



Via Email: HHSRulesCoordinationOffice@hhs.texas.gov

February 19, 2021

Rules Coordination Office
4900 North Lamar Boulevard
P.O. Box 13247
Mail Code 4102
Austin, Texas 78711-3247

Re: Comments on Proposed Rule 21R032 – Senate Bill (SB) 1207

To Whom It May Concern,

On behalf of the American Association for Homecare (AAHomecare), its members, and the community of families caring for medically fragile patients in Texas, we respectfully object to several key aspects of the proposed rule put forward and recommend that the Texas Health and Human Services Commission (HHSC) modify its proposed rule to carry out the clear intent of the Texas legislature.

AAHomecare is the national association representing durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) suppliers, manufacturers, and other stakeholders in the homecare community. Our members are proud to be part of the continuum of care that assures Medicaid beneficiaries receive cost effective, safe and reliable home care products and services.

In the 2019 86th Legislative Session, the Texas legislature passed SB 1207 and Governor Greg Abbot subsequently signed the bill into law. The legislation was passed as an important public policy measure to ensure continuity of care for Medicaid-eligible medically fragile patients.

Included within that law was Sec6/Sec 533.038(g) which states:

“(g) The commission shall develop a clear and easy process, to be implemented through a contract, that allows a recipient with complex medical needs who has established a relationship with a specialty provider to continue receiving care from that provider.”

The quoted language makes it clear that this law was intended to support patients with complex medical needs and preserve their continuity of care. Any regulatory implementation of this section of the Bill that limits such patient protections and interferes with the preservation of continuity of care is inconsistent with the plain language of the law.

It is especially important for HHSC to guarantee continuity of care for all STAR medically fragile patients and not limit protection to those under age 20, not limit protection to those newly enrolled with a Medicaid managed care organization (MCO), and not limit protection to those with primary insurance coverage. SB 1207 enshrined this right for continuity

of care for all STAR Medicaid medically fragile patients without limiting this important right to only specific portions of this population. The statute contains no such limitations and there is no rationale for HHSC to distinguish between the groups.

Also included in the HHSC proposed rule is a total exclusion of all durable medical equipment (DME) and Complex Rehabilitation Technology (CRT) providers from the definition of specialty providers. Thus, as proposed, rule 21R032 provides no protection for this very valued relationship, contrary to the clear intent of the law.

Often, DME and CRT providers servicing patients with complex medical needs are the families' first line of communication and most readily available resource for protecting their fragile family member. It is the DME provider who sends respiratory therapists to ensure a proper environment for the patient, that all of the necessary equipment is present and in working order and properly maintained. Other DME and CRT technicians ensure the same for patients requiring specialized equipment for mobility or enteral feeding. DME and CRT providers maintain a 24-hour hotline that a family member can call anytime day or night to address an apparent equipment failure or to get instructions on how to insert a new GI plug because the existing one has become dislodged. These providers are also responsible for the coordination and delivery of many life sustaining products. The list of valuable products and services provided by DME and CRT providers and the regular one-on-one exchanges with these families is too long to fully describe. Suffice it to say, as a result of the close connection DME and CRT providers have with the families, the families have come to place a great deal of reliance and trust in their preferred DME and CRT providers. In short, the DME and CRT relationship is very valuable and deserves to be protected.

Proposed rule 21R032 should include all DME and CRT providers who service patients with medically complex needs in the definition of specialty providers. This intent is also confirmed in the attached letters from the lead Sponsors of Senate Bill (SB) 1207, Senator Charles Perry and Representative Tan Parker. Senator Perry specifically references in his letter the network of service and equipment providers and Representative Parker goes even further. He states emphatically that:

"It was my legislative intent for the term "specialty provider" to mean any entity or person, including a DME or any other type of provider, that provides goods or services to the patient/recipient."

In addition to the foregoing, the Star Kids Managed Care Advisory Committee on January 6, 2021 recommended to the Commission that specialty providers be defined to include DME providers. Furthermore, when the proposed rule was discussed in the Medical Care Advisory Committee on February 11, 2021, these same concerns were brought forward and the committee recommended that HHSC re-evaluate the proposed interpretation to include more protection of continuity of care for Medicaid recipients. SB 1207 was created to protect valued relationships and expand on them as part of recognizing the value of continuity of care. Disrupting long-term valued and trusted relationships that the families have come to rely upon would clearly put patients' physical and mental health at risk.

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In summary, we strongly recommend that HHSC revise the proposed rule to implement the continuity of care requirements of SB 1207. The proposed rule should be modified to include all DME and CRT providers as specialty providers and broaden the protection offered to all medically complex Medicaid recipients as intended. These changes would bring HHSC's interpretation of this law in line with the legislature's clear intent. It is vitally important that this rule protecting continuity of care is not limited by any age restrictions, enrollment timeframes, or recipients with primary insurance.

AAHomecare shares the goal of providing quality, timely equipment and services to Texas Medicaid recipients, and improving patient outcomes while lowering overall costs. AAHomecare and our members desire to collaborate with Texas Medicaid to determine optimal solutions. I am available to discuss and provide additional details as needed. I can be reached at DavidC@aahomecare.org or 202-372-0757.

Cordially,

A handwritten signature in black ink that reads "David Chandler". The signature is written in a cursive style with a large, looped initial "D".

David Chandler
Senior Director of Payer Relations
American Association for Homecare