

Meadows Institute COVID-19 Regulatory & Reimbursement Newsletter

Letter to Providers #54: State and Federal Updates – April 30, 2021

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With federal and state health care policies changing in response to COVID-19, the Meadows Mental Health Policy Institute (Meadows Institute) 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://mmhpi.org/work/covid19/>. If you would like to have additional organizations added to our distribution list or have follow up questions on the content, please email Rachael McLaughlin at rmclaughlin@mmhpi.org.

Texas Updates

House Bill 4 Related to Telehealth Passes

Date	April 15, 2021
Summary	Representative Price’s House Bill (HB) 4 and Senator Buckingham’s Senate Bill (SB) 412 would make all COVID-19 flexibilities related to telemedicine and telehealth permanent. Since March 20, 2020, Governor Abbott and the Texas Health and Human Services Commission (HHSC) have issued and renewed a series of waivers, including a waiver authorizing certain behavioral health services to be reimbursed in Medicaid when delivered by telehealth or telephone (audio only). HB 4 and SB 412 include provisions that would make these behavioral health flexibilities permanent. The Senate Health & Human Services Committee heard SB 412 on March 23, 2021, and the bill was left pending. The House Public Health Committee then heard HB 4 on March 31, 2021, and the committee immediately voted the bill out of committee by unanimous vote. The Texas House passed HB 4 by unanimous vote on April 15, 2021. The Texas Senate then referred HB 4 to the Senate Health & Human Services Committee. In the near future, Senator Buckingham will swap SB 412 for HB 4.
Link	https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HB00004E.pdf#navpanes=0

\$11.2 Billion in ESSER III Funds to Flow to Texas Schools

Date	April 28, 2021
Summary	Effective April 28, 2021, districts and open-enrollment charter schools (school systems) in Texas may apply to receive their allocation of the \$11.2 billion appropriated to the State of Texas for public education purposes under the American Rescue Plan (ARP) Act through the Elementary and Secondary School Emergency Relief III (ESSER III) Fund. Funds are being provided, supplemental to all other funding sources to school systems, and will not be supplanted at the state level. School systems should use these new funds to respond to the pandemic and address student learning loss as a result of COVID-19. They can use the funding for a number of authorized purposes, including the provision of mental health services and supports. The eGrants electronic grant application are available on the Texas Education Agency (TEA) Grant Opportunities web page starting on April 29, 2021.
Link	https://tea.texas.gov/about-tea/news-and-multimedia/correspondence/taa-letters/release-of-esser-iii-formula-funds-to-texas-public-school-systems

Updates on Flexibilities

Termination of Waiver Services during the Public Health Emergency

Date	April 22, 2021
Summary	<p>HHSC has published IL 2021-19, Termination of Waiver Services during the Public Health Emergency. Waiver services will be ending for people not eligible for Community Living Assistance and Support Services (CLASS), Deaf-Blind with Multiple Disabilities (DBMD), Home and Community-based Services (HCS) or Texas Home Living (TxHmL) programs beginning May 10, 2021. This is in accordance with the Centers for Medicare & Medicaid Services (CMS)'s Interim Final Rule CMS-9912-IFC. The rules for program eligibility are:</p> <ul style="list-style-type: none">• Section 9.155 for HCS• Section 9.556 for TxHmL• Section 42.201 for DBMD• Section 45.201 for CLASS <p>People no longer eligible for a waiver program will:</p> <ul style="list-style-type: none">• Have waiver services terminated. They may continue to receive Medicaid state plan services until the end of the federal Public Health Emergency.• Be given an opportunity to request a fair hearing for termination of services. HHSC urges case managers and service coordinators to provide helpful information to anyone who wants to appeal an HHSC eligibility determination.

Link | <https://www.tmhp.com/news/2021-04-28-hhsc-publishes-termination-waiver-services-during-public-health-emergency-il-2021>

