Clarification to Rule Requiring Federally Qualified Health Centers (FQHCs) Attest to Affiliation Agreements

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Texas Administrative Code (TAC) Rule 354.1322 FQHC Provider Participation Requirements about the requirement of federally qualified health centers (FQHCs) attesting to affiliation agreements has been amended to define the terms “affiliation agreement” and “health-care providers” for clarification purposes.

An affiliation agreement is defined as an agreement that establishes a relationship between an FQHC and a health-care provider under which the affiliate agrees to provide health-care services within the FQHC’s scope of services on behalf of the FQHC and to be reimbursed by the FQHC for such services. The term does not include an employment agreement or an agreement formalizing an arrangement in which an individual physician either temporarily substitutes for a member of the FQHC’s staff of physicians or temporarily fills a vacancy in the FQHC’s staff of physicians.

A health-care provider is defined as a physician, physician assistant, advanced practice registered nurse (except certified registered nurse anesthetist), visiting nurse, a qualified clinical psychologist, clinical social worker, or other health professional for mental health services, dentist, dental hygienist, or an optometrist.

FQHC providers must complete the Federally Qualified Health Center Affiliation Affidavit to attest as to whether or not they have an affiliation agreement. If the FQHC attests “Yes,” the FQHC must also answer the following questions explaining the need for the affiliation as part of the amended rule:

1. Does the affiliation governed by the agreement increase access to care?
2. Does the affiliation governed by the agreement:
   a. Add services to the FQHC’s scope of services; or
   b. Enable the FQHC to maintain access to care or the services currently within the FQHC’s scope of services?
3. Would a health-care provider employed by the FQHC be less expensive than the affiliation governed by the agreement?

The attestation must be signed by an individual with authority to sign documents on the FQHC’s behalf.

Currently enrolled FQHC providers are not required to submit the revised attestation form until they are required to enroll based on the Affordable Care Act (ACA) re-enrollment process. Any FQHC providers enrolling under the new ACA-compliant forms must submit the new attestation form and information.

For more information, call the TMHP Contact Center at 1-800-925-9126.