



**HHSC: Nursing Facility
Payment Methodology
Advisory Committee,
July 14th, 2020**



The [Nursing Facility Payment Methodology Advisory Committee](#) studies and makes recommendations on the development of a nursing facility reimbursement methodology that incentivizes quality care for people served in a nursing facility, and is cost-effective, streamlined and transparent.

The Nursing Facility Payment Methodology Advisory Committee (NF-PMAC) is established by Title 1 of the Texas Administrative Code (1 TAC) §351.839. The committee:

- Advises HHSC on the establishment and implementation of recommended improvements to the nursing facility (NF) reimbursement methodology and other NF payment topics.
- Studies and makes recommendations on the development of an NF reimbursement methodology that incentivizes quality care for people served in an NF, and is cost-effective, streamlined and transparent.
- Performs other tasks as requested by the executive commissioner.

Members are listed below.

- | | |
|---------------------|--|
| • Alyse Meyer | • Rachel Poe |
| • Amanda Fredriksen | • Janet Johnston |
| • Kelly Roberts | • Randall Martin |
| • Kevin Warren | • Sherri Harris |
| • Donovan Dekowski | • Billy Millwee |
| • Paula Brown | • Maryann Choi |
| • Eddie Parades | • Victoria Grady (non-voting member from HHSC) |

Welcome and opening remarks. The meeting was convened by John Chacon, HHSC.

Orientation

Open Meetings Act: Kym Oltrogge made the presentation. This group is covered by the Open Meetings Act because of HHSC policy—not because it is a governmental body serving as advisory. Therefore, there is no statutory requirement for open meetings and this group. Members are required to take training in the form of a video about the open meetings requirements. [Follow this link for a copy of HHSC materials on open meetings.](#)

Ethics policy: David Reisman made the presentation. Previously, Mr. Reisman made a detailed ethics presentation. That is provided below.

Mr. Reisman provided an overview of the appropriateness of involvement (for example, voting on certain matters) given individual personal interests or those of a family member for committee members. If members have a question about the appropriateness of your vote or other involvement on a particular interest, please consult Mr. Reisman. Obviously,

personal and government business must be separated. Sometimes there are grey areas given the membership in groups such as the BHAC and other activities folks may be involved in because of their passions and interests in related issues. Campaign issues constitute another area that obviously presents a conflict. Sharing data may be an issue. Check with committee officials before sharing sensitive information. Consult the agency press office before talking with the press.

Mr. Reisman stated that the Ethics office is trying to keep the agency out of the press. Even the appearance of impropriety is unacceptable.

Benefits include anything of value. Public servants are prohibited from accepting anything of value with some minor exceptions for their work, decision, or opinion. (Coffee mugs, etc.) If you accept a benefit in exchange for public service, that is a criminal violation.

There are anonymous ways to report these violations which are reviewed in the presentation.

Whatever the basis for ethics, the ethics laws we deal with exist to promote confidence in our system of government and sense of fair play. Promoting employee confidence through ethical decision making.” The Ethics Office:

- Enhances employee awareness of general ethics laws, policies and principles.
- Is a resource for employees to seek guidance and raise concerns.
- Elevates ethics as part of everyday conversation.
- Provides resources to foster fairness and impartiality in the workplace.

More information on HHS [Ethics Policy](#) can be found by following the link.

What can't I do as a public servant that I could do as a private citizen?

- Accept benefits from people subject to your agency or board's jurisdiction
- Accept benefits in exchange for providing a service as a public servant
- Accept certain benefits from a lobbyist
- Be involved in certain matters before your board or agency

There are four groups of ethics laws:

- Penal Code –Bribery & Corrupt Influence; Abuse of Office
- Government Code –Conflict of Interest Laws
- Lobby Code –Public Servant Interaction with Lobbyists
- Title 15, Election Code-Candidates and Officeholders

The ethics laws and subsequent policy address:

- Standards of Conduct
- Acceptance of Benefits
- Conflicts of Interest
- Unauthorized Use of Government Time, Property and Facilities



Employees (*and board members*) shall endeavor to avoid any conduct creating the appearance that they are violating the law or the ethical standards set forth in this policy. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

With regard to disciplinary action:

- Violation of Penal Code –Fines, imprisonment or both.

Acceptance of Benefits:

- Bribery
- Honoraria
- Prohibition on Gifts
- Exceptions to Gift Prohibition
- Gifts to State Agencies
- Donation of Gifts to Charities

A “benefit” is anything regarded as pecuniary gain or pecuniary advantage. The following gifts are examples of benefits:

- \$50 clock
- Hotel Room
- Football Tickets
- \$160 Rifle
- \$60 Restaurant Meal

The following gifts are not benefits:

- Single cup of coffee
- Trinkets (mug, keychain, mouse pad)
- Plaque (not made with valuable metal or jewels)

As a public servant you commit the offense of bribery if you solicit, offer, or accept a “benefit” in exchange for a decision, opinion, recommendation, vote, or other exercise of official discretion. Penal Code §36.02.

With regard to honoraria the following apply:

- Prohibited: Accepting an honorarium where services are requested because of the officer’s or employee’s official position.
- Permitted: Food, transportation, and lodging in connection with a speech if the services performed are more than merely perfunctory.