Multiple Medicaid COVID-19 Flexibilities Extended Through May 31

Date	April 28, 2021
Summary	<p>The following Medicaid and Children’s Health Insurance Plan (CHIP) COVID-19 flexibilities have been extended through May 31, 2021:</p> <ul style="list-style-type: none">• Correction to ‘COVID-19 Guidance: Targeted Case Management Through Remote Delivery’• Waiver Extension for Durable Medical Equipment (DME) Certification and Receipt Form• Claims for Telephone (Audio-Only) Behavioral Health Services• Claims for Telephone (Audio-Only) Medical Services• Rural Health Clinic (RHC) Reimbursement for Telemedicine and Telehealth Services• School Health and Related Services (SHARS) Services Provided Through Telemedicine or Telehealth• Claims for Telehealth Service for Occupational, Physical, and Speech Therapy• Claims for Telephone (Audio-Only) Early Childhood Intervention Specialized Skills Training• Claims for Telephone (Audio-Only) Nutritional Counseling Services• Texas Health Steps Checkup Guidance Extended Through July 31, 2020 <p>HHSC will provide updated information if there are changes. For more information, call the Texas Medicaid and Healthcare Partnership (TMHP) Contact Center at (800) 925-9126.</p>
Link	https://www.tmhp.com/news/2021-04-28-multiple-medicaid-covid-19-flexibilities-extended-through-may-31

Telehealth Guidance on CLASS Professional and Specialized Therapies

Date	April 27, 2021
Summary	<p>The following CLASS professional and specialized therapy services are available by telehealth. This is effective March 15, 2020 through May 31, 2021. HHSC will update if there are changes.</p> <ul style="list-style-type: none">• Physical therapy• Occupational therapy• Speech and language pathology• Recreational therapy• Music therapy• Behavior support• Dietary services• Cognitive rehabilitation therapy <p>The Office of Civil Rights (OCR) has relaxed HIPAA requirements to allow video for telehealth services. Texas Medicaid recognizes OCR's HIPAA enforcement discretion for telehealth platform requirements.</p> <p>Therapies must have a treatment plan. The goals and outcomes must support being provided through telehealth. Revision of therapy hours may be added to an Individual Plan of Care (IPC) and authorized by HHSC per the process outlined in IL 2020-46.</p> <p>Acceptable telehealth formats are synchronous audiovisual interaction or asynchronous store and forward technology. Use these with synchronous audio interaction between the client and the distant site provider.</p> <p>Therapies not eligible for delivery by telehealth are:</p> <ul style="list-style-type: none">• Massage therapy• Hippotherapy• Therapeutic horseback riding• Aquatic therapy
Link	https://hhs.texas.gov/about-hhs/communications-events/news/2021/04/covid-19-update-telehealth-guidance-class-professional-specialized-therapies

Guidance for New and Initial Medicaid Prior Authorizations

Date	April 28, 2021
Summary	<p>To help ensure continuity of care during the COVID-19 response, HHSC has directed TMHP to move forward with processing new and initial prior authorization requests, including recertification requests, by relaxing document submission timeframes for providers if they are unable to provide certain required documentation during the COVID-19 emergency. This direction will remain in effect through May 31, 2021. HHSC will provide more information if there are changes. This guidance applies to all state plan services, including:</p> <ul style="list-style-type: none">• Acute care services• Long-term services and supports• Personal assistance services (PAS)• Personal care services• Community First Choice (CFC)• Private duty nursing• Day activity and health services (DAHS)• Durable medical equipment (DME) and supplies
Link	https://www.tmhp.com/news/2021-04-28-covid-19-guidance-new-and-initial-medicaid-prior-authorizations

COVID-19 Update to Temporary Change to HCS and TxHmL Policy for Service Providers of Respite and CFC PAS/HAB

Date	April 27, 2021
Summary	<p>HHSC has lifted the ban on service providers of respite and Community First Choice (CFC) Personal Assistance Services/Habilitation (PAS/HAB) from living in the same home as the person receiving HCS and TxHmL program services. This gives access to needed services for people living in their own or family's home. A person's spouse or a minor child's parent still cannot be a paid service provider of these services due to guidelines found in the following:</p> <ul style="list-style-type: none">• HCS Billing Guidelines, Sections 4691.7(1), 4660(1)• TxHmL Billing Guidelines Sections 4660(1), 4691.8(1)• CFC Billing Guidelines Section 3700(a)(1) <p>This is a temporary policy change. It is effective March 27, 2020 through May 31, 2021. HHSC will provide updates if there are changes.</p>

Program providers must complete the required background checks for all service providers. They must follow:

- Texas Administrative Code, Title 40, Part 1, Subchapter D and N
- HCS and TxHmL Rules, [Sections 9.177 \(n\) and \(o\)](#) and [Sections 9.579 \(r\) and \(s\)](#)
- HCS and TxHmL Billing Guidelines Section 3400 for service provider qualifications

[Email the HCS program policy](#) or the [TxHmL program policy](#) with questions.

