



COMMISSIONER
Jon Weizenbaum

September 1, 2015

To: Financial Management Services Agencies

Subject: Information Letter 15-54
Attendant Compensation for Certain Consumer Directed Services

The purpose of this letter is to inform Financial Management Services Agencies (FMSAs) and Consumer Directed Services (CDS) employers that effective September 1, 2015, CDS employers must pay at least \$8.00 per hour to employees who provide the following services:

- Primary Home Care (PHC), including Community Attendant Services (CAS) and Family Care (FC);
- Consumer Managed Personal Attendant Services (CMPAS);
- Respite and Flexible Family Support Services in the Medically Dependent Children Program (MDCP);
- Community First Choice personal assistance services/habilitation (CFC PAS/HAB) in the Home and Community-based (HCS), Community Living Assistance and Support Services (CLASS), Texas Home Living (TxHmL), or Deaf Blind with Multiple Disabilities (DBMD) programs; and
- Habilitation in CLASS or residential habilitation in DBMD if an individual plan of care (IPC) has not been renewed to add CFC PAS/HAB.

FMSAs are required to ensure CDS employers or designated representatives pay service providers who provide the services listed above at or above \$8.00 per hour beginning September 1, 2015. DADS recognizes the FMSA may not have a new service authorization for PHC, CAS or FC that reflects the new rate by September 1, 2015. DADS will not penalize the FMSA for paying the new wage rate without the documentation required by Texas Administrative Code (TAC), Title 40, Part 1, Chapter 41, Consumer Directed Services Option, for the month of September 2015.

Adoption of New Rates

The 2016-2017 General Appropriations Act, (House Bill 1, 84th Texas Legislature, Regular Session, 2015, Article II, Special Provisions for all Health and Human Services Agencies, Section 43.), appropriated funds to support increases in the base wage of personal attendants to \$8.00 per hour in fiscal year 2016. The Texas Health and Human Services Commission (HHSC) also approved new payment rates, effective September 1, 2015 for non-priority PHC, CAS and FC, and MDCP respite and flexible family support services:

Program	Current Rate	Adopted Rate
CDS PHC/CAS/FC – Non priority	\$10.28	\$10.43
CDS MDCP Respite and Flexible Family Support provided by an attendant	\$10.99	\$11.15

The rates can also be found on the HHSC Rate Analysis website at:
<http://www.hhsc.state.tx.us/rad/long-term-svcs/index.shtml>.

Service Authorization Changes for Non-Priority PHC, CAS, and FC, and MDCP Respite and Flexible Family Support Services

The rate change for non-priority PHC, CAS and FC, and MDCP respite and flexible family support services requires a service authorization change. By October 31, 2015, DADS PHC case managers will send FMSAs an updated service authorization with the new rate and an effective date of September 1, 2015, through the remainder of the individual's service plan year. By December 1, 2015, DADS MDCP case managers will send FMSAs an updated service authorization with the new rate and an effective date of September 1, 2015, through the remainder of the individual's service plan year.

To initiate the service authorization changes for individuals using PHC, CAS, FC or MDCP, FMSAs must document on Form 2067, Case Information, the amount of funds expended by each CDS employer, including allocated funds, from the beginning of the individual's service plan year through September 1, 2015. **FMSAs must submit completed Form 2067, Case Information, for individuals using PHC, CAS or FC to DADS PHC case managers no later than October 1, 2015. FMSAs must submit completed Form 2067, Case Information, for individuals using MDCP to DADS MDCP case managers no later than November 1, 2015.** DADS PHC case managers will then reauthorize the individual's service plan and send the new service authorization to the FMSA by October 15, 2015. DADS case managers will reauthorize the individual's service plan and send the new service authorization to the FMSA by December 1, 2015. Failure to submit Form 2067, Case Information, to the DADS case manager by the required time frame may result in a complaint filed against the FMSA by DADS staff to Consumer Rights and Services.

CDS Employer Budget Workbooks

The updated budget workbooks for PHC, CMPAS, MDCP, HCS, TxHmL, CLASS and DBMD can be found at: <http://www.dads.state.tx.us/providers/CDS/handbook.html>.

Changes include:

- an edit to ensure the CDS employer allocates at least \$8.00 per hour for attendants providing the affected services;
- the new rate for non-priority PHC, including CAS and FC; and
- the new rate for MDCP.

All non-priority PHC, CAS and FC, and MDCP respite or flexible family support services: 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, 2015, through the end of the individual's service plan year. The number of service hours authorized remains the same as in the current service authorization.

Both the CDS employer and the FMSA representative must sign a new Consumer Information and Budget Approval page and write "PHC rate increase" or "MDCP rate increase" on this page.

HCS, TxHmL, CLASS, DBMD, CMPAS, or priority PHC, CAS and FC: CDS employers who are currently paying less than \$8.00 per hour for the affected services will be required to complete new budget workbooks to adjust the pay rate. If CDS employers are already paying \$8.00 or more per hour, new budget workbook changes are not required.

If there is a change in an employee's hourly wage or a change in benefits, the CDS employer must complete a new Form 1730, Wage and Benefits Plan.

FMSA and CDS Employer Compliance

Amendments to TAC, Title 40, Part 1, Chapter 41, Subchapter E, effective September 1, 2015, require CDS employers to pay the base rate or minimum wage, whichever is higher, for attendant services. Amendments to TAC, Title 40, Part 1, Chapter 49, Subchapter C, effective September 1, 2015, require FMSAs to ensure an employer or designated representative pays attendants in accordance with a budget that meets the requirement in TAC, Title 40, Part 1, Chapter 41, §41.505(a)(1). Failure of CDS employers to pay the minimum base wage for services listed in this letter may result in termination from the CDS option. The requirement to pay providers of CFC PAS/HAB, effective September 1, 2015, will be addressed in a future rule project.

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For questions about the content of this IL, contact the CDS mailbox at cds@dads.state.tx.us.

Sincerely,

[signature on file]

Michelle Martin
Interim Director
Center for Policy and Innovation

[signature on file]

Elisa J. Garza
Assistant Commissioner
Access and Intake