managers will send FMSAs an updated *annual* service authorization (Form 2101) for PHC, CAS or FC with an effective date of September 1, 2013. In the Comments section of Form 2101, DADS has instructed the case manager to indicate the amount of funds authorized from September 1, 2013, to the end of the individual's annual service plan year. Service authorizations for CBA, MDCP, and priority PHC do not need to be revised.

CDS Employer Budget Workbooks

The updated budget workbooks for PHC, MDCP and CBA can be found at:

<http://www.dads.state.tx.us/providers/CDS/handbook.html>.

Changes include:

- an edit to ensure that the CDS employer allocates at least \$7.50 per hour for attendants providing the affected services;
- the new rate for non-priority PHC, CAS and FC; and
- the new drop-down option to enter wage information for family members who meet federal and state tax exempt criteria.

All non-priority PHC, CAS and FC: Budgets must be adjusted using the revised service authorization. To accommodate the rate change, the time period of the revised budget is defined as September 1, 2013, through the end of the individual's service plan year as indicated on Form 2101. (See budget page 1.) The number of service hours authorized per week remains the same as in the current service authorization. (See budget page 2.)

CBA, MDCP or *priority* PHC, CAS and FC: CDS employers who are currently paying less than \$7.50 per hour for the affected services will be required to complete new budget workbooks to adjust the pay rate. (See budget page 4.) If CDS employers are already paying \$7.50 or more per hour, budget workbook changes are not required.

Both the CDS employer and the FMSA representative must sign a new approval page (budget page 1) and write "attendant base rate increase" on the new approval page. The CDS employer and the FMSA must complete budget revisions by September 15, 2013.

If there is a change in an employee's hourly pay or change in benefits, the CDS employer must complete a new Form 1730, Wage and Benefits Plan. The CDS employer must obtain the employee's signature and send to the FMSA no later than September 15, 2013.

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FMSA and CDS Employer Compliance

FMSAs are required to ensure that CDS employers comply with the base wage rate per amendments to 40, Texas Administrative Code, Chapter 49, Contracting for Community Services, §49.72, adopted by HHSC on August 7, 2013. Proposed changes to the CDS rules, proposed effective date January 1, 2014, will require CDS employers to pay the base rate or minimum wage, whichever is higher, for attendant services. Failure of CDS employers to pay the minimum base wage for services listed in this letter may result in termination from the CDS option. Please send any questions about the content of this letter to [cgs@dads.state.tx.us](mailto:cds@dads.state.tx.us).

Sincerely,

[Signature on file]

Lynn W. Blackmore
Director
Center for Policy and Innovation