Link

<https://hhs.texas.gov/about-hhs/communications-events/news/2021/04/covid-19-update-temporary-change-hcs-txhtml-policy-service-providers-respite-cfc-pashab>

COVID-19 Guidance for FFS Service Coordinators and Case Managers

Date

April 28, 2021

Summary

Fee-for-service Medicaid 1915(c) waiver case managers and service coordinators may suspend face-to-face service coordination visits. This is a temporary policy change extended through May 31, 2021. HHSC will provide more information if there are changes. This temporary policy applies to:

- CLASS
- TxHmL
- DBMD
- HCS
- General Revenue Service Coordinators
- CFC Service Coordinators
- Pre-admission Screening and Resident Review Habilitation Coordinators

Case managers, service coordinators, and habilitation coordinators are encouraged to complete visits by phone, telehealth, or telemedicine.

Link

<https://hhs.texas.gov/about-hhs/communications-events/news/2021/04/update-covid-19-guidance-ffs-service-coordinators-case-managers>

Revised Visitation and Other Emergency Rules

Visitation Comparison Table for ICF/IID Providers

Date	April 23, 2021
Summary	HHSC Long-term Care Regulation has published the Intermediate Care Facility/Facilities for Individuals with Intellectual Disability or Related Conditions (ICF/IID) Visitation Comparison Table , which is a tool for ICF/IIDs. The table helps determine the visitation requirements for providers who have offered the COVID-19 vaccine and those who have not.
Link	https://www.tmhp.com/news/2021-04-23-hhsc-publishes-visitation-comparison-table-icfiid

Summary of NF COVID-19 Visitation Rules

Date	April 28, 2021
Summary	HHSC Long-term Care (LTC) Regulation has published COVID-19 Updated Visitation Rules Summary for nursing facilities. CMS's updated memorandum of nursing home visitation can be found here .
Link	https://www.tmhp.com/news/2021-04-28-hhsc-publishes-summary-nf-covid-19-visitation-rules

Expansion of Reopening Visitation Emergency Rules for Providers

Date	April 23, 2021
Summary	HHSC LTC Regulation has published revised COVID-19 Response Expansion of Reopening Visitation Emergency Rules for various providers (see below for list). The rules specify that visitors under the age of two are exempt from all requirements related to wearing masks. <ul style="list-style-type: none">• Inpatient hospice• Nursing facilities• Assisted Living Facilities (ALF)• HCS• ICFs/IID

State Vaccine Numbers

Date	April 23, 2021
Summary	More than 1.7 million doses of COVID-19 vaccine have been shipped to providers across Texas this week. The Texas Department of State Health Services (DSHS) is allocating 708,460 first doses to 928 providers in 129 counties. DSHS is ordering 570,520 second doses for people previously vaccinated. An estimated 470,000 additional first and second doses are expected to be available to pharmacy locations, federally-qualified health centers, and dialysis centers as allocated directly by the federal government. Texas has now administered more than 16.8 million doses of vaccine. Almost 10.5 million people have received at least one dose, and about 7 million are now fully vaccinated. About 47% of all eligible Texans have gotten a COVID-19 shot, and 31% are fully vaccinated.
Links	https://dshs.texas.gov/news/releases/2021/20210423.aspx

Updated COVID-19 FAQs and Response Plans for Providers

Date	April 12, 2021
Summary	HHSC has published updated frequently asked questions (FAQs) for various providers: <ul style="list-style-type: none">• Updated COVID-19 FAQs and COVID-19 Response Plan for ALF• Updated COVID-19 FAQs for Home and Community Support Services Agencies (HCSSA)• Updated COVID-19 FAQs for HCS and TxHmL Providers• Updated COVID-19 FAQs and COVID-19 Response Plan for DAHS providers.

Creating a Culture of Normalcy within COVID-19 Regulations for ALFs

Date	April 27, 2021
Summary	An upcoming webinar provides COVID-19 Emergency Visitation Rules clarification for LTC providers. It will highlight the importance of maintaining as much normalcy as possible during the pandemic to help resident's psychosocial well-being. The webinar is May 11, 2021, from 10 - 11 a.m. Register for the webinar here .
Link	https://hhs.texas.gov/about-hhs/communications-events/news/2021/04/creating-a-culture-normalcy-within-covid-19-regulations-alfs

