

TITLE 1	ADMINISTRATION
PART 15	TEXAS HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 354	MEDICAID HEALTH SERVICES
SUBCHAPTER D	TEXAS HEALTHCARE TRANSFORMATION AND QUALITY IMPROVEMENT PROGRAM
DIVISION 1	GENERAL
DIVISION 2	REGIONAL HEALTHCARE PARTNERSHIPS
DIVISION 3	RHP PLAN CONTENTS AND APPROVAL

### **Division 1. General**

#### **§354.1601. Introduction.**

(a) The purpose of this subchapter is to govern implementation of the demonstration waiver under §1115 of the Social Security Act, entitled “Texas Healthcare Transformation and Quality Improvement Program” (the waiver).

(b) Subject to approval by the Centers for Medicare and Medicaid Services of all required protocols described in the waiver, this subchapter describes the criteria for participation in a Regional Healthcare Partnership and the allocation and use of waiver funds.

(c) Rules related to reimbursement for hospitals and physician services under the waiver are codified at §355.8201 of this title (relating to Waiver Payments to Hospitals) and §355.8202 of this title (relating to Waiver Payments for Physician Services).

**§354.1602. Definitions.** The following terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise.

(1) Administrative Cost Claiming Protocol--A document that explains the process the State will use to determine administrative costs incurred under the waiver.

(2) Anchor--The IGT entity identified by HHSC as having primary administrative responsibilities on behalf of the RHP.

(3) Centers for Medicare and Medicaid Services (CMS)--The federal agency within the United States Department of Health and Human Services responsible for overseeing and directing Medicare and Medicaid, or its successor.

(4) Delivery System Reform Incentive Payment (DSRIP)--An incentive payment related to the development or implementation of a program or activity that supports an RHP’s efforts to enhance access to health care, the quality of care, and the health of patients and families they serve. A DSRIP payment is not considered patient-care revenue and is not offset against Disproportionate Share Hospital expenditures or other expenditures related to the cost of patient care.

(5) Demonstration year--A 12-month period beginning October 1 and ending September 30. The first demonstration year began October 1, 2011.

(6) DSRIP pool--Funding available to RHP participants under the waiver to compensate them for the value of DSRIP projects.

(7) DSRIP project--An activity selected from the RHP Plan Protocol for implementation in an RHP plan.

(8) Governmental entity--A state agency or a political subdivision of the state, such as a city, county, hospital district, hospital authority, or state entity.

(9) HHSC--The Texas Health and Human Services Commission or its designee.

(10) Intergovernmental transfer (IGT)--A transfer of public funds from a governmental entity to HHSC.

(11) IGT entity--A governmental entity that provides an IGT to fund the waiver.

(12) Medicaid provider--An entity approved by HHSC to provide Medicaid services.

(13) Participant--An entity participating in an RHP. A participant may be an IGT entity, a performer, or another stakeholder.

(14) Performer--A participating Medicaid provider that implements DSRIP projects.

(15) Program Funding and Mechanics Protocol (PFM)--A document containing the waiver program guidelines as agreed upon by HHSC and CMS.

(16) Public funds--Funds derived from taxes, assessments, levies, investments, and other public revenues within the sole and unrestricted control of a governmental entity. Public funds do not include gifts, grants, trusts, or donations, the use of which is conditioned on supplying a benefit solely to the donor or grantor of the funds.

(17) Regional Healthcare Partnership (RHP)--A collaboration of interested participants that work collectively to develop and submit to the state a regional plan for health care delivery system reform. Regional Healthcare Partnerships will support coordinated, efficient delivery of quality care and a plan for investments in system transformation that is driven by the needs of local hospitals, communities, and populations.

(18) RHP plan--A multi-year plan submitted to HHSC and CMS, as further described in §354.1621 of this subchapter (relating to RHP Plan).

(19) RHP Plan Protocol--A master list of potential DSRIP projects, as well as milestones and metrics applicable to those projects.

(20) Uncompensated care (UC) costs--For services that meet the definition of “medical assistance” contained in §1905(a) of the Social Security Act:

(A) the difference between Medicaid payments to a provider and the provider's cost of providing services to a Medicaid eligible individual; or

(B) the cost of care provided to an uninsured individual who has no source of third-party coverage for the service provided.

