

**Department of State Health Services
Council Agenda Memo for State Health Services Council
June 25, 2009**

Agenda Item Title: New rule concerning Reimbursement Methodology for the Youth Empowerment Services (YES) Waiver Program

Agenda Number: 4b

Recommended Council Action:

For Discussion Only

For Discussion and Action by the Council

Background:

The Health and Human Services Commission (HHSC) Rate Analysis Department (RAD) develops and adopts payment rates for all Medicaid services, and adopts rules for the rate methodology. Long-term care Medicaid payment rates are cost-based, statewide, uniform rates. These payment rates are designed to reimburse the economic and efficient provider.

The YES waiver will be funded through the HHSC Medicaid budget.

The Centers for Medicare and Medicaid Services approved the YES waiver effective September 1, 2009.

Summary:

The Department of State Health Services (DSHS) and HHSC worked collaboratively to develop the YES waiver. The YES waiver is designed to prevent or reduce institutionalization of children and adolescents with severe emotional disturbance (SED), enable more flexibility in providing intensive community-based services for children and adolescents with SED, and provide support for their families by improving access to services. The YES waiver pilot program will provide services to children and adolescents that reside in Bexar and Travis counties.

The new rule describes the rate methodology for the YES waiver program. The payment rates for the YES waiver will be based on rates for similar services from other Medicaid programs or if a similar service does not exist, then a pro-forma rate will be established. A pro-forma analysis makes assumptions about staff salaries and service requirements, and estimates the basic types and costs of products and services necessary to deliver services meeting federal and state requirements.

Summary of Input from Stakeholder Groups:

HHSC Rate Analysis shared the rule with Texas Integrated Funding Initiative, Local Area Network Advisory Committee, Mental Health Planning and Advisory Council, the local mental health authorities, and the Texas Council of Community Mental Health and Mental Retardation Centers.

Rate Analysis received no comments on this rule.

The rule was presented to the Medical Care Advisory Committee at its May 2009 meeting. The MCAC recommended the Executive Commissioner approve the rules for publication.

Proposed Motion: Motion to recommend HHSC approval for publication of rules contained in agenda item #4b

Approved by Assistant Commissioner/Director: Pam McDonald **Date:** 5/19/2009

Presenter: Sarah Hambrick **Program:** HHSC Rate Analysis Department **Phone No.:** 512-491-1431

Approved by CPCPI: Carolyn Bivens **Date:** 5/19/2009

Title 1. ADMINISTRATION
Part 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION
Chapter 355. Reimbursement Rates
Subchapter M. Miscellaneous Medicaid Programs
Division 4. Youth Empowerment Services Waiver Program
New §355.9060

Proposed Preamble

The Texas Health and Human Services Commission (HHSC) proposes to add new §355.9060, Reimbursement Methodology for the Youth Empowerment Services Waiver Program, to Title 1, Part 15, Chapter 355, Subchapter M, Division 4, Reimbursement Methodology for the Youth Empowerment Services Waiver Program.

BACKGROUND AND JUSTIFICATION

The Department of State Health Services (DSHS) has developed the Youth Empowerment Services (YES) waiver to provide intensive, community-based services to children and youth who meet the criteria for inpatient psychiatric hospitalization. The waiver will implement a pilot program to provide certain services to children and adolescents in Bexar and Travis counties. The goals of the proposed waiver include:

- providing a more complete continuum of community-based services and supports for children with severe emotional disturbances;
- preventing or reducing inpatient psychiatric admissions for children with severe emotional disturbances;
- preventing entry and recidivism into the foster care system;
- reducing out-of-home placements by all child-serving agencies; and
- improving the clinical and functional outcomes of youth and their families.

The Centers for Medicare and Medicaid Services approved the YES waiver effective September 1, 2009.

This proposed rule describes the rate methodology for the YES waiver.

SECTION-BY-SECTION SUMMARY

Subparagraph (a) establishes that the rates for the YES waiver are developed based on rates determined for other programs that provide similar services. If similar services do not exist, HHSC will model rates based a pro forma analysis. A pro-forma analysis makes assumptions about staff salaries and service requirements and estimates the basic types and costs of products and services necessary to deliver services that meet federal and state requirements.

Subparagraph (b) establishes that YES waiver rate development is governed by 1 TAC §355.101 (relating to Introduction) and §355.105 (relating to General Reporting and Documentation Requirements, Methods and Procedures).

FISCAL NOTE

Machelle Pharr, Chief Financial Officer for the Department of State Health Services has determined that, for each year of the first five-year period that the proposed rule is in effect, there will be no fiscal impact to state government. The proposed rule will not result in fiscal implications for local health and human services agencies. There are no fiscal implications for local governments as a result of enforcing and administering the section.

SMALL BUSINESS AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Pharr, as required by Government Code §2006.002, Agency Actions Affecting Small Businesses, Adoption of Rules with Adverse Economic Effect, has also determined that the proposed rules will not have an adverse economic effect on small or micro-businesses. The program does not impose a regulatory burden on businesses of any size. There will be an "open enrollment" process for providers who wish to participate in the program. Any qualified provider may participate. Information about the program, including reimbursement rates, will be made available to the public prior to the enrollment process. There are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

Carolyn Pratt, Director of Rate Analysis, has determined that, for each of the first five years the amendment is in effect, the expected public benefit is that the rules will describe the reimbursement methodology used to develop rates for this program.

TAKINGS IMPACT ASSESSMENT

HHSC has determined that this proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

REGULATORY ANALYSIS

HHSC has determined that this proposal is not a "major environmental rule" as defined by §2001.0225 of the Texas Government Code. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

PUBLIC COMMENT

Questions about the content of this proposal may be directed to Sarah Hambrick in the HHSC Rate Analysis Department by telephone at (512) 491-1431. Written comments on the proposal

may be submitted to Ms. Hambrick by facsimile at 512-491-1998, by e-mail to sarah.hambrick@hhsc.state.tx.us, or by mail to HHSC Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas, 78708-5200, within 30 days of publication of this proposal in the Texas Register.

STATUTORY AUTHORITY

The rule is proposed under the Texas Government Code, §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; and the Human Resource Code §32.021 and Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas.

The proposed rules affect the Human Resources Code Chapter 32, and the Texas Government Code Chapter 531. No other statutes, articles, or codes are affected by this proposal.

This agency hereby certifies that this proposal has been reviewed and approved by legal counsel and found to be within the agency's legal authority to adopt.

Legend: (Proposed New Rule)
Regular Print = Proposed new language

§355.9060. Reimbursement Methodology for the Youth Empowerment Services Waiver Program.

(a) Payment rate determination. Payment rates are developed based on rates determined for other programs that provide similar services. If payment rates are not available from other programs that provide similar services, payment rates are determined using a pro forma approach in accordance with §355.105(h) of this title (relating to General Reporting and Documentation Requirements, Methods, and Procedures).

(b) Related information. The information in §355.101 of this title (relating to Introduction) and §355.105(g) of this title (relating to General Reporting and Documentation Requirements, Methods, and Procedures) also applies.