

STATE OF TEXAS

COUNTY OF TRAVIS

**AMENDMENT ONE
TO THE
MEMORANDUM OF UNDERSTANDING AND AGREEMENT BETWEEN THE
TEXAS HEALTH & HUMAN SERVICES COMMISSION
AND
TEXAS JUVENILE JUSTICE DEPARTMENT**

This Amendment One to the Memorandum of Understanding and Agreement is entered into between the Texas Health and Human Services Commission ("HHSC") and the Texas Juvenile Justice Department ("TJJJ") (the "Amendment"). HHSC and TJJJ may be referred to in this Amendment individually as "Party" and collectively as the "Parties".

Article I. BACKGROUND, AUTHORITY, AND EFFECTIVE DATE

Section 1.01 Background

Effective on January 1, 2016, HHSC and TJJJ entered into a Memorandum of Understanding and Agreement, HHSC Contract No. 529-16-0096-00001 and TJJJ Contract No. CON0000478 (the "Agreement"), concerning the assessment of individuals who are committed under the Juvenile Justice Code before those individuals are released from placement, detention or commitment.

House Bill 839, 84th Legislature, Regular Session, 2015, adds Sections 62.106 and 62.107 to the Health and Safety Code, and adds Sections 32.0264 and 32.0265 to the Human Resources Code. These new statutes enacted changes concerning the suspension and automatic reinstatement of eligibility for children placed in and released from juvenile facilities, as described below:

HHSC shall establish a means by which TJJJ and/or the Juvenile Probation Departments (JPD) may determine whether a child placed in a facility is active on Medicaid or Children's Health Insurance Program (CHIP). If a child is placed in a facility for 30 days or more, TJJJ and/or JPD may notify HHSC of the placement of a child who receives health care coverage through Medicaid or CHIP. Upon notification, to the extent allowed under federal law, HHSC shall suspend the child's eligibility for Medicaid or CHIP during the period the child is placed in the facility.

TJJD and/or JPD shall notify HHSC no later than 48 hours of the release of a child who, immediately before the child's placement in the facility, received Medicaid or CHIP. Within 48 hours of notification of release of a child whose benefits have been suspended under this section, HHSC shall reinstate the child's eligibility. Following the reinstatement, the child remains eligible until the expiration of the period for which the child was certified as eligible, excluding the period during which the child's eligibility was suspended.

According to federal regulations in 42 CFR §457.310, CHIP coverage cannot be suspended for a child placed in a facility because the child no longer meets the definition of a targeted low-income child. Therefore, HHSC denies CHIP coverage upon notification of a child's placement in a facility and does not reinstate coverage upon the child's release.

According to federal regulations in 42 CFR §435.1009, federal financial participation is not available for an inmate of a public institution. Therefore, HHSC will suspend Medicaid eligibility upon notification of a child's placement in a facility and will reinstate Medicaid eligibility upon notification of the child's release from a facility. However, according to federal regulation in 42 CFR §435.916(a), eligibility for Medicaid must be reviewed every 12 calendar months. Therefore, HHSC will only reinstate Medicaid for children released during their original 12-month certification period.

The purpose of this Amendment is to provide for the suspension and reinstatement of eligibility of certain children reported placed in and released from a facility for benefits under the medical assistance and child health plan programs in accordance with HB 839, to the extent allowed under federal regulations.

By entering into this Amendment, HHSC and TJJD wish to modify the Agreement and Exhibit A to comply with the new statutory requirements enacted by IIB 839.

Section 1.02 Authority

This Amendment is entered into in accordance with Section VI of the Agreement.

Article II. AMENDMENT TO THE OBLIGATIONS OF THE PARTIES

Section 2.01 Changes to the Agreement per Section 6 - Changes and Amendments

The Parties agree to the following changes to the Agreement:

(a) In the section entitled "Premises for Agreement,"

(1) The first indented paragraph is deleted in its entirety and replaced with the following language:

When a child who receives health care coverage through Medicaid under Chapter 32, Human Resources Code or the Children's Health Insurance Program (CHIP) under Chapter 62, Health and Safety Code, is placed, detained, or confined in a residential setting, the child's

eligibility for Medicaid may be suspended, or eligibility for CHIP may be terminated, and the TJJD and/or JPD is responsible for providing health care to the child.