Federal Updates

Additional Policy and Regulatory Revisions to LTC Facility Testing Requirements

Date	April 27, 2021
Summary	<p>On August 25, 2020, CMS published an interim final rule with comment period (IFC). This rule establishes LTC facility testing requirements for staff and residents. Specifically, facilities are required to test residents and staff, including people providing services under arrangement and volunteers, for COVID-19 based on parameters set forth by the Secretary of the U.S. Department of Health and Human Services (HHS). This memorandum provides guidance for facilities to meet the new requirements.</p> <p>To assess compliance with the new testing requirements, CMS has revised the survey tool for surveyors. Additions were made to the survey process, including the assessment of compliance with the requirements for facilities to designate one or more person(s) as the infection preventionist(s) (IPs) who are responsible for the facility's infection prevention and control program (IPCP) at 42 C.F.R. Section 483.80(b). In addition, a number of revisions to the survey tool were completed to reflect other updated COVID-19 guidance.</p>
Link	https://www.cms.gov/medicareprovider-enrollment-and-certificationsurveycertificationgeninfo/policy-and-memos-states-and/interim-final-rule-ifc-cms-3401-ifc-additional-policy-and-regulatory-revisions-response-covid-19-0

HHS Announced \$1 Billion for Construction and Renovation Projects at Health Centers

Date	April 27, 2021
Summary	<p>HHS announced the availability of \$1 billion for Health Resources and Services Administration (HRSA)-Health Center Program funded health centers to support major construction and renovation projects across the country. Health centers that receive this funding will be able to use it for COVID-19 related capital needs and to construct new facilities, renovate and expand existing facilities, and purchase new equipment.</p>
Link	https://www.hhs.gov/about/news/2021/04/27/hhs-announces-1-billion-dollar-from-american-rescue-plan-for-construction-and-renovation-projects-at-health-centers.html

CMS proposes to Enhance the Medical Workforce in Rural and Underserved Communities

Date	April 27, 2021
Summary	CMS issued a proposed rule (CMS-1752-P) for inpatient and LTC hospitals that builds on the Biden Administration’s priorities to close health care equity gaps and provide greater accessibility to care. Major provisions in the proposed rule would fund medical residency positions in hospitals in rural and underserved communities to address workforce shortages and require hospitals to report COVID-19 vaccination rates among their workers to contain the spread of the virus. See fact sheet for further information.
Link	https://www.cms.gov/newsroom/fact-sheets/fiscal-year-fy-2022-medicare-hospital-inpatient-prospective-payment-system-ipp-and-long-term-care

Available Tax Credits for Paid Leave

Date	April 21, 2021
Summary	President Biden announced a paid leave tax credit that will offset the cost for businesses and nonprofits with fewer than 500 employees for up to 80 hours (i.e., 10 work days) up to \$511 per day of paid sick leave offered between April 1, 2021 and September 30, 2021. This tax credit will allow these employers to provide paid leave for employees to get a COVID-19 vaccination and for any time their employees may need to recover from that vaccination at no cost to the employer. The Internal Revenue Service (IRS) posted a fact sheet to educate employers on how to claim the paid sick leave credit on their quarterly tax filings. Consult this snapshot from the Department of Treasury for further details.
Link	https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/21/fact-sheet-president-biden-to-call-on-all-employers-to-provide-paid-time-off-for-employees-to-get-vaccinated-after-meeting-goal-of-200-million-shots-in-the-first-100-days/

Vaccine Updates

Resuming the Use of Johnson & Johnson Vaccine

Date	April 23, 2021
Summary	<p>In the Centers for Disease Control and Prevention (CDC) meeting on the Johnson & Johnson (J&J) vaccine on April 23, 2021, federal health officials determined that vaccinations with the J&J COVID-19 vaccine could restart, following the 10-day pause due to reports of severe blood clots. Slides from the meeting are available here. The Food and Drug Administration (FDA) amended the emergency use authorization (EUA) for the vaccine to mention the clotting issue, and it will add warnings about the risk of the rare clots accompanied by low platelet counts to fact sheets for health care providers and vaccine recipients. See the updated J&J FAQ for more.</p> <p>On April 24, 2021, DSHS announced that it notified Texas' vaccine providers that they should resume use of the J&J vaccine. A CDC report examining the blood clot risks of J&J vaccine can be found here.</p>
Link	https://www.fda.gov/news-events/press-announcements/fda-and-cdc-lift-recommended-pause-johnson-johnson-janssen-covid-19-vaccine-use-following-thorough

