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Texas Medicaid Changes During the COVID-19 Emergency

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Since mid-March, numerous changes to the Texas Medicaid program have been implemented in response to the COVID-19 emergency. Many of these changes are temporary and may evolve as this public health crisis continues. The information below is accurate as of the time it was written, but may change on short notice. Contact Disability Rights Texas if you are told something different by your healthcare provider or Medicaid managed care organization (MCO).

I. STATE PLAN SERVICES

The term “state plan services” applies to the broad array of health care available to most Medicaid-eligible individuals when medically necessary. Of particular importance to people with disabilities are the state plan services that require prior authorization or recertification such as private duty nursing, personal assistance and care services, Community First Choice (CFC) services, physical, occupational and speech therapies, and home health services including durable medical equipment (DME) and supplies.

Temporary changes to certain state plan services are as follows:

Prior Authorization of State Plan Services

On March 30, 2020, Texas Medicaid directed the MCOs to extend authorizations that were scheduled to expire between March 13 and April 30, 2020, for an additional 90 days. More recently, however, Texas Medicaid has clarified that services requiring reauthorization or recertification between March 1 and May 31, 2020 should be extended 90 days. Texas Medicaid’s MCOs were also advised to communicate with the service providers as to these extended authorizations so there is no question of an individual’s ongoing eligibility for their services.

Texas Medicaid had not yet implemented any changes to the prior authorization process for new requests for DME or requests for increased medical supplies.

Client Signature on DME Receipt Form Waived

Typically, individuals receiving DME or medical supplies must sign a receipt form upon delivery. Texas Medicaid has waived this signature requirement for equipment received between March 24 and April 30, 2020.

Remote Delivery of Speech Therapy, Occupational Therapy, and Physical Therapy

Texas Medicaid will allow speech, occupational, and physical therapies to be provided through telehealth with two-way audio and video from now until April 30, 2020. This change does not extend to therapy evaluations for complex rehabilitation equipment at this time.

II. HOME AND COMMUNITY-BASED WAIVER PROGRAMS

Home and community-based services (HCBS) waiver programs, also known as 1915(c) waivers, provide a defined set of services, in addition to the Medicaid state plan services, to eligible participants. These programs are limited in enrollment and are targeted to eligible groups by age, diagnosis, or disability. Eligible individuals must meet certain institutional levels of care to qualify for an HCBS waiver program. Texas operates a number of HCBS waiver programs, *i.e.* Home and Community Services (HCS), Community Living Assistance and Support Services (CLASS), Texas Home Living (TxHmL), Deaf Blind with Multiple Disabilities (DBMD), and the Medically Dependent Children's Program (MDCP).

In addition to these 1915(c) waivers, Texas Medicaid has a similar waiver program that is known as STAR+PLUS Waiver. Unlike most HCBS waiver programs in Texas, STAR+PLUS waiver is administered by Medicaid managed care organizations. Temporary changes to these programs are as follows:

Extension for CLASS and DBMD Participants

Assessments and care plans for participants in the CLASS and DBMD programs will be extended for one year from the CARE system expiration date if the individual's assessment or care plan expired in March or will expire in April 2020. Face to face meetings to revise care plans will not be required in April 2020.

CLASS Therapies

A number of the therapies available to CLASS participants can be provided through telehealth until April 30, 2020. Specified therapies are physical and occupational

therapy, speech language pathology, recreational and music therapy, behavior support, dietary services, and cognitive rehabilitation therapy.

Extension for HCS and TxHmL Participants

Assessments and care plans for participants in the HCS and the TxHmL programs will be extended for one year from the CARE system expiration date if the individual's assessment or care plan expired in March or will expire in April 2020. Face to face meetings to revise care plans will not be required in April 2020.

Community First Choice Services for HCS and TxHmL Participants

Texas Medicaid has temporarily suspended the current policy that prohibits service providers of CFC services (personal assistance services and habilitation) from living in the same home as an HCS or TxHmL participant. This prohibition is also temporarily suspended for providers of respite services to individuals 18 years of age and older. This change does not apply to participants who are under 18 years of age.

Extension for MDCP Participants

Texas Medicaid is extending enrollment in MDCP for participants with individual service plans (ISPs) expiring through April 2020. ISPs expiring through April 2020 are extended 90 days to 7/31/2020. This extension applies to members' Screening and Assessment Instruments (SAI) and corresponding individual service plans (ISPs.) MDCP is administered through STAR KIDS and STAR Health MCOs.

Extension for STAR+PLUS Waiver Participants

Texas Medicaid is extending enrollment in the STAR+PLUS Home and Community Based Services for members with individual service plans (ISPs) expiring through April 2020. This extension applies to the member's STAR+PLUS Medical Necessity Level of Care (MNLOC) and corresponding ISPs.

III. MEDICAID PLAN APPEALS AND FAIR HEARINGS

Medicaid applicants and recipients must be afforded the opportunity to appeal adverse eligibility determinations, as well as reductions, denials, or terminations of health care services. The following changes to the timelines for MCO plan appeals and fair hearings will be in effect through the end of April 2020:

MCO Plan Appeals

Now, an individual has **90 days** from the date of the denial notice to request an MCO Plan Appeal; it was 60 days.

Now, an individual has **30 days** to request continuation of benefits from the date of the denial notice; it was 10 days.

Now, MCOs have **60 days** to resolve an internal Plan Appeal; it was 30 days.

Texas Medicaid also now requires all MCOs to accept oral requests for appeals without the member having to provide a written request.

Fair Hearings

Now, an individual has **150 days** to request a fair hearing after the internal MCO Plan Appeal; it was 120 days.

If the timeframe for a member to request a fair hearing would have expired in April 2020, they will have **an extra 30 days** from that expiration date to request a fair hearing.

Individuals should request that the hearings officer reschedule their hearing to a later date if they are having difficulty getting their case file, the agency's or MCO's exhibits, or records or documents from their healthcare providers. According to HHSC's Appeals Division, hearings officers should continue hearings to a later date under these circumstances.

Hearing officers must continue to issue hearing decisions within 60 to 90 days of the date the request for a fair hearing is received, unless the hearing has been continued.

Disclaimer: *Disability Rights Texas strives to update its materials on an annual basis, and this handout is based upon the law at the time it was written. The law changes frequently and is subject to various interpretations by different courts. Future changes in the law may make some information in this handout inaccurate.*

These handouts are not intended to, and do not replace an attorney's advice or assistance based on your particular situation.