

HAVE YOU BEEN DIAGNOSED WITH HEPATITIS C?

DO YOU HAVE MEDICAID?

IF YES, YOU MAY NOW BE ELIGIBLE FOR MEDICATION TO TREAT HEPATITIS C.

Please visit www.texasmedicaidhepc.com or call 737-235-8641 for more information.

The United States District Court for the Western District of Texas authorized this notice. This is not a solicitation from a lawyer. You are not being sued.

If you have hepatitis C and are enrolled in Texas Medicaid, you may now be eligible for treatment.

Hepatitis C is a viral infection that affects people in many ways. The virus can cause damage to your liver and other medical problems, including making you tired all the time, making it more likely that you will suffer from diabetes and other issues.

Several years ago, the federal government approved a new class of drugs called direct-acting antivirals (DAAs) to treat hepatitis C. These drugs can help most people infected with the hepatitis C virus, regardless of how long they have had the virus or how much damage it has already done. Under the Texas Health and Human Services Commission's previous criteria for approving DAA treatment, only people in the Texas Medicaid program with severe liver damage could receive DAA treatment. The amount of damage to your liver is measured on a scale known as a "fibrosis score."

As of Sept. 1, 2021, the amount of liver damage will not be considered in deciding whether Texas Medicaid recipients can get DAA treatment. **If you have the hepatitis C virus and are in Texas Medicaid, you should talk to your doctor to find out if DAA treatment is right for you. If you were denied DAA treatment in the past, you should ask your doctor if you should apply again for DAA treatment.**

These policy changes are the result of a recent litigation settlement. On Aug. 13, 2020, three Texas residents (the class representatives) sued the Texas Health and Human Services Commission (the defendant) in a class action lawsuit on behalf of themselves and other Texas Medicaid recipients who have been denied DAA treatment because of their fibrosis scores (the class). **If you have been diagnosed with the hepatitis C virus and are a Texas Medicaid recipient, but have not received DAA treatment, you may be a member of the class.**

YOUR LEGAL RIGHTS IN THIS LAWSUIT

YOU MAY COMMENT ON THE PROPOSED SETTLEMENT AGREEMENT.

You have the right to comment on, object to or support the proposed settlement agreement. The court will decide whether to approve or reject the proposed settlement agreement after a final hearing on Nov. 22, 2021, at 1 p.m. Central time.

YOU MAY DO NOTHING.

If you do nothing, then you will stay in the class. If you and your doctor decide treatment with DAAs is right for you, you will not be turned down by Texas Medicaid because of your fibrosis score.

FREQUENTLY ASKED QUESTIONS

1. Why did I get this notice?

Because you may be someone: (a) whose medical records indicate that you are infected with the hepatitis C virus; (b) who is enrolled in Texas Medicaid; (c) who may be eligible for treatment with DAAs; and (d) who has not yet received DAA treatment. If you meet these four factors, you may be a member of the class.

2. What is this lawsuit about?

Three people on Texas Medicaid brought a lawsuit against the Texas Health and Human Services Commission, which runs the Texas Medicaid program. The plaintiffs argued that the commission's fibrosis score requirement for approving treatment with DAAs was keeping some people in the Medicaid program from getting necessary medical treatment for their hepatitis C infection.

Before a judge could decide the claims in this lawsuit, the parties reached an agreement that, starting on Sept. 1, 2021, a Texas Medicaid member's fibrosis score will no longer be considered for approving treatment with DAAs.

3. What is a class action and who is involved?

In a class action lawsuit, one or more people (the class representatives) sue on behalf of other people who have similar claims. The people together are called the class or class members. All of the class members together are called the plaintiffs. One court then resolves the issues for everyone in the class.

In this case, Dorena Coleman, Curtis Jackson and Federico Perez are people with hepatitis C who are enrolled in Texas Medicaid. They are the class representatives in this case. The defendants are Cecile Erwin Young, executive commissioner; Victoria Ford, chief policy and regulatory officer; Maurice McCreary Jr., chief operating officer; and Michelle Alletto, chief program and services officer — in their official capacities with the Texas Health and Human Services Commission. The commission runs the Medicaid program in Texas.

4. What has happened in this case so far?

After the lawsuit was filed, the parties began to discuss whether this case could be settled. Based on those discussions, the parties agreed to settle the case.

5. What does the proposed settlement agreement say?

The bullet points below tell you the main points of the proposed settlement agreement. The judge will hold a hearing on the agreement. The judge has to approve the agreement before it can take effect. You can read the whole agreement online at www.texasmedicaidhepc.com.

- No Fibrosis Score Requirement for Treatment with DAAs

Starting on Sept. 1, 2021, Texas' Prior Authorization Criteria and Policy for DAA treatment will not include restrictions for access to DAA treatments based on a Medicaid recipient's fibrosis score. While the Texas Health and Human Services Commission has no intention to reinstate these restrictions, it agrees that, for the period from Sept. 1, 2021, through Aug. 31, 2023, it will not reinstate the restrictions. However, if medical standards and guidance around fibrosis scores change, the commission may change its prior authorization criteria based on medical guidance. The commission reserves the right to make changes to the criteria in or order to conform with FDA safety guidelines.

- **Public Documents Regarding DAA Treatment**

The agreement states that the commission will provide the attorneys in this matter with certain public documents having to do with DAA treatment of hepatitis C virus for a period of two years, starting Dec. 1, 2021.

- **Provider Education**

The agreement states that the commission will send out notices on the updated hepatitis C coverage criteria to the managed care organization medical director contacts as well as key provider associations. Those provider associations will be requested to send that information to their networks and memberships. Furthermore, the commission will also work in partnership with the Texas Department of State Health Services to leverage their contacts with community partners to share information about the updated coverage criteria.

- **Attorney's Fees**

The agreement states that the commission will pay \$500,000 in attorney's fees to the attorneys representing the class. The judge will need to approve of this amount.

6. How do I respond to the proposed settlement agreement?

You may comment on, object to or support the proposed settlement agreement.

The judge will hold a final hearing on the proposed settlement agreement on Nov. 22, 2021, at 1 p.m. Central time. You do not have to attend the hearing, but you can if you want to. You can send comments to the judge instead of coming to the hearing. Comments must be in writing. You must send them to the judge before the hearing. You may attend the hearing, and you may bring a legal representative, if you wish, at your own expense. You must send the judge a letter before the hearing if you want the judge to allow you to speak at the hearing. Any letters must be sent to:

United States District Court for the Western District of Texas, Case No. 1:20-cv-00847-RP
U.S. District Clerk's Office
501 W. Fifth St., Suite 1100
Austin, TX 78701

If you choose to send written comments or come to the hearing, the judge must get your letter no later than Oct. 15, 2021. You also have to send a copy of your letter to all of the attorneys involved in this case. Mail copies of your letter to:

Attorneys for the plaintiffs			Attorneys for the defendants
Jeff Edwards Scott Medlock Michael Singley David James 1101 E. 11th St. Austin, TX 78702	Kevin Costello Center for Health Law & Policy Innovation Harvard Law School 1585 Massachusetts Ave. Cambridge, MA 02138	David C. Tolley Amanda Barnett Avery E. Borreliz Latham & Watkins LLP 200 Clarendon St., 27th Floor Boston, MA 02116	Michael R. Abrams Rola Daaboul Office of the Texas Attorney General P.O. Box 12548 Austin, TX 78711

7. How can I get more information?

For more information, go to www.texasmedicaidhepc.com.