- (2) The following language is added after the third paragraph:

Section 32.0265, Human Resources Code, and Section 62.107, Health and Safety Code, allows for TJJD and JPD to notify HHSC when a child who receives health care coverage through Medicaid or CHIP is placed, detained, or confined in a residential setting for 30 days or more. Section 32.0264, Human Resources Codes, and Section 62.106, Health and Safety Code, requires HHSC to suspend coverage for a child receiving Medicaid or CHIP upon notification of placement in a facility, and to reinstate coverage within 48 hours of notification of release. According to federal regulation in 42 CFR §457.310(c) (2) a child placed in a facility cannot receive CHIP. Therefore, HHSC denies CHIP coverage upon notification of a child's placement in a facility and does not reinstate the coverage upon the child's release.

According to federal regulation in 42 CFR §435.916(a), eligibility for Medicaid must be reviewed every 12 calendar months. Therefore, HHSC will only reinstate Medicaid for children released during their original 12-month certification period.

- b) In Section 4 of the Agreement, entitled "Mutually Agreed Performance,"

- (1) The third sentence is deleted in its entirety and replaced with the following language:

The Parties acknowledge and agree that the Plan of Operation represents a strong commitment to ensure that information regarding children who are placed, detained, or committed and children who have been formerly in placement, detention, or committed will be assessed for suspension and reinstatement of health care benefits. Children who have been formerly in placement, detention, or committed whose benefits cannot be suspended or reinstated will be assessed for health care benefits. This commitment ensures that families can access Medicaid or CHIP in accordance with applicable federal and state laws.

- (2) At the end of the section, the following language is added:

The Parties agree to meet the requirements of Section 531.02418, Government Code, Section 32.0264 and 32.0265, Human Resources Code, and Section 62.106 and 62.107, Health and Safety Code, notwithstanding any provision to the contrary in this Section 4.

- c) In Section 5 of Agreement, entitled "Confidential Information," at the end of subsection 5.4, the following language is added:

The Parties agree to meet the requirements of Section 531.02418, Government Code, Section 32.0264 and 32.0265, Human Resources Code, and Section 62.106 and 62.107, Health and Safety Code, notwithstanding any provision to the contrary in this Section 5.

- d) Exhibit A: The original Exhibit A to the Agreement, entitled "Plan of Operation," is deleted in its entirety and replaced with the new Exhibit A attached to this Amendment. The Parties agree to comply with the requirements in the attached Plan of Operations.

Article III. REPRESENTATIONS AND AGREEMENT OF THE PARTIES

Section 3.01 No Waiver of Agreement Terms

IHSC and TJJD acknowledge and agree that the terms of the Agreement will remain in full force and effect and will not be deemed to have been modified, altered or changed in any respect except to the extent such terms have been expressly modified by this Amendment. The Parties specifically acknowledge and agree that the language of this Amendment will constitute a waiver of or limitation on the rights of either party to assert and pursue any claim of damages, or to seek any other legal or equitable relief to which it may be entitled, whether such claim or relief is sought in connection with matters related to the subject matter of this Amendment or any other matters within the scope of the Agreement as amended. The Parties contract and agree that the terms of the Agreement shall remain in effect and continue to govern except to the extent expressly modified in this Amendment.

Section 3.02 Effective Date

The modifications to the Agreement agreed to in this Amendment are effective on September 1, 2016.

Section 3.03 Incorporation of the terms of the Amendment

By signing this Amendment, the Parties expressly understand and agree that this Amendment is hereby made a part of the Agreement as though it were set out word for word in the Agreement.

Section 3.04 Authority

The Parties have executed this Amendment in their capacities as stated below with authority to bind their organizations on the dates set forth by their signatures.

**TEXAS HEALTH & HUMAN
SERVICES COMMISSION**

TEXAS JUVENILE JUSTICE DEPARTMENT

By: 
Wayne Salter
Deputy Executive Commissioner

By: 
David Reilly for D. Reilly
Executive Director

Date Signed: 6/13/16

Date Signed: 5/25/16

Exhibit A

PLAN OF OPERATION

The Texas Juvenile Justice Department (TJJD) and the Health and Human Services Commission (HHSC) acknowledge and agree that this Plan of Operation (POP) seeks to carry out the requirements of Section 531.02418, Government Code, Section 32.0264 and 32.0265, Human Resources Code, and Section 62.106 and 62.107, Health and Safety Code. This plan may be revised and updated as deemed necessary. The TJJD and HHSC will document and date such revisions to maintain an accurate record of the development of the plan.

