

HHSC Public Hearing on HB 4 Proposed Rules



Telecommunications in Medicaid Managed Care Service Coordination and Assessments January 11, 2023

HHSC Presentation

- The rules require:
 - All initial assessments and annual reassessments for medical necessity and level of care must be done in person, which includes the SK-SAI and MN/LOC for STAR+PLUS HCBS
 - Functional assessments for personal care services or personal assistance services, DAHS, and CFC must be done in-person
 - Change in condition off-cycle assessments for medical necessity and level of care that may result in a Resource Utilization Group (RUG) change (including MDCP waiver eligibility) must be done in-person
- For service coordination, the rules require:
 - Service Coordination visits where an assessment will be conducted must be done in-person
 - All STAR Kids Level 1, 2 and 3 members must receive at least 1 in-person Service Coordination visit per year (the in-person visit when an assessment is administered satisfies this minimum requirement)
 - All STAR+PLUS Level 1 and 2 members must receive at least 1 in-person Service Coordination visit per year (the in-person visit when an assessment is administered satisfies this minimum requirement)
- MCOs may use their discretion on how to document verbal consent in a HIPAA-compliant manner. However, MCOs must be able to produce the documentation of verbal consent for audit and compliance purposes

Public Comments

- Jessica Lynch, TAHP: (abbreviated) We believe that HHSC’s proposed rules don’t take full advantage of the opportunity created by HB 4 to fully modernize assessments and service coordination and, more importantly, ignore the flexibility HB 4 provides for families to be involved in a decision as to how they access care. There is no current federal law that prohibits assessments and service coordination visits via telehealth. Similarly, guidance from CMS requested by HHSC contained no prohibitions against using telecommunications for assessments and service coordination.

It is unclear why visual, audiology, and wound care services can be provided via telemedicine, and in fact several physical, occupational, and speech therapy services in FFS were approved for telemedicine under HB 4, but cannot be assessed for non-clinical purposes using audio-visual capabilities. Assessments and service coordination visits are not clinical and do not involve a physical assessment, medical care, or hands-on care.

We do agree that there are situations where virtual assessments may not be appropriate, and the legislature instructed HHSC to require MCOs to consider whether a televisit was appropriate, based on an individual's request for one.

This flexibility is a value-add tool that reduces the costs of health care as well as the number of necessary nurses during a national workforce shortage. We should not be forcing nurses into people’s homes when there are other safe, innovative, effective solutions.

At a minimum, the rules should contain enough flexibility to allow a member to request an exception to in-person visits. We are concerned that without an exception, members who do not want to be seen in-person will lose their health care coverage. HHSC has not yet addressed this scenario in its rules.

- Carlos Carmona: Concerned that nursing staff will need PPE if in-person assessment and coordination is to resume and it is unclear as to who will be providing the materials
- Leslie Robinson, field nurse: Concerned about communicable diseases and COVID, as well as gun violence. She sees members' needs being met using teleservices and doesn't know why it can't continue.