Preliminary Study Finds Pfizer, Moderna Vaccine Safe for Pregnant Women

Date	April 21, 2021
Summary	<p>A study published in the New England Journal of Medicine looked at vaccine data among more than 35,000 pregnant women from V-Safe and Vaccine Adverse Event Reporting System from mid-December 2020 through February 2021. Preliminary findings indicated the vaccination is safe for pregnant women. Pregnant women reported pain at the injection site more frequently than their nonpregnant counterparts but fewer follow-up symptoms such as headache, chills, muscle pain and fever. Rates of preterm births and miscarriages among vaccinated people who completed their pregnancies during the study period were similar to those of the general pregnant population. Additional longitudinal follow up is needed. Importantly, the study only looked at health outcomes for people who received the Pfizer and Moderna vaccines; J&J data was not considered.</p>
Link	https://www.nejm.org/doi/full/10.1056/NEJMoa2104983

Fact Sheets on Access to COVID-19 Vaccines

Date	April 19, 2021
Summary	HRSA released fact sheets in English and Spanish on patient rights and provider responsibilities regarding access to COVID-19 vaccines. The resources emphasize that 1) the vaccines are free to all people in the United States; 2) providers can only bill insurance companies or the federal government for vaccine administration fees; and 3) HRSA's COVID-19 Uninsured Program pays for COVID-19 services provided to anyone without health insurance.
Link	https://www.alive-inc.org/hrsa-fact-sheet-for-covid-services/

Initiative to Increase COVID-19 Vaccine Confidence

Date	April 22, 2021
Summary	HHS is launching a new initiative to connect Americans with facts and information on vaccines from doctors, scientists, and health professionals through high-impact digital platforms. The initiative, called " <i>We Can Do This: Live</i> " series, pairs medical experts with prominent influencers and organizations with large social followings to meet people where they are with the information they need to feel confident about receiving the vaccine. Events will include conversations to answer direct questions about COVID-19, Instagram Live Q&As, and social media account takeovers where doctors, scientists, and health officials can provide the public with factual, scientific information about vaccines.
Link	https://www.hhs.gov/about/news/2021/04/22/hhs-launches-we-can-do-this-live-initiative-increase-covid-19-vaccine-confidence.html

CDC Reports

Health Care Utilization of Nonhospitalized Adults in an Integrated Health Care System

Date	April 23, 2021
Summary	Among 3,171 nonhospitalized adult COVID-19 patients, 69% had one or more outpatient visits 28 to 180 days after the diagnosis. Two thirds had a visit for a new primary diagnosis, and approximately one third had a new specialist visit. Symptoms potentially related to COVID-19 were common new visit diagnoses. Visits for these symptoms decreased after 60 days but for some patients continued through 120 to 180 days. Clinicians and health care systems should be aware of the potential for post-COVID conditions.
Link	https://www.cdc.gov/mmwr/volumes/70/wr/mm7017e3.htm?s_cid=mm7017e3_w

Effectiveness of Pfizer-BioNTech and Moderna Vaccines Against COVID-19 Among Older Hospitalized Adults

Date	April 28, 2021
Summary	In a multistate network of U.S. hospitals during January 2021 to March 2021, receipt of Pfizer-BioNTech or Moderna COVID-19 vaccines was 94% effective against COVID-19 hospitalization among fully vaccinated adults and 64% effective among partially vaccinated adults aged 65 years or older. SARS-CoV-2 vaccines significantly reduce the risk for COVID-19–associated hospitalization in older adults and, in turn, might lead to commensurate reductions in post-COVID conditions and deaths.
Link	https://www.cdc.gov/mmwr/volumes/70/wr/mm7018e1.htm?s_cid=mm7018e1_w

Reminder: Guidance on Bamlanivimab

Date	April 21, 2021
Summary	On April 16, 2021, the FDA revoked the EUA for bamlanivimab, when administered alone, to be used for the treatment of mild-to-moderate COVID-19 in adults and certain pediatric patients who are at high risk of disease progression or hospitalization. REGEN-COV as well as bamlanivimab and etesevimab (administered together) continue to be available under EUA. Since cases continue and a sizable percentage of the newly positive COVID-19 patients are eligible for therapeutics due to age and underlying comorbidities, facilities can refer to the treatment guidelines post by NIH for further information. Contact HHS at COVID19Therapeutics@hhs.gov with further questions.
Link	https://www.covid19treatmentguidelines.nih.gov/anti-sars-cov-2-antibody-products/anti-sars-cov-2-monoclonal-antibodies/