(21) UC pool--Funding available to RHP participants under the waiver to defray uncompensated care costs.

(22) Waiver--The Texas Healthcare Transformation and Quality Improvement Program demonstration waiver under §1115 of the Social Security Act.

## **DIVISION 2. REGIONAL HEALTHCARE PARTNERSHIPS.**

### **§354.1611. Organization.**

(a) Each Regional Healthcare Partnership (RHP) has geographic boundaries as prescribed by HHSC and is financially supported by one or more IGT entities.

(b) An RHP is composed of one anchor and other participants, which may include IGT entities, performers, and other regional stakeholders. A single entity may act in multiple roles as described in this subchapter.

(c) A participant, if acting as an IGT entity, may participate in more than one RHP contingent upon HHSC approval.

### **§354.1612. Anchors.**

(a) Only one entity in a Regional Healthcare Partnership (RHP) may be an anchor.

(b) An entity may be an anchor if it meets the following criteria:

(1) The anchor must be an IGT entity.

(2) If an RHP includes a public hospital, the anchor must be a public hospital, except as described in paragraph (3) of this subsection.

(3) If an RHP does not include a public hospital, or if no public hospital wants to be an anchor, the anchor must be:

(A) a hospital district;

(B) a hospital authority;

(C) a county; or

(D) a state university with an academic health science center.

(4) If a region cannot agree on an anchor, HHSC will designate an anchor. HHSC will base its decision on criteria such as ability to financially support necessary administrative activities, prior relationships with other participants in the region, and history of participating in community and regional activities outside of the waiver.

(c) An anchor must:

(1) serve as the single point of contact with HHSC for the RHP, except as specified in rule;

(2) facilitate transparent and inclusive meetings among participants to discuss RHP activities;

(3) coordinate RHP activities to help ensure that participants properly address the needs of the region;

(4) compile and submit the RHP plan to HHSC, as prescribed by HHSC;

(5) prepare and submit an annual progress report on behalf of the RHP, in accordance with HHSC requirements;

(6) ensure that all confidential information obtained through its role as an anchor remains confidential as required by state and federal laws and regulations;

(7) ensure that all waiver information provided to it in its capacity as anchor is distributed to the RHP participants; and

(8) meet all other requirements as specified in the Program Funding and Mechanics Protocol.

(d) An anchor must not:

(1) request reimbursement from a participant for the performance of the anchor's responsibilities;

(2) delegate decision-making responsibilities concerning the interpretation of the waiver, HHSC policy, or actions or decisions that involve the exercise of discretion or judgment;

(3) require any IGT entity to fund any project;

(4) require any participant to act as a performer in any DSRIP project; or

(5) prevent or in any way prohibit the development of a DSRIP project between an IGT entity and a performer.

(e) An anchor may delegate ministerial functions such as data collection and reporting. Any entity to which ministerial functions are delegated under this subchapter must adhere to the roles, responsibilities, and limitations of an anchor.

(f) An anchor may be reimbursed for the cost of its administrative duties conducted on behalf of the RHP. Payment for administrative duties is contingent upon an anchor providing an intergovernmental transfer to HHSC for the purpose of a federal match in accordance with the Administrative Cost Claiming Protocol.

### **§354.1613. Participants.**

(a) IGT entities. An IGT entity:

(1) determines the allocation of its intergovernmental transfer (IGT) funding consistent with state and federal requirements;

(2) participates in Regional Healthcare Partnership (RHP) planning;

(3) if the IGT entity is itself acting as a performer, selects DSRIP projects;

(4) if the IGT entity is not acting as a performer, collaborates with a performer to select DSRIP projects;

(5) coordinates submission of DSRIP project information to the anchor for purposes of RHP plan development;

(6) provides the non-federal share of uncompensated care (UC) and delivery system reform incentive payments (DSRIP) waiver payments for the entities with which it collaborates; and

(7) approves the accuracy of DSRIP project metric data submitted by associated performers.