1. NOTIFICATION OF PLACEMENT

- Children, who are placed in the following facilities, and are under the supervision of the TJJD or Juvenile Court, are included in this Memorandum of Understanding (MOU). They include:
 - Children placed in a secure facility:
 - A secure pre-adjudication detention facility as defined in Section 51.02(14), Family Code,
 - A secure post-adjudication correctional facility as defined in Section 51.02(13), Family Code, and
 - TJJD secure facility.
 - Children placed in a non-secure facility:
 - A "foster care" facility as defined by the TJJD-Definition of Foster Care: Foster Care is defined in accordance with state and federal regulations to mean 24-hour supervised care for children who have been removed from their normal place of residence (i.e. the home of their parent, legal guardian, managing conservator, custodian, or relative) by an order of the juvenile court and placed in a foster care setting, and for whom the county has responsibility for care and placement. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made for the child's care or whether federal matching of any payments is made;
 - A non-secure correctional facility as defined in Section 51.02(8-a), Family Code;
 - TJJD half-way house; and
 - TJJD contract care facility.
- TJJD will submit to HHSC the required request for permissions, HHSC Form 4743A, the Request for Applications and System Access, to request TIERS access for TJJD and/or Juvenile Probation Department (JPD) staff who will be reporting the placement of children.
- HHSC will provide TJJD/JPD staff with access to a designated page in the Texas Integrated Eligibility Redesign System (TIERS) that allows limited

inquiry to verify whether a child placed in a facility is certified for Medicaid or CHIP.

- The designated page will allow TJJJ/JPD staff to report the placement date of children certified for Medicaid or Children's Health Insurance Program (CHIP).
- TJJJ/JPD will provide training to staff regarding the use of the designated page in TIERS. The training will include instruction on how to identify children certified for Medicaid or CHIP.
- HHSC will review and approve training developed by TJJJ prior to distribution to TJJJ/JPD staff.
- TJJJ/JPD staff notifies HHSC of the placement of a child currently certified for Medicaid or CHIP by the 30th calendar day after the child's placement.
- The placement of the following children will not be reported by TJJJ/JPD:
 - Children who have an active Medicaid or CHIP case upon entering detention and whose stay in detention is less than 30 days;
 - Children who receive Supplemental Security Income (SSI); or
 - Children in Department of Family and Projective Services (DFPS) conservatorship.
- Upon notification of placement from TJJJ/JPD, HHSC will suspend the child's Medicaid eligibility or deny the child's CHIP coverage. The child receives coverage through the date HHSC is notified of the placement.
- HHSC notifies the household of the child's Medicaid suspension or CHIP denial.

2. NOTIFICATION OF RELEASE

- Children, who are released from the following facilities, and are under the supervision of the TJJJ or juvenile court, are included in this Memorandum of Understanding (MOU). They include:
 - Children released from a secure facility:
 - A secure pre-adjudication detention facility as defined in Section 51.02(14), Family Code,
 - A secure post-adjudication correctional facility as defined in Section 51.02(13), Family Code, and
 - TJJJ secure facility.
 - Children released from a non-secure facility:
 - A "foster care" facility as defined by the TJJJ-Definitions of Foster Care: Foster Care is defined in accordance with state and federal regulations to

mean 24-hour supervised care for children who have been removed from their normal place of residence (i.e. the home of their parent, legal guardian, managing conservator, custodian, or relative) by an order of the juvenile court and placed in a foster care setting, and for whom the county has responsibility for care and placement. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made for the child's care or whether federal matching of any payments is made;

- A non-secure correctional facility as defined in Section 51.02(8-a), Family Code;
- TJJD half-way house; and
- TJJD contract care facility.

Referrals should only be submitted for youth who may be eligible for Medicaid/CHIP benefits. A screening tool is available (but is not required) to facilitate this process.

