

Clarifying monitoring procedures, corrective action, frequency and scope for all DBMD provider types (ALF, HCSSA, ICF/IID, DBMD Provider agencies)

Appendix F

Revising fair hearing language to be consistent with current process.

Appendix G

Clarifying the accreditation for HCSSAs, the Accreditation Commission for Health Care, which surpasses licensure standards and removes the need for licensure monitoring. This change is consistent with 40 TAC, Part 1 Chapter 97.

Providing additional information regarding safeguards around service plan development when a service provider who monitors and assists in the development of the service plan also provides other direct services, as is the case in the DBMD Program.

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Updating complaint reporting procedures due to transformation to reflect the ombudsman as the primary intake point.

Updating the Department of Family and Protective Services (DFPS) to "HHSC Provider Investigations" and updating the investigation procedures consistent with Human Resources Code, Chapter 48, Subchapter F, including clarification of the process for individuals who are using the Consumer Directed Services option.

Making revisions necessary to satisfy CMS recommendations in the final approved Interim Procedural Guidance report.

Requiring DBMD program providers to have policies, procedures and a tracking system in place in order to ensure timely submission of the level of care to HHSC.

Requiring providers to report critical incidents using an HHSC form which will be reviewed by HHSC staff to ensure appropriate action is taken.

Requiring providers to submit an HHSC form after receiving a recommendation/report from DFPS regarding a confirmed instance of abuse, neglect or exploitation. The form details how the provider addressed the recommendations/report and is reviewed by HHSC staff to determine if appropriate remediation occurred. If not, HHSC will follow up to ensure appropriate action is taken.

Improving performance measures and quality oversight.

Appendix H

Adding detailed information about the Quality Oversight Plan to Appendix H.

Appendix I

Clarifying monitoring procedures, corrective action, frequency and scope for all DBMD provider types (ALF, HSCSSA, ICF/IID, DBMD Provider agencies)

Modifying the response to Appropriation of State Tax Revenues to a State Agency other than the Medicaid Agency in Appendix I to be consistent with language in other 1915(c) waivers.

Appendix J

Updating the unduplicated number of participants and cost projections for all five waiver years of the renewal.

The Deaf Blind with Multiple Disabilities program serves individuals with legal blindness, deafness, or a condition that leads to deaf-blind-

ness, and at least one additional disability that limits functional abilities. The program serves individuals in the community who would otherwise require care in an ICF/IID.

An individual may obtain free copies of the proposed waiver renewal, including the DBMD settings transition plan, or if you have questions, need additional information, or wish to submit comments regarding this amendment or the DBMD settings transition plan, interested parties may contact Jacqueline Pernell by U.S. mail, telephone, fax, or email. The addresses are as follows:

U.S. Mail

Texas Health and Human Services Commission

Attention: Jacqueline Pernell, Waiver Coordinator, Policy Development Support

P.O. Box 13247

Mail Code H-600

Austin, Texas 78711-3247

Telephone

(512) 428-1931

Fax

Attention: Jacqueline Pernell, Waiver Coordinator, at (512) 487-3403

Email

TX_Medicaid_Waivers@hhsc.state.tx.us.

In addition, the HHSC local offices will post this notice for 30 days. The complete waiver renewal request can be found online on the HHSC website at <https://hhs.texas.gov/laws-regulations/policies-rules/waivers/dbmd-waiver-applications>.

TRD-201703692

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

Filed: September 19, 2017

◆ ◆ ◆ Department of State Health Services

Order Placing Acetyl Fentanyl into Schedule I

The Administrator of the Drug Enforcement Administration issued a final order maintaining the placement of acetyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide) including its isomers, esters, ethers, salts and salts of isomers, esters, and ethers in schedule I of the Controlled Substances Act effective June 7, 2017. This final order was published in the June 7, 2017 *Federal Register*, Volume 82, Number 108, pages 26349-26351. The Administrator has taken action based on the following.

1. Acetyl fentanyl has a high potential for abuse.
2. Acetyl fentanyl has no current accepted medical use in treatment in the United States.
3. There is a lack of accepted safety for use under medical supervision for acetyl fentanyl.

