



## Long-Term Care Regulatory Provider Letter

<b>Number:</b> PL 19-09 (Replaces IL 11-25)
<b>Title:</b> Administration of Incurred Medical Expenses (IMEs)
<b>Provider Types:</b> Nursing Facilities (NF)
<b>Date Issued:</b> 4/16/2019

### 1.0 Subject and Purpose

The purpose of this letter is to provide guidance to NFs regarding the administration of Incurred Medical Expense adjustments (IMEs).

The Health and Human Services Commission (HHSC) Long-term Care Regulatory Enforcement Section Trust Fund Monitoring Unit receives numerous complaints from vendors, as well as family members of NF residents, related to the incorrect processing of IME adjustments by NFs.

In this letter, the term “vendor” refers to the dentist, durable medical equipment company or insurance company that provides the equipment or services to NF residents.

### 2.0 Policy Details & Provider Responsibilities

The IME adjustments program makes resident funds available to pay for dental services, specialty medical equipment and health insurance premiums, which are not otherwise a benefit of the Texas Medicaid program.<sup>1</sup> The Texas Medicaid for the Elderly and People with Disabilities (MEPD) program<sup>2</sup> calculates adjustments and deductions from a NF resident’s applied income (AI) to cover health care costs associated with these services. These adjustments, once approved by MEPD, are communicated to the NF using Form TF0001P, Provider Notice of Case Action, and are updated into the Medicaid Eligibility and Service Authorization Verification (MESAV) system. NFs may collect from the resident only the AI specified on the resident’s payment plan forms, except when the amount exceeds the monthly vendor rate. In this event, the facility may collect only an AI amount equal to the maximum monthly Medicaid

<sup>1</sup> See Texas Administrative Code, Title 40, Part 1 (40 TAC) §[19.1401\(d\)](#).

<sup>2</sup> See [MEPD definition](#) and [MEPD Handbook](#)

vendor rate.<sup>3</sup> Approved adjustments are communicated to the vendor using [Form H1053](#), Provider Notice of Incurred Medical Expense.

It is the responsibility of the NF to:

- Make the adjustments to the AI as ordered on the MESAV within 30 days of the date the TF0001P, Provider Notice of Case Action, was created.
- Refund the credits created by the adjustments within 30 days of receipt of notice, to either:
  - the resident's trust fund;
  - the resident's family, responsible party or representative; or
  - the vendor.
- Initiate and/or assist with the resolution of problems, such as:
  - MESAV discrepancies in amounts approved;
  - MESAV discrepancies on Form TF0001P and Form H1053; and
  - dissatisfaction with the services provided by the vendor.

NFs that fail to act on these responsibilities, or fail to do so in a timely manner, are subject to investigation and possible enforcement action.<sup>4</sup> Facilities that collect payments (part AI, part Medicaid) more than the vendor rate are in violation of HHSC regulations and the Social Security Administration Public Law 95-124, which makes "solicitation of supplementation" a felony.<sup>5</sup>

#### **Example of how to correctly administer an IME:**

The NF must review form TF0001P, Provider Notice of Case Action, and the MESAV, to determine for which months the AI is to be adjusted and the adjusted amount. The two forms should match. If they do not, the facility should contact MEPD to make necessary corrections and follow the MESAV until the corrections are made.

If the TF0001P and the MESAV indicate that the adjustment is retroactive, the NF must:

- Adjust the past monthly charges on the resident's accounts receivable as indicated:
  - Reverse the AI charge for the time period covered by the MESAV;
- and

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<sup>3</sup> See Texas Administrative Code, Title 40, Part 1 (40 TAC) §[19.2316](#)(a).

<sup>4</sup> See Texas Administrative Code, Title 40, Part 1 (40 TAC) §[19.410](#)(b)(2).

<sup>5</sup> See Texas Administrative Code, Title 40, Part 1 (40 TAC) §[19.2316](#)(d) and Social Security Administration Public Law [95-142](#).

- Charge the new amount for that time period.
- Refund the resulting credit balance, if any, to either:
  - the resident, responsible party or resident representative with instructions to pay the vendor; or
  - the vendor with a copy of the vendor's invoice.

If the TF0001P and the MESAV indicate that adjustments are for current and future months, the NF must:

- Charge the resident the AI amount indicated on the MESAV for the months indicated:
  - For the current month, adjust the AI charges as indicated.
  - For future months, adjust the AI charges for each future month as each month occurs.
- Collect the AI:
  - If the resident's monthly benefits are deposited into the trust fund, obtain a signed authorization from the resident, responsible party or resident representative for the withdrawal from the trust fund, and withdraw only the amount equal to the adjusted charge for each month.
  - If the resident's monthly benefits are received by someone outside the facility, send the billing statement to the resident or person responsible for paying the AI and provide an explanation that the remainder of the benefit check must be paid to the vendor.
- Pay the facility the AI payment received to the resident's account:
  - Payment received from the responsible party in a certain month must be posted to the coinciding adjusted month.
  - Payments must not be broken up and may not be posted to multiple past due charges.
- Funds collected greater than the adjusted AI must be refunded to the resident or paid to the vendor. Funds allocated for the IME remaining in the trust fund must be paid to the vendor:
  - Obtain a signed authorization from the resident, responsible party or resident representative to pay the calculated amount to the vendor.
  - Pay funds to the vendor with a copy of the invoice.

### 3.0 Background/History

Increasingly, providers have been improperly administering IMEs. Proper administration of IMEs reduces the number of complaints filed and assures that the NF is receiving the correct Medicaid payment.

### 4.0 Attachments

None.

### 5.0 Contact Information

For questions regarding trust funds or trust fund related enforcement, please contact the Nursing Facility Trust Fund Monitoring Unit at (512) 438-5824 or by email at [NFICFTrustFunds@hhsc.state.tx.us](mailto:NFICFTrustFunds@hhsc.state.tx.us).

If you have any questions about this letter, please contact the Policy, Rules and Training Section by email at [PolicyRulesTraining@hhsc.state.tx.us](mailto:PolicyRulesTraining@hhsc.state.tx.us) or call (512) 438-3161.

Sincerely,

*[signature on file]*

David Kostroun  
Deputy Executive Commissioner  
Regulatory Services Division

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