

MEMORANDUM

TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

TO: **Chair and Members
Department of Family and Protective Services Council**

FROM: **Howard G. Baldwin, Jr.
Commissioner**

SUBJECT: **Agenda Item 6a: Recommendation to propose rule
changes in 1 TAC, Subchapter H, Reimbursement
Methodology For 24-Hour Child Care Facilities,
§355.7103 Rate-Setting Methodology for 24-Hour
Residential Child-Care Reimbursements**

DATE: **July 20, 2012**



BACKGROUND AND PURPOSE

The Health and Human Services Commission (HHSC) Rate Analysis Department collects annual cost reports from all providers of 24-Hour Residential Child Care (24 RCC). Rate Analysis uses the data from the cost reports to calculate proposed payment rates for the 24 RCC program and to conduct other special analyses throughout the year.

Normally, all providers are expected to submit a cost report. However, there are circumstances when a provider may be automatically excused from submission of a cost report. Currently, the cost report excusal requirements for the 24 RCC program are specified in 1 TAC §355.7103(f)(4), Rate-Setting Methodology for 24-Hour Residential Child-Care Reimbursements. HHSC is proposing to relocate the cost report excusal requirements for all programs to 1 TAC §355.105, General Reporting and Documentation Requirements, Methods, and Procedures. This will make the requirements consistent across programs to the greatest extent possible.

This amendment revises 1 TAC §355.7103(f)(4) to replace language specifying when a 24 RCC provider is excused from submitting a cost report, replacing this language with a reference to proposed uniform excusal rules found at §355.105. The changes to §355.105 are being proposed simultaneously with this amendment.

In addition to the general cost report excusal requirements, there are also cost report excusal requirements specific to the 24 RCC program. These requirements are being proposed for inclusion in §355.105. The specific requirements include:

- if there were no billable services provided during the provider's cost-reporting period;
- if the cost-reporting period was less than or equal to 30 calendar days or one entire calendar month;

- if circumstances beyond the control of the provider make cost-report completion impossible, such as the loss of records due to a natural disaster or removal of records from the provider's custody by a regulatory agency;
- if all of the provider's contract(s) required to be included on the cost report have been terminated prior to the cost-report due date;
- if the provider's contract was not renewed;
- if only Basic Level services were provided;
- if the total number of state-placed days (Department of Family and Protective Services [DFPS] days and other state agency days) was 10 percent or less of the total days of service provided during the cost-reporting period;
- if the total number of DFPS-placed days was 10 percent or less of the total days of service provided during the cost-reporting period;
- for facilities that provide Emergency Care Services only, if the occupancy rate was less than 30 percent during the cost-reporting period;
- for all other facility types except Child-Placing Agencies and those providing Emergency Care Services, if the occupancy rate was less than 50 percent during the cost-reporting period.

DETAILED SECTION ANALYSIS AND DISPOSITION TABLE

Current Rule Sections	Proposed Action; New Rule Section	Summary Explanation of Proposed Action
1 TAC, §355.7103	Amend subsection (f)(4)	The amendment deletes the language specifying the requirements for excusal from the submission of a cost report and replaces it with a reference to 1 TAC §355.105. The deleted language is being added to §355.105.

STATUTORY AUTHORITY AND STATUTES AFFECTED

The amendments are proposed under Texas Government Code §531.033, which authorizes the Executive Commissioner of HHSC to adopt rules necessary to carry out the Commission's duties; Texas Human Resources 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; and Texas Government Code §531.021(b), which provides HHSC with the authority to propose and adopt rules governing the determination of Medicaid reimbursements.

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

FISCAL IMPLICATIONS

Fiscal Impact. For each of the first five years that the rules will be in effect, there will be no impact on costs or revenues to state or local government as a result of enforcing or administering this section.

Public Costs and Benefits. For each of the first five years that the proposed sections will be in effect, the public benefit anticipated as a result of the rule change will be that the amendment will make the rules regarding excusal from cost report submission as consistent as possible, and will consolidate them in a single location. This will enable the public to readily find these rules and to have a better understanding of the requirements for excusal. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Impact on Business. There is no anticipated adverse impact on small, micro, and large businesses as a result of the proposed rule change because the proposed rule change should not affect the cost of doing business; does not impose new requirements on any business; and does not require the purchase of any new equipment or any increased staff time in order to comply.

Local Employment Impact and Takings Statements. No local employment impact statement was required for this rule. The agency is not required to complete a takings impact assessment regarding the proposed section(s).

Technology Impact. There is no anticipated impact on technology as a result of the proposed rule change.

STAKEHOLDER INPUT

HHSC shared the proposed rules with the providers and received one comment requesting clarification of the rule project.

RECOMMENDATION

It is recommended that the Council consider the proposed rule action, as discussed in this memorandum, and that the Council recommend publication of the proposal, with or without changes to the rules as they are attached to this memo.

ATTACHMENTS

Attached is a copy of the proposed change to the rule section as staff recommended for submittal to the *Texas Register*.