Pursuant to Health and Safety Code, §481.034(g), as amended by the 75th legislature, of the Texas Controlled Substances Act, Health and Safety Code, Chapter 481, at least thirty-one days have expired since notice of the above referenced actions were published in the *Federal Register*; and, in the capacity as Commissioner of the Texas Depart-

ment of State Health Services, John Hellerstedt, M.D., does hereby order that the substance acetyl fentanyl be moved from Schedule I temporarily listed substances to Schedule I opiates.

-SCHEDULE I

Schedule I consists of:

Schedule I opiates

The following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically accepted, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetyl alpha methylfentanyl (N [1 (1 methyl 2 phenethyl) 4 piperidinyl] N phenylacetamide);
- (2) AH-7921 (3,4-dichloro-N-[(dimethylamino)cyclohexymethyl]benzamide));
- * (3) Acetyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);
- (4) Allylprodine;
- (5) Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
- (6) Alpha methylfentanyl or any other derivative of Fentanyl;
- (7) Alpha methylthiofentanyl (N [1 methyl 2 (2 thienyl) ethyl 4 piperidinyl] N- phenyl-propanamide);
- (8) Benzethidine;
- (9) Beta hydroxyfentanyl (N [1 (2 hydroxy 2 phenethyl) 4 piperidinyl] N phenyl-propanamide);
- (10) Beta hydroxy 3 methylfentanyl (N [1 (2 hydroxy 2 phenethyl) 3 methyl 4 piperidinyl] N phenylpropanamide);
- (11) Betaprodine;
- (12) Clonitazene;
- (13) Diampromide;
- (14) Diethylthiambutene;
- (15) Difenoixin;
- (16) Dimenoxadol;
- (17) Dimethylthiambutene;
- (18) Dioxaphetyl butyrate;
- (19) Dipipanone;
- (20) Ethylmethylthiambutene;
- (21) Etonitazene;
- (22) Etoxidine;
- (23) Furethidine;
- (24) Hydroxypethidine;
- (25) Ketobemidone;
- (26) Levophenacetylmorphan;
- (27) Meprodine;
- (28) Methadol;
- (29) 3 methylfentanyl (N [3 methyl 1 (2 phenylethyl) 4 piperidyl] N phenylpropanamide), its optical and geometric isomers;

(30) 3 methylthiofentanyl (N [3 methyl 1 (2 thienyl)ethyl 4 piperidinyl] N phenylpropanamide);

- (31) Moramide;
- (32) Morpheridine;
- (33) MPPP (1 methyl 4 phenyl 4 propionoxypiperidine);
- (34) Noracymethadol;
- (35) Norlevorphanol;
- (36) Normethadone;
- (37) Norpipanone;
- (38) Para fluorofentanyl (N (4 fluorophenyl) N [1 (2 phenethyl)-4 piperidinyl]- propanamide);
- (39) PEPAP (1 (2 phenethyl) 4 phenyl 4 acetoxypiperidine);
- (40) Phenadoxone;
- (41) Phenampromide;
- (42) Phencyclidine;
- (43) Phenomorphan;
- (44) Phenoperidine;
- (45) Piritramide;
- (46) Proheptazine;
- (47) Properidine;
- (48) Propiram;
- (49) Thiofentanyl (N phenyl N [1 (2 thienyl)ethyl 4 piperidinyl] propanamide);
- (50) Tilidine; and
- (51) Trimeperidine.

-Schedule I opium derivatives

No amendment

-Schedule I hallucinogenic substances

No amendment

-Schedule I stimulants

No amendment

-Schedule I depressants

No amendment

-Schedule I Cannabimimetic agents

No amendment

-Schedule I temporarily listed substances subject to emergency scheduling by the United States Drug Enforcement Administration.

No amendment

Changes to the schedules are marked with an asterisk (*).

TRD-201703705

Barbara L. Klein

Interim General Counsel

Department of State Health Services

Filed: September 20, 2017

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