

MMHPI COVID-19 Regulatory & Reimbursement Newsletter

Letter to Providers #33: State and Federal Updates – November 6, 2020

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With federal and state health care policies changing in response to COVID-19, the Meadows Mental Health Policy Institute (MMHPI) is issuing *COVID-19 Regulatory & Reimbursement Newsletters* to support providers. In these newsletters, we highlight recent changes and extensions to regulatory and reimbursement rules, as well as newly published or updated guidance and answers to frequently asked questions.

These newsletters, along with additional information on mental health resources during a pandemic, are posted here: <https://www.texasstateofmind.org/covid-19/>. If you would like to have additional organizations added to our distribution list or have follow up questions on the content, please email Catie Hilbelink at chilbelink@mmhpi.org.

Texas Updates

Extended Flexibilities

Eligibility Assessments, Service Plans, and Plans of Care

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| Date | November 2, 2020 |
| Summary | <p>To comply with requirements of the Families First Coronavirus Relief Act, the Texas Health and Human Services Commission (HHSC) extended functional eligibility assessments, service plans, and plans of care for people enrolled in the following waiver programs: medically dependent children program (MDCP), STAR+PLUS home and community based services (HCBS), Texas home living (TxHML), community living and support services (CLASS), and deaf blind with multiple disabilities (DBMD).</p> <p>People who had an original service plan or plan of care end date of March 31, 2020 through November 30, 2020 will be extended for 12 months.</p> <ul style="list-style-type: none"> • People in the waiver programs with a plan of care or service plan with an end date of December 31, 2020 or later will not be extended for 12 months. • Reassessments will start for people whose new plan year will begin January 1, 2021 and reassessments going forward. • Any functional eligibility assessments resulting in a denial will be held until the end of the public health emergency. <p>Managed care:</p> <ul style="list-style-type: none"> • Telehealth can be used for functional eligibility assessments. • Telephone should only be used as a last resort. • Managed care organizations (MCOs) must submit a new assessment and service plan for anyone who reports a change in condition. <p>Intellectual or developmental disability waivers:</p> <ul style="list-style-type: none"> • Telehealth can be used for renewal functional eligibility assessments. • Telehealth or telephone can be used for renewal plans of care. |

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| Links | <p>https://www.tmhp.com/news/2020-11-02-renewal-idrc-assessments-and-ipcs-and-requirements-revised-ipcs-and-transfer-ipcs</p> <p>https://www.tmhp.com/news/2020-11-02-idrc-assessments-and-ipcs-and-requirements-revised-ipcs-and-transfer-ipcs-issued</p> <p>https://hhs.texas.gov/sites/default/files/documents/services/health/coronavirus-covid-19/mcs-covid-19-info-handout-oct-29.pdf</p> |
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Community Attendant Services, Family Care and Primary Home Care Providers

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| Date | November 2, 2020 |
| Summary | In response to COVID-19, HHSC allowed community attendant services (CAS), family care (FC), and primary home care (PHC) providers to suspend face-to-face supervisory visits and instead conduct interdisciplinary team (IDT) meetings by telephone or by videoconference. In the revised information letter (IL) 20-16, HHSC extended the flexibility until HHSC notifies providers otherwise. |
| Link | https://apps.hhs.texas.gov/providers/communications/2020/letters/IL2020-16.pdf |

Waivers for Telephonically Renewing Scheduled Drugs for Chronic Pain

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| Date | November 4, 2020 |
| Summary | At the beginning of this month, a Texas Medical Board emergency rule allowing providers to telephonically renew scheduled drugs (such as opioids) for patients with chronic pain expired. The emergency rule was most recently renewed for a 60-day period on September 6, 2020. A similar Texas Board of Nursing emergency rule applicable to advanced practice registered nurses expires on November 4, 2020. |
| Link | https://www.bon.texas.gov/emergency_%20amendments_to_%20rule_217.24.asp# |