Public servants are generally prohibited from receiving any “benefit”, but there are exceptions. You may accept a gift, payment, or contribution as long as the gift, payment, or contribution fits into any one of the following categories:

- You may accept an item with a value of less than \$50.....which may include food from someone who is not a prohibited source (Includes, but is not limited to a vendor or

entity that contracts with or is likely to become interested in a contract or other transaction with the agency; lobbying firms or lobbyists; an affiliated interest of a lobbying firm; anyone employed by or affiliated with a vendor or lobbyist; or an entity subject to regulation, audit, or inspection or investigation by HHS)

- Independent Relationship
 - Fees for Services
 - Political Contributions
 - Government Property
- Food, Entertainment, Transportation, & Lodging: Benefits in the form of food, lodging, transportation, or entertainment are permissible if accepted as a "guest" and reported in accordance with any applicable reporting requirement. To accept something as a guest, the donor must be present. For most state employees there is no applicable reporting requirement. Board members and agency heads may be required to report certain gifts on their annual personal financial statement.
 - Transportation, Lodging & Meals (See Honorarium)
 - Services to a First Responder
 - Gifts to State Agencies
 - Benefits from External Sources Because of an Agency Approved Collaborative Effort
 - De Minimus Items

If you suspect fraudulent and or other illegal activities, you should report those activities to your supervisor or the Texas State Auditor through the hotline: <https://sao.fraud.texas.gov/Hotline.aspx>

Because state resources are intended to support agency business, you are generally forbidden from using government time, property, facilities or equipment for purposes other than official business.

If members have a question or concern, they are encouraged to contact the Ethics Office or HHSC staff assigned to this committee.

Administrative. Brooke Allison and other staff, stated that the committee will be meeting virtually until at least December, perhaps longer. (TAC 351.839 governs this group.) Only items that are on the agenda are allowed to be discussed at the meeting.

Committee Logistics:

Consideration of electing Chair and Officer Election Procedure. Mr. Chacon presented information on the election of a presiding officer and assistant presiding officer. There is an officer election procedure that was proposed:

- Call for nominations
- Members submit nominations anonymously (for self or others)

- Elections follow at the next meeting
- Ballot not private vote/roll call vote/single nominee—no vote required (unanimous consent)
- Votes can be submitted electronically for distance voting

MOTION: Adoption of the procedure - prevailed.

Frequency and Length of Meetings. The COVID-19 requirements have slowed things down on this effort. There are also going to be limitations on exceptional items this next session. The reports are due in August of the even years. CMS has delayed the implementation of this requirement. There is presently no federal deadline.

Mr. Chacon reminded the group about the ability to use subcommittees.

MOTION: Meet on the second Tuesday of each month for two hours (depending on staff and meeting time availability) - prevailed.

Goals for Committee. The Nursing Facility Payment Methodology Advisory Committee (NF-PMAC) is established by Title 1 of the Texas Administrative Code (1 TAC) §351.839. The committee:

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Patient driven payment model is now the focus. An internal workgroup was formed and developed three methodologies as an alternative to the RUG 3 methodology:

- Texas Specific Case Mix Model
- Maintain the RUG 3 but with a reduced number of RUGS
- *TXI Author: There was another one mentioned that could not be heard.*

The committee is not limited to these. The alternatives are acuity rate-based options. These are designed to be the starting place for the committee. HHSC is open to evaluating other options that might be proposed by this group. Presentations by HHSC will be made in the future to this group on the different options. HHSC stated that abandoning acuity could cause problems for high needs residents.

A question was raised about timing and when HHSC is interested in conversion to the new system. HHSC stated that there is not a specific timeline at this point and the Committee can



help establish the timing of the recommendations and implementation. HHSC stated that the specific options have not been shared with legislative leadership. Leadership is aware of the forming of this committee.

Public Comment.

Ceseley Rollins, Superior Health Plans, asked how someone could be included as part of the agenda to provide input (outside of the public comment opportunity). Mr. Chacon stated that the bylaws are being developed and include subject matter experts and there may be an opportunity in that way, or through the subcommittee process.

Review of action items and agenda items for next meeting and wrap-up.

- Tuesday August 25th will be the next meeting
- Discuss the payment alternative options
- Chair and Vice Chair elections
- Conversion item related to PDPM white paper prepared by providers and HHSC proposals (perhaps for a later time)

Adjourn. There being no further business, the meeting was adjourned.

This summary contains supplemental information from third-party sources where that information provides clarity to the issues being discussed. Not every comment or statement from the speakers in these summaries is an exact transcription. For the purpose of brevity, their statements are often paraphrased. These documents should not be viewed as a word-for-word account of every meeting or hearing, but a summary. Every effort has been made to ensure the accuracy of these summaries. The information contained in this publication is the property of Texas Insight and is considered confidential and may contain proprietary information. It is meant solely for the intended recipient. Access to this published information by anyone else is unauthorized unless Texas Insight grants permission. If you are not the intended recipient, any disclosure, copying, distribution or any action taken or omitted in reliance on this is prohibited. The views expressed in this publication are, unless otherwise stated, those of the author and not those of Texas Insight or its management.
