DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Dallas Regional Office
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CENTERS FOR MEDICARE & MEDICAID SERVICES
CONSORTIUM FOR MEDICAID & CHILDREN'S HEALTH OPERATIONS

DIVISION OF MEDICAID & CHILDREN'S HEALTH - REGION VI

April 27, 2016

Our Reference: TX STAR+Plus Expansion v 1.18

Gary Jessee
State Medicaid Director
Texas Health and Human Services Commission
Post Office Box 13247
Austin, TX 78711

Dear Mr. Jessee:

The Centers for Medicare & Medicaid Services (CMS) has completed its review of your STAR+Plus Expansion contract amendment, Version 1.18 for Managed Care Organizations (MCOs) participating in the STAR+Plus Expansion Texas Medicaid Program. After our review, CMS has decided that this amendment is approvable with effective dates of March 1, 2015 – August 31, 2015.

On January 15, 2015, HHSC initially submitted Version 1.18 to CMS. Version 1.18 added a variety of contract provisions, including language for Community First Choice (CFC) services in the STAR+PLUS program. Following submission of Version 1.18, Texas deferred the implementation of CFC from March 1 to June 1, 2015 to pursue a 19l5(b)(4) waiver. As previously discussed with regional CMS representatives, this deferral necessitated a change to Version 1.18 to remove CFC language and to revise the rates for the period covered by this amendment. The revised rates also impacted the percentages listed in the Network Access Improvement Program (NAIP) exhibit attached to the contract cover document for participating STAR+PLUS plans.

The State's Minimum Payment Amount Program (MPAP), implemented on March 1, 2015, establishes an enhanced fee schedule for non-state, government-owned nursing facility providers that enter into an agreement to provide an intergovernmental transfer (IGT) to fund the non-federal share of the MPAP program fee schedule. CMS has determined that the MPAP agreement indicates that minimum payments will only be made to nursing facilities that have entered into an IGT agreement, thereby making the funding for the enhanced fee schedule contingent upon these transfers. This funding arrangement through the MPAP agreement represents a stipulation on provider payments which violates section 1902(a)(2) of the Social Security Act and 42 Code of Federal Regulations (CFR) 433.53(c)(2). CMS will not approve any future contract and rate actions containing this arrangement or any other stipulations on provider payments such as that found in the MPAP program.

While the amendment is being approved, OACT has made several recommendations for future amendments, which can be found in the corresponding attachment. This contract is subject to the managed care requirements in 42 CFR 438 Subpart A through J. CMS reminds the State that MCO contracts should include only approved State Plan or waiver benefits. It is CMS' expectation that any subsequent versions of this contract submitted for review will be reflective of benefits and services currently approved by CMS. Contract versions submitted for reviews that are not reflective of current benefits and services will not be approved.

As always, we appreciate your staff's assistance and we look forward to working with you again. Please contact Shambrekia Wise at (214)767-2090 of my staff if you have any questions.

Sincerely,

Bill Brooks
Associate Regional Administrator
Division of Medicaid and Children's Health

Cc: Billy Bob Farrell, DMCH
Suzette Seng, DMCH
Shambrekia Wise, DMCH
Jeoffrey Branch, DMCH

Enc: "Attachment A – Review of Texas STAR+PLUS Amendment for March—May 2015 and June—August 2015"

Recommendations for future Submissions:

Pharmacy Carve In For Nursing Facilities

It was noted in several areas that documentation of the rate development process could be improved. CMS recommend in the future the state provide more detailed information in the certification and responses to questions and avoid relying only on actuarial judgment to answer questions. Examples of areas for improvement include the projected benefit trend and the non-benefit costs, including the pharmacy benefit management fees.

It was noted that the actuary assumed all plans would pay the average cost per member per month of the reported pharmacy benefit management fee; however, the data provided showed there were variations across plans. CMS believe it would be more appropriate to reflect the actual costs of each plan for the administrative fee related to pharmacy benefit management unless the actuary believes that the variation would not continue.

STAR+PLUS SFY 2015 Amendment

It was noted the state incorporated anticipated savings related to the delay of the EVV implementation and the cost containment initiative related to 340b drug reimbursement into the capitation rates for a time period prior to the period covered by the capitation rates. CMS recommends in the future the state only incorporate savings expected to be realized during the period the caption rates cover.

It was also noted that more support and qualitative details could be provided. CMS recommends the state provide more support and more of this type of detail in areas such as rate adjustments in future rate development.

Nursing Facility Carve-In

It was noted that the actuary assumed all plans would pay the average cost per member per month of the reported pharmacy benefit management fee; however, the data provided showed there were variations across plans. CMS recommend in the future the state provide more detailed information in the certification and responses to questions and avoid relying only on actuarial judgment to answer questions. Examples of areas for improvement include the use of historical data, projected benefit trend and the non-benefit costs.