FAQs

Behavioral Health Providers

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| Date | October 30, 2020 |
| Summary | <p>HHSC updated COVID-19-related frequently asked questions (FAQs) for behavioral health providers with new items, including:</p> <ul style="list-style-type: none"> • Q. During the COVID-19 Substance Use Provider Informational Update on October 22, 2020, there seemed to be some confusion around requirements for consent to treat and consent to release information. Can you clarify? <ul style="list-style-type: none"> A. Consents to treat and consents to release information must be completed in writing, and providers are required to comply with all applicable rules and statutes. Obtaining verbal consent is not an acceptable alternative. Please refer to the HHS Substance Use Disorder Compliance Guidance Letter 20-3008 for updated information regarding emergency rules §500.41-§500.44. • Q. Are peer telehealth services limited to brief interactions or does it cover all the services that can be provided under the peer services and mental health psychiatric rehabilitative services billing codes? <ul style="list-style-type: none"> A. The delivery of Medicaid-covered peer services is authorized through November 30, 2020 (update as of October 30, 2020). Reimbursement for mental health psychiatric rehabilitative services (H0034) and peer services (H0038) is eligible and not limited to “brief interactions.” To indicate remote delivery, providers must use the 95-modifier code. |
| Link | https://hhs.texas.gov/sites/default/files/documents/services/health/behavioral-health-services-covid-faq.pdf |

LIDDAs

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| Date | October 29, 2020 |
| Summary | HHSC updated COVID-19-related FAQs for local intellectual and developmental disability authorities (LIDDAs). |
| Link | https://hhs.texas.gov/sites/default/files/documents/services/health/coronavirus-covid-19/covid-lidda-faq.pdf |

Assisted Living Facilities

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| Date | November 2, 2020 |
| Summary | HHSC published updated visitation FAQs for assisted living facility providers. |
| Link | https://hhs.texas.gov/about-hhs/communications-events/news/2020/11/hhsc-publishes-updated-visitation-frequently-asked-questions-alf-providers |

Prior Authorizations

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|----------------|--|
| Date | October 28, 2020 |
| Summary | <p>To help ensure continuity of care during the COVID-19 response, HHSC allowed the Texas Medicaid & Healthcare Partnership (TMHP) to extend for 90 days existing prior authorization requests that are set to expire through November 30, 2020, if providers are unavailable or unable to provide the required documentation on a timely basis due to a COVID-19 related issue.</p> <p>Note: Providers currently have the option to request prior authorization time periods other than the 90-day extension.</p> <p>For new and initial prior authorization requests, and for recertifications of existing prior authorizations, providers should refer to the TMHP COVID-19 webpage and the COVID-19 Guidance for New and Initial Prior Authorizations.</p> |
| Link | https://www.tmhp.com/news/2020-10-28-tmhp-extend-prior-authorizations-90-days |

Assisted Living Facilities: Transferring COVID-19 Positive Residents

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| Date | November 4, 2020 |
| Summary | HHSC published Provider Letter 20-48, Transferring COVID-19 Positive Residents, for assisted living facilities. The letter outlines the process an assisted living facility must follow when transferring a resident with an active COVID-19 infection to another facility or higher level of care if the facility is unable to provide appropriate care. |
| Link | https://hhs.texas.gov/about-hhs/communications-events/news/2020/11/hhsc-publishes-guidance-alfs-transferring-covid-19-positive-residents-pl-20-48 |

New Coronavirus Procedure Codes for the Introduction or Infusion of Therapeutics

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| Date | November 2, 2020 |
| Summary | <p>Effective for dates of service on or after August 1, 2020, in response to the COVID-19 pandemic, the Centers for Medicare & Medicaid Services (CMS) is implementing twelve new procedure codes to describe the introduction or infusion of therapeutics, including remdesivir and convalescent plasma, into the International Classification of Diseases, Tenth Revision, Procedure Coding System (ICD-10-PCS). Click to view a table that displays the twelve new procedure codes.</p> <p>Affected claims with dates of service from August 1, 2020 through September 29, 2020, if any are identified, will be reprocessed. Providers are not required to appeal the claims unless they are denied for additional reasons after the claims reprocessing is completed.</p> |
| Link | https://www.tmhp.com/news/2020-11-02-new-coronavirus-covid-19-procedure-codes-introduction-or-infusion-therapeutics |