(b) Performers. A performer:

(1) develops and implements, or collaborates with an IGT entity to develop and implement, a DSRIP project;

(2) receives DSRIP;

(3) prepares and submits DSRIP project metric data on a semi-annual basis;

(4) prepares and submits other reports as required by HHSC and the Centers for Medicare and Medicaid Services; and

(5) participates in RHP planning.

### **DIVISION 3. RHP PLAN CONTENTS AND APPROVAL**

#### **§354.1621. RHP Plan.**

(a) A performer may receive DSRIP pool payments only if HHSC and the Centers for Medicare and Medicaid Services have approved the RHP plan with which the performer is associated.

(b) An RHP plan must:

(1) meet the requirements listed in the Program Funding and Mechanics Protocol (PFM);

(2) describe the Regional Healthcare Partnership's (RHP's) health care needs, referencing sources used;

(3) specify the regional quality objectives chosen to address the needs described in paragraph (2) of this subsection;

(4) include a list of RHP participants;

(5) include a certification that all the information contained within the RHP plan is true and accurate;

(6) include a reasonable estimate of the total funding available, by demonstration year, to support the UC and DSRIP pools;

(7) include the minimum number of DSRIP projects as identified by the PFM;

(8) include a narrative explaining how the selected DSRIP projects will:

(A) address the community needs outlined in the RHP plan; and

(B) demonstrate health care delivery transformation and improvement in the quality of care provided in that RHP; and

(9) include a description of each DSRIP project that must:

(A) include the milestones and metrics associated with the project;

(B) contain a reasonable estimate of the intergovernmental transfer (IGT) provided by the IGT entity in connection with the DSRIP project;

(C) explain how the project addresses the regional health care needs stated within the RHP plan;

(D) reasonably estimate the value of the project to the region in a manner prescribed by HHSC; and

(E) reasonably estimate the cost to complete each milestone.

**§354.1622. RHP Plan Assessment.**

(a) If HHSC assesses that the RHP plan meets the requirements in §354.1621(b) of this division (relating to RHP Plan), HHSC will submit the RHP plan to the Centers for Medicare and Medicaid (CMS) for review.

(b) Upon completion of HHSC's assessment, HHSC notifies the anchor that HHSC:

(1) has submitted the RHP plan to CMS for review;

(2) requires additional information to complete its assessment;

(3) requires modification of the RHP plan, including the specific deficiencies in the RHP plan that HHSC has identified; or

(4) requires modification of a DSRIP project, including the specific deficiencies in the DSRIP project that HHSC has identified. If a particular DSRIP project needs modification, the funding IGT entity and performer associated with that DSRIP project will be notified in addition to the anchor.

(c) The anchor must respond to the notification in subsection (b) of this section in accordance with the directions in the notification, to ensure timely submission of the RHP plan to CMS. Failure to respond in a timely manner may result in denial of the RHP plan.

(1) If HHSC requires additional information to complete its assessment, the anchor must provide the additional information within the time frame specified in the notice.

(2) If HHSC requires modification of the RHP plan, the anchor:

(A) must submit a corrected RHP plan that addresses the specific deficiencies within the time frame specified in the notice; or

(B) request a review of the HHSC finding as described in subsection (d) of this section within the time frame specified in the notice.

(3) If HHSC requires modification of a DSRIP project, the anchor must:

(A) work with the associated IGT entity and performer and submit a corrected DSRIP project that addresses the specific deficiencies within the time frame specified in the notice;

(B) request a review of the HHSC finding as described in subsection (d) of this section within the time frame specified in the notice; or

(C) certify that the DSRIP project is withdrawn.

(d) Review of HHSC modification or denial of an RHP plan.

(1) If an RHP plan is not approved, the anchor may request a review by HHSC in accordance with paragraph (4) of this subsection.

(2) If a DSRIP project is not approved, the affected performer may direct the anchor to request a review in accordance with paragraph (4) of this subsection.

(3) The anchor must submit a request for review in writing to HHSC within 12 calendar days of the date HHSC sent the notification under this subsection.

(4) The review is:

(A) limited to the Regional Healthcare Partnership's (RHP's) allegations of factual or calculation errors;

(B) supported by documentation submitted by the RHP or used by HHSC in making its original determination; and

(C) not an adversarial hearing.

(5) HHSC will notify the RHP of the results of the review in a timely manner.