

GUIDANCE ON MEMBER ALLEGATIONS OF PROVIDER DISCRIMINATION BASED ON IMMUNIZATION STATUS

07/31/2024

BACKGROUND

House Bill (H.B.) 44 (88th Legislature, Regular Session, 2023) prohibits Medicaid and Childrens Health Insurance Program (CHIP) providers from refusing health care services to members because of the member's refusal or failure to obtain a vaccination or immunization.

As part of implementing H.B. 44, HHSC proposed amendments to the managed care contracts effective 09/01/2024 to the sections listed below, relating to language requiring the Managed Care Organization (MCO) or Dental Contractor to refer members alleging noncompliance with Texas Government Code §531.02119(a) to HHS Office of Ombudsman.

- Uniform Managed Care Contract (UMCC): 8.2.6 (Medicaid Member Complaint and Appeal System); and 8.4.2 (Member Complaint and Appeals)
- CHIP RSA: 8.1.5.9 (MCO Internal Member Complaint and Appeal Process)
- STAR+PLUS: 8.1.29 (Member Complaint and Appeal System)
- STAR Health: 8.1.33 (Member Complaint and Appeal System)
- STAR Kids: 8.1.29 (Member Complaint and Appeal System)
- Dental:4.1.6 (Member Complaint and Internal Appeal System)
- MMP Dual Demo: 2.11.4.1.3.1 (Grievance Administration)

During the MCO comment period of the contract amendment process, multiple MCOs requested clarification on two points:

- The process of referring allegations of provider noncompliance to the HHS Office of the Ombudsman.
- Whether these allegations will count toward the Contract Deliverable CA-1 which states, "The MCO must resolve at least 98% of Member Complaints within 30 Days from the date the Complaint is received by the MCO."

KEY DETAILS

Referral Guidance for Medicaid MCOs and Dental Contractors:

Regarding comments about the process to refer complaints of noncompliance, HHSC directs Medicaid MCOs and Dental Contractors contacted with an allegation of H.B. 44 noncompliance to refer the member to the HHS Office of Ombudsman by providing the member with the following information:

- Allegations of provider discrimination based on vaccine status are handled by HHSC and not by the MCO or DMO, as applicable.
- HHSC receives these allegations through the HHS Office of Ombudsman.
- Ways to reach the HHS Office of Ombudsman include:
 - Toll-free phone call to the Managed Care Assistance Team 1-866-566-8989. A person who has a hearing or speech disability, call 7-1-1 or 800-735-2989.
 - Online at <https://hhs.texas.gov/omcat>.

- Faxing toll-free to 888-780-8099.
- Mailing to: Texas Health and Human Services Commission, Office of the Ombudsman, MC H-700, P.O. Box 13247, Austin, Texas 78711-3247.

Referral Guidance for CHIP MCOs:

Regarding the comments about the referral process to refer complaints of noncompliance, HHSC directs CHIP MCOs and Dental Contractors contacted with an allegation of H.B. 44 noncompliance to refer the member to the MCCO Research and Resolution Team by providing the member with the following information:

- Allegations of provider discrimination based on vaccine status are handled by HHSC and not by the CHIP MCO or Dental Contractor.
- HHSC receives CHIP allegations through the MCCO Research and Resolution Team.
- The member may submit this allegation to the MCCO Research and Resolution Team using one of these methods:
 - Complaint inbox: HPM_Complaints@hhsc.state.tx.us
 - Online Portal <https://texashhs.org/ManagedCareProviderComplaint>
 - Fax 512-491-1958
 - Mail: Health and Human Services Commission Medicaid/CHIP, Managed Care Compliance and Operations, P.O. Box 149030 MC-0210, Austin, Texas 78714-9030

Complaint Record Guidance:

Regarding comments related to whether allegations of H.B. 44 noncompliance will count against the MCO or Dental Contractor relative to the timely resolution requirements, HHSC clarifies MCOs and Dental Contractors are not required to record allegations of HB 44 noncompliance in the Member Complaint Report submitted to HHSC. Therefore, HHSC will not count HB 44 noncompliance allegations when assessing compliance with Deliverable CA-1 which requires MCOs and Dental Contractors to resolve at least 98% of Member Complaints within 30 Days of receipt.

ADDITIONAL INFORMATION

On September 1, 2024, the Texas Medicaid & Healthcare Partnership (TMHP) will update the Texas Medicaid Provider Procedures Manual (TMPPM), Section 1.7, “Provider Responsibilities” to include a new subsection titled “Nondiscrimination for Vaccine Status.” This subsection contains the following language:

“In accordance with H.B. 44, Medicaid providers are prohibited from refusing to provide health care services to any Medicaid client based solely on the client’s refusal or failure to obtain a vaccine or immunization for a particular infectious or communicable disease unless excepted by Texas Government Code §531.02119.”