Reporting of Fraud Regarding COVID-19 Test Prices

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| Date | November 2, 2020 |
| Summary | <p>The Texas Department of Insurance issued a bulletin encouraging all insurance companies and others to report suspected fraud regarding COVID-19 test prices. The alert includes a reminder that, in Texas, it is a crime to knowingly charge two different prices for the same product or service where the higher price is charged because an insurer will pay all or a part of that cost.</p> |
| Link | https://www.tdi.texas.gov/bulletins/2020/B-0037-20.html |

HCSSAs May Not Purchase, Store, or Transport COVID-19 Vaccine When Distributed

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| Date | November 3, 2020 |
| Summary | <p>Home and community support services agencies (HCSSAs) have statutory limitations on vaccines, including the projected COVID-19 vaccine. The statutory language at Texas Health and Safety Code Chapter 142, Sec. 142.0062 authorizes a limited list of vaccines and tuberculin that HCSSAs may purchase, store or transport. The COVID-19 vaccine will not be covered under the statutory language.</p> <p>Nurses employed by or contracted with a licensed HCSSA may handle vaccines under physician delegation. However, the administration of the COVID-19 vaccine will not be under the protection of the HCSSA license. HCSSAs should:</p> <ul style="list-style-type: none"> • Develop policies to ensure its health care workers can receive the COVID-19 vaccine provided by other health care entities. • Review their policies and procedures for physician orders and adhering to physician delegation under Texas Occupations Code Chapter 157. |
| Link | https://hhs.texas.gov/about-hhs/communications-events/news/2020/11/hcssas-may-not-purchase-store-or-transport-covid-19-vaccine-when-distributed |

Federal Updates

Changes to Telehealth Flexibilities

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|----------------|---|
| Date | November 4, 2020 |
| Summary | <p>In its home health payment rule for 2021, CMS signed off on changes to allow providers to use telehealth for related skilled services if they are outlined in a patient's care plan. It also requires providers to describe how telehealth would improve treatment in a patient's medical record. CMS bumped pay for home health providers by 1.9%, or about \$390 million.</p> <p>"The use of technology may not substitute for an in-person home visit that is ordered on the plan of care and cannot be considered a visit for the purpose of patient eligibility or payment," according to a CMS fact sheet.</p> |
| Link | https://www.federalregister.gov/documents/2020/11/04/2020-24146/medicare-and-medicaid-programs-cy-2021-home-health-prospective-payment-system-rate-update-home |

Clarification to PRF Reporting Requirements

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| Date | November 2, 2020 |
| Summary | The United States Department of Health & Human Services (HHS) issued a clarification to its October 22, 2020 reporting requirements for providers that received Provider Relief Fund (PRF) payments. The updated guidance explains that health care-related expenses will not be netted against patient care lost revenue. Previously, any PRF payment amounts that were not fully expended on health care-related expenses attributable to COVID-19 could be applied to patient care lost revenues, net of the health care-related expenses attributable to COVID-19. Netting out the expenses effectively capped hospital reimbursement under the PRF at the greater of the COVID-19-related expenses or lost revenue. |
| Link | https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/faqs/provider-relief-fund-general-info/index.html#auditing-reporting-requirements |

