

When the 82nd Texas Legislature convened on Jan. 11, 2011, Texas hospitals knew they were in for a fight. The state was facing an unprecedented budget shortfall of \$27 billion, and legislators wanted to balance the budget within available revenue. Health care – and Medicaid in particular – was a clear target early on. More than one-third of the funding shortfall was attributable to increasing caseloads and the loss of federal stimulus funding in the Texas Medicaid program. Some legislators had other concerns related to Medicaid, including a perceived lack of transparency of local Upper Payment Limit programs and differing payments to similar hospitals.

By the time the Legislature adjourned, Texas Medicaid was transformed.

Hospitals, which already were getting paid 61 percent of their costs, saw an 8 percent reduction in Medicaid inpatient and outpatient hospital funding. This was in addition to the 2 percent reduction implemented in fiscal year 2011. A statewide hospital Standard Dollar Amount was established. Medicaid cost-containment initiatives were put into place, including reducing reimbursement rates for non-emergency visits to the emergency department and elective deliveries prior to 39 weeks of gestation. And Medicaid managed care was expanded statewide.

The expansion of Medicaid managed care posed a new risk for hospitals: the potential loss of hospital UPL program payments, which provide about \$3 billion in supplemental payments to qualified Medicaid hospitals annually. The federal UPL program helps mitigate the shortfall created by the state's reimbursing hospitals less than their actual costs for delivering Medicaid services, but the expansion of Medicaid managed care would reduce UPL funding.

John Hawkins, senior vice president of advocacy and public policy at the Texas Hospital Association, said THA's strategy was to ensure that the state had a mechanism to preserve UPL funding as it expanded Medicaid managed care through a Medicaid 1115 waiver.

"Members of THA's Special Task Force on Medicaid Reform met with representatives from the Texas Health and Human Services Commission throughout the legislative session to discuss the expansion of Medicaid managed care and strategies for mitigating the potential loss of UPL payments," Hawkins said. "Together they determined that a Medicaid 1115 waiver was the tool to do that."

The 2011 Legislature, in its massive Medicaid overhaul known as Senate Bill 7, directed THHSC to pursue the waiver to allow the continuation of the UPL program. On Dec. 12, after months of negotiations and revisions, the Centers for Medicare & Medicaid Services approved the state's Medicaid 1115 waiver.

Funding Preserved – and Transformed

The Medicaid 1115 waiver allows the expansion of risk-based Medicaid managed care to 202 Texas counties statewide. Texas Medicaid covers more than 3 million people, of which nearly 2 million are already in risk-based managed-care programs. The waiver will shift nearly all of the remaining beneficiaries into managed care by March 2012. The state is hoping the move will position Texas Medicaid to absorb the expected 2 million surge in enrollment because of health care reform later in the decade.

"This waiver will allow us to replace an archaic federal funding system with one built around local solutions that reward hospitals for patient care and innovation," Tom Suehs, commissioner of Texas Health and Human Services, said in a statement.

Texas Medicaid costs have grown 170 percent in the last 11 years and now account for about one-quarter of the state's budget.

A Budgetary Life

Hospital UPL Funding Survives Budget Cuts – Thanks to Medicaid 1115 Waiver

By Steve Jacob

Suehs noted the importance of protecting UPL payments in his statement.

"It was critical we maintain those payments for our hospitals, but we also want to make sure we know how those tax dollars are being spent. Our reform plan does both," he said. "Our plan ensures hospitals serving the most uninsured patients and providing the best services will get the most funding."

UPL pays the difference between what Medicaid and what Medicare would pay for the same service. Hospitals rely on this funding because Medicaid rates on average cover about half of the cost of hospital care. The federal government matches Texas UPL funds, which are provided primarily by local hospital districts.

CMS can grant 1115 waivers to states to test Medicaid innovative financing and care delivery programs. The waiver request must not raise costs. Texas' waiver proposal listed several goals, including:

- **Expand the Medicaid HMO model while preserving the state's UPL program;**
- **Establish new quality initiatives for hospitals and state Medicaid HMOs; and**
- **Create Regional Healthcare Partnerships, anchored by public hospitals or counties, to supplement funding for the UPL program.**

Federal and state reforms seek to ensure that UPL dollars are used specifically to provide high-quality care to Medicaid patients and that providers are transparent about how the funds are being spent. UPL funding has been at risk nationally as the federal government attempts to reduce the deficit, but the Texas waiver locks in the program for at least five more years.