- TJJD/JPD will report the following information in the Juvenile Medicaid Tracker (JMT) system and transmit via data file to HHSC:
 - At exit, individual child is being placed with;
 - First Name of individual;
 - Last Name of individual;
 - Relationship of individual to child;
 - SSN of individual, when available;
 - Physical address including zip code of individual;
 - Mailing address including zip code of individual;
 - Transaction status of record; and
 - JMT referral number
- The following children will not be reported in the JMT:
 - Children placed out of state;
 - Children being moved to another residential setting (placement facility, detention center, secure post adjudication facility, etc.);
 - Children who have an active Medicaid or CHIP case upon entering detention and whose stay in detention is less than 30 days;
 - Children who receive Supplemental Security Income (SSI);
 - Children who are not U.S. Citizens and do not meet alien status requirements;
 - Children in DFPS conservatorship;
 - Children whose families have applied for benefits at a location other than the Centralized Benefit Services (CBS); and
 - Children whose families do not want to apply for benefits.
- The process for submitting a referral is as follows:
 - 30 calendar days prior to the anticipated release from a secure or non-secure facility, (or as soon as possible, if release is scheduled within less than 30 calendar days) the TJJD/JPD staff will notify HHSC via the JMT of the pending release of a child potentially eligible for Medicaid or CHIP.

- Referrals that have been submitted and are no longer considered valid, can be closed by TJJD and/or the JPD, as needed; notification will be sent to HHSC via the JMT. HHSC will not take action on closed referrals or communicate via JMT that no action was taken.
- In order to request, communicate, or forward additional information, HHSC and TJJD will utilize the following "Other Actions" options via JMT:
 - Email sending organization;
 - Return to sending organization; and
 - Email HHSC
- The information provided to HHSC via JMT will include the following:
 - Child's Personal Identification Number (PID) or TJJD Number;
 - Child's name, date of birth, Social Security Number (SSN);
 - If child is being released from detention, date detained;
 - Address where child will be residing upon release from placement;
 - Name of person to whom released, and relationship to child;
 - SSN and contact number of person to whom child is released;
 - Name of facility from which child is released;
 - Anticipated date of release;
 - Name of county and supervising probation officer for probation child; and
 - Name of supervising parole officer for TJJD child.
- HHSC and TJJD shall ensure that a nightly interface between JMT and TIERS is completed.
 - The following information will be included on the interface file:
 - Social Security Number (SSN) of child
 - Date of Birth (DOB) of child
 - First name of child
 - Last name of child
 - Name of person to whom released, and relationship to child;
 - SSN of person to whom released, if available;
 - Physical Address including zip code
 - Mailing Address including zip code
 - Anticipated release date from placement
 - Actual release date from placement
- Upon receipt of the anticipated release date, TIERS will evaluate the Medicaid/CHIP status of a reported child. Within seven business days, HHSC will provide a report via the JMT that will include the following information:
 - Whether the child's Medicaid can be reinstated;
 - Whether the child can be added back to an active Medicaid or CHIP case and whether that case is due for review;
 - If the case is due for review, the TJJD and/or the JPD staff will assist the family, as deemed reasonable and appropriate, in the submission of the renewal application provided to them by HHSC as needed;
 - Whether a new application must be completed (if there is no active case) and confirm that an application packet was sent to the family;

- Whether the child is on SSI. In this case, the TJJD and/or the JPD staff will refer these families to the Social Security Administration for reinstatement of Medicaid benefits;
 - Whether the child has an active Medicaid or CHIP case;
 - Whether the child has an active Medicaid case as an independent youth; or
 - Whether the child has an active Medicaid case through the Title IV-E Program
- For new applications, HHSC will send an application packet to families who do not have active Medicaid or CHIP or whose Medicaid cannot be reinstated. The packet will include the following:
 - Form H1205, Texas Streamlined Application;
 - Postage paid envelope addressed to CBS;
 - A cover letter drafted and approved by HHSC and TJJD which includes:
 - Helpful information and instructions for submitting the application; and
 - Informational paragraph including how to obtain help completing the application; and
 - A list of Community Based Organizations (CBOs) in the family's area, including the contact information for each CBO. The CBOs are available to assist families in completing the application, if requested.
- The TJJD and/or JPD staff will then follow-up with the family, as deemed reasonable and appropriate, regarding completion and submission of the application as part of the case management process. These applications will be forwarded to the CBS unit for processing.
- The TJJD and/or JPD will inform HHSC within 48 hours of the child's actual release date via JMT.
- The following information will be available via the JMT for each child who was reported being released:
 - Name and county of child who was referred to HHSC;
 - Name of child and TJJD facility for child who was referred to HHSC;
 - Name and county of child who was added back to an active case;
 - Name and county of child for which an application was sent to the family;
 - Name and county of child for which an application was received by HHSC;
 - Name and county of child for which an application was not received by HHSC;
 - Name and county of child who was certified with a new case; and
 - Name and county of child who was denied with a denial reason.
- HHSC will notify the TJJD and/or JPD via the JMT of any applications returned by the United States Postal Service (USPS) "unable to deliver." Once notified, the TJJD and/or JPD will make reasonable efforts to locate the household. If the household is located, the TJJD and/or JPD will provide the updated address to HHSC, who will mail the application packet to the new address. HHSC will report via the JMT that an application packet has been mailed to the new address.