CMS Issues Coverage Plans for Vaccines, Treatments

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| Date | October 28, 2020 |
| Summary | CMS announced an interim final rule to provide additional Medicare hospital payments to cover the out-of-pocket costs of COVID-19 vaccines for Medicare and Medicaid beneficiaries. A change from the previous policy, Medicare and Medicaid will now cover vaccines that receive emergency use authorization from the United States Food and Drug Administration (FDA). Private insurers and Medicaid programs are responsible for covering the vaccine at no cost to beneficiaries. CMS intends to increase reimbursement for any new COVID-19 treatments that are approved or authorized by the FDA. Among others, the rule also makes changes to Section 1332 State Innovation Waivers, establishes an updated policy for maintaining Medicaid enrollment during the COVID 19 Public Health Emergency, establishes price transparency requirements for COVID-19 diagnostic tests, and extends the end date for the Comprehensive Care for Joint Replacement model. CMS released a set of toolkits for providers, states, and insurers to help ensure the health care system is ready to administer the vaccine. See CMS' FAQ on Medicare fee-for-service billing and its COVID-19 Vaccine Web page for additional information. |
| Link | https://www.cms.gov/newsroom/press-releases/trump-administration-acts-ensure-coverage-life-saving-covid-19-vaccines-therapeutics |

COVID-19 Vaccination-Pharmacy Partnership for Long-Term Care Program

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| Date | October 30, 2020 |
| Summary | <p>The Centers for Disease Control and Prevention (CDC) is partnering with CVS and Walgreens to offer on-site COVID-19 vaccination services for residents of long-term care facilities once vaccines are available and recommended for them. The federal sign-up period ends November 6, 2020.</p> <p>Long-term care facilities that think they may want to request COVID-19 vaccine from the state program as a back-up plan to the federal pharmacy partnership program, to have access the vaccine after the federal program ends, or if they miss the federal pharmacy partnership registration deadline, are encouraged to enroll through the Texas Department of State Health Services (DSHS).</p> |
| Link | https://www.dshs.texas.gov/immunize/covid19/COVID-19-Vaccination-Pharmacy-Partnership-for-LTC.pdf |

CDC Guidance and Reports

Masking and Public Transportation

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|----------------|---|
| Date | October 29, 2020 |
| Summary | CDC issued new guidance now strongly recommending the use of masks on public transportation. |
| Link | https://www.cdc.gov/coronavirus/2019-ncov/travelers/face-masks-public-transportation.html |

Health Care Exposure and Infection

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|----------------|---|
| Date | October 30, 2020 |
| Summary | CDC issued a new study highlighting the considerable risk of exposure and transmission among health care workers in congregate living and long term care settings, compared to acute care settings. |
| Link | https://www.cdc.gov/mmwr/volumes/69/wr/mm6943a5.htm?s_cid=mm6943a5_w |

Telehealth

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|----------------|---|
| Date | October 30, 2020 |
| Summary | CDC issued a new report studying the use of telehealth early in the pandemic, including a 154% increase in telehealth visits during the last week of March 2020, compared with the same period in 2019. |
| Link | https://www.cdc.gov/mmwr/volumes/69/wr/mm6943a3.htm?s_cid=mm6943a3_w |

Preterm Birth

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| Date | November 2, 2020 |
| Summary | A new CDC study indicates that patients with SARS-CoV-2 may be at an increased risk of preterm birth. Among nearly 4,000 infants with known gestational age born to women with SARS-CoV-2, 12.9% were preterm, higher than a national estimate of 10.2%. Among 610 (21.3%) infants with testing results, 2.6% had positive SARS-CoV-2 results, primarily those born to women with infection at delivery. |
| Link | https://www.cdc.gov/mmwr/volumes/69/wr/mm6944e2.htm?s_cid=mm6944e2_w |

Pregnancy

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| Date | November 2, 2020 |
| Summary | A new CDC study analyzed about 400,000 women aged 15-44 years with symptomatic COVID-19; intensive care unit admission, invasive ventilation, extracorporeal membrane oxygenation, and death were more likely in pregnant women than in nonpregnant women. |
| Link | https://www.cdc.gov/mmwr/volumes/69/wr/mm6944e3.htm?s_cid=mm6944e3_w |