

Subject: Fiscal Year 2021 Enrollment Limitations

Dear Provider:

This notice contains information on rate enhancement enrollment limitations for the following programs:

- Community Living Assistance and Support Services (CLASS)
- Day Activity and Health Services (DAHS)
- Deaf Blind with Multiple Disabilities (DBMD)
- Nursing Facilities (NF)
- Primary Home Care (PHC)
- Residential Care (RC)

You are receiving this information because your contract's enhancement level for fiscal year 2021 (effective from September 1, 2020 – August 31, 2021) will be limited to the level it has achieved on its most recently audited 2018 Cost Report, 2018 Accountability Report, or 2019 Accountability Report functioning as an Attendant or Staffing Compensation Report.

As per Title 1 of the Texas Administrative Code (TAC) §355.112 or 1 TAC §355.308, a provider or facility will not be enrolled in the attendant compensation rate enhancement or enhanced direct care staff rate at a level higher than the level it achieved on its most recently available, audited Attendant or Staffing Compensation Report or Cost Report functioning as an Attendant or Staffing Compensation Report.

ENROLLMENT LIMITATION

A list of all contracts receiving an Enrollment Limitation notice is posted on the Health and Human Services (HHSC) Rate Analysis Department (RAD) website at:

<https://rad.hhs.texas.gov/long-term-services-supports>

Select the applicable program from the list of services in the left margin. Scroll to the bottom and click "View 2021 Rate Enhancement - Attendant Compensation Information." This page contains all of the important documentation related to enrollment. Scroll down until you see "View Contracts Receiving Enrollment Limitation Letters." Lastly, click on the program list for the contract that you wish to search for.

For Primary Home Care, it is important to review the Enrollment Limitation List to determine whether the limitation applies to your Priority and/or Nonpriority level.

As per 1 TAC §355.112 or 1 TAC §355.308, if at any time, you determine that your contract will not be able to meet its attendant or staffing compensation requirements, you may request a reduction in your participation level and associated rate add-on and requirements. These requests will be effective on the first day of the month following approval of the request.

REQUESTS FOR REVISION

As per 1 TAC §355.112 for Community Care providers or 1 TAC §355.308 for Nursing Facilities, a provider or facility may request a revision of its enrollment limitation if it's most recently available, audited Attendant or Staffing Compensation Report or Cost Report functioning as its Attendant or Staffing Compensation Report does not represent its current attendant or staffing levels.

Such a revision is requested by submitting a fiscal year 2021 Request for Revision Report (RFR). These reports and associated instructions are available on the HHSC RAD website linked above. Once you enter the website, click on the link to your program, then scroll down to the heading "Rate Enhancement – Attendant Compensation", click on "View 2021 Rate Enhancement – Attendant Compensation information". Under the heading "2021 Enrollment Limitations Information open the "Request for Revision Report and Instructions."

The following requirements apply to all RFRs. Submissions that do not meet these requirements will not be considered and the enrollment limitation will apply. Only contracts receiving an enrollment limitation may submit an RFR.

1. Health and Human Services Commission (HHSC), RAD must receive a properly completed fiscal year 2021 RFR no later than July 31, 2020. Providers must properly complete the RFR online. Submissions by mail, hand delivery, or fax will not be accepted. Instructions on completing the RFR are available on the website above.
2. The RFR Report must be completed by an individual legally responsible for the conduct of the contract or legally authorized to bind the contract, such as the sole proprietor, a partner, a corporate officer, an association officer, a government official, a limited liability company

member, a person authorized by the applicable Texas Health and Human Services (HHS) Form 2031 for the interested party on file at the time of the request, or a legal representative for the interested party.

3. The RFR must show that, for the period beginning September 1, 2019 and ending April 30, 2020, your contract met a higher attendant or staffing compensation level than the enrollment limitation. In such cases, your contract's enrollment limitation will be established at the level supported by the RFR results.
4. If the results of the RFR indicates a lower level of attendant or staffing compensation than the enrollment limitation, then the limitation will apply.

INDIVIDUAL VERSUS GROUP PARTICIPATION

For an entity, commonly owned corporation, or combined entity that controls more than one participating contract, compliance with the staffing or spending requirements can be determined in the aggregate for all participating contracts controlled by the entity, commonly owned corporations, or combined entity. One RFR may be submitted for the entire group or one RFR for each individual contract. The result of the analysis of an RFR completed for a group will apply to all contracts included on the RFR.

SUCCESSOR LIABILITY AGREEMENTS (Nursing Facilities Only)

If your facility has undergone a change of ownership where the Health and Human Services Commission (HHSC) has approved a successor-liability-agreement (SLA) that transfers responsibility from the former owner to the new owner, your completed fiscal year 2021 RFR form may include units of service, staff hours and expenses from both the facility in effect prior to the initiation of the SLA and the facility in effect after the initiation of the SLA.