- HHSC will report via the JMT that an application has been received from the family. HHSC will process applications following HHSC's internal policy and procedures. "Eligible" determinations will be held pending confirmation of the child's release. If the applicant does not provide sufficient information or verification to make a determination with the application, HHSC will send a notice to the household by mail and request the required information along with an explanation of what is needed and a list of acceptable sources. The TJJD and/or JPD staff will follow-up with the family, as deemed reasonable and appropriate, and assist the family with the completion and submission of the application.
- Once confirmation of release is received, HHSC will complete one of the following actions:
 - Reinstate Medicaid coverage within two business days for a child whose Medicaid was suspended upon their placement in a facility and has months remaining on their original certification period;
 - Add the child to an existing Medicaid/CHIP case within two business days provided HHSC has all information necessary to make an eligibility determination;
 - Process the application and certify the child for Medicaid or CHIP, if they meet all eligibility criteria; or
 - Update address for a child active on Medicaid as an independent child upon release, and who are released to self (not a parent or guardian), and will continue to reside in the community as an independent child.
- TJJD/JPD shall provide a written notice to the child's guardian or custodian, as appropriate, that includes the telephone number at which the HHSC may be contacted regarding confirmation of/or assistance relating to reinstatement of the child's eligibility for medical assistance benefits.
- The medical effective date for a child eligible for Medicaid will be the date of the child's release (this includes weekend releases). If HHSC is unable to make an eligibility determination within this timeframe due to incomplete submission of required documentation, HHSC will request the additional information in accordance with Section 11 of this Agreement and pend the application. HHSC must process the pended application within 24 hours of receipt of the requested documentation. If, however, the household has not provided the required information or the date of release is not confirmed by the 45th day, the application will be denied. If the household still wants to be considered for Medicaid or CHIP, the application will be routed through the normal Medicaid or CHIP processing procedures.
- HHSC will follow this process for any application received up to 14 calendar days after the child's release from a facility. For applications received on the 15th day, or later, after release, the CBS unit will route the applications through the regular processing procedures. CBS will complete one final inquiry to see if Medicaid or CHIP was approved at another location.
- After this inquiry on the 15th day, the CBS unit will report through the JMT to TJJD and/or JPD that:
 - The child has Medicaid or CHIP;

- The application was denied;
 - The CBS unit never received the application; or
 - The application was sent to the local HHSC office.
- A printable referral summary is available for use in the documentation of JMT activities.
- HHSC and TJJD will each designate a contact and a backup who will serve as liaisons between the two agencies. The designated TJJD liaison will act in an administrative capacity only; the TJJD and the JPD staff will contact the CBS unit directly regarding case specific questions or issues.
- If HHSC determines that a child is not eligible for Medicaid, but is eligible for CHIP, they will process the CHIP eligibility and record the outcome via the JMT.
- HHSC will notify the CHIP enrollment broker of the eligibility via interface.
- The Enrollment Broker will send an enrollment packet with all of the information that the household needs to enroll in CHIP. The enrollment packet will include:
 - Provider Directories;
 - Comparison Charts;
 - Enrollment Form; and
 - An enrollment fee coupon with prepaid envelope (if the client owes an enrollment fee).
- Eligible household members must complete the following enrollment requirements:
 - Select their health plan.
 - Pay a yearly enrollment fee per family, if required. This fee is due within 90 days of the date their application was processed and varies depending on the family's Federal Poverty Income Limit (FPIL).
- Families who do not make a health plan choice by the due date will be automatically enrolled in a health plan. Families who still owe a fee after the due date will not be enrolled in the CHIP program.

In general, the effective date of CHIP is dependent on the monthly cut-off date:

- If the enrollment process is completed prior to cutoff, the coverage start date begins the first of the following month.
- If the enrollment process is completed after cutoff, the coverage start date begins the first of the second month following the month the enrollment process was completed.