Under the waiver, funds will be distributed to hospitals in two ways. First, an uncompensated care fund will pay hospitals based on uncompensated care costs. The payments will be based on costs rather than charges. The fund also will reimburse for uncompensated costs for non-hospital services, such as clinics and pharmacies. This represents new reimbursement.



Preserver for Texas Hospitals

In the first year, hospitals will have transitional funding similar to current UPL payments. In the second year, hospitals will be able to include the non-hospital uncompensated care costs.

Second, a Delivery System Reform Incentive Payment Pool will pay based on care delivery improvements reported by Regional Healthcare Partnerships. DSRIPs will be anchored by public hospitals or an intergovernmental transfer entity that provides the waiver pool funds. The DSRIP payments target several ambitious goals. They seek to enhance health care infrastructure such as graduate medical education, electronic health records and telemedicine. They also are aimed at encouraging patient-centered medical homes, reducing hospital readmissions and hospital-acquired infections, and boosting immunization rates.

Rewarding Collaboration and Innovation

The waiver does more than just preserve funding. It also allows for the restructuring of Texas Medicaid as designed in Senate Bill 7.

“The framework of the waiver envisions transition to a health care delivery system that provides more effective care management, better outcomes and reduced costs, and hospitals support these goals,” said Dan Stultz, M.D., FACP, FACHE, THA president/chief executive officer.

The 142-page Medicaid reform law could save the state \$467 million, according to the Legislative Budget Board. The legislation established the Texas Institute of Health Care Quality and Efficiency to foster innovative and cost-saving health programs. In addition, it created health care collaboratives that allow hospitals, physicians and health plans to work together to lower costs. The state also established a Medicaid and CHIP Quality-Based Payment Advisory Committee to develop incentive programs for physicians, hospitals and nursing homes that reward providers for quality and health outcomes. Other hospital-related components include public reporting of hospital-specific rates of preventable readmissions and complications and the establishment of co-payments for non-emergency visits to emergency departments.

“Statewide standardized reporting will allow hospitals to find and share best practices and improve quality,” Stultz said. “This will help hospitals across the state treat various conditions they see each

and every day in their facilities, including childhood obesity and diabetes.”

According to a THHSC report, the incentive pool “embodies the principles of CMS’ overarching triple aim: improving the experience of care, improving the health of populations and containing costs.”

Texas, which modeled its DSRIP program after California’s, plans to emphasize infrastructure improvements in the early years of the five-year plan, such as technology, workforce and pilot projects that test innovative care models. The emphasis then will shift to improvement measures that focus on population health and clinical improvements.

Texas Hospitals Moving Swiftly

Hospitals statewide have begun exploratory discussions with potential local partners. RHPs must submit their five-year plans by the end of the summer. It is not yet clear how the Medicaid HMOs would fit into the RHPs.

“Many of the operational details still are being worked out, and how the current funding streams transition to the waiver structure are critical issues for hospitals,” Stultz said. “THA will continue to work with THHSC and the legislative leadership to ensure patient access to hospital services in local communities while preserving critical federal supplemental funding under the terms of the waiver.”

Hawkins said hospitals must be innovative in putting together regional partnerships. He said THA will be working with the state to ensure the final waiver rules are as flexible as possible to accommodate hospitals statewide. He pointed out, for example, that there are no governmental hospital entities in the Rio Grande Valley, so those private hospitals will have to partner with other areas of the state and/or local governments.

“It’s important that hospitals work together to make this waiver a success,” Hawkins said. “THA has been working with THHSC since the beginning of the waiver process and will continue to do so to ensure as smooth a transition as possible. Although hospitals may have different perspectives on some of the specific details, ultimately they all should be able to agree that any differences must be worked out so that federal matching funds can be maximized.” ★