November 12, 2020

Cecile Young
Executive Commissioner
Texas Health and Human Services Commission
4900 N. Lamar Blvd.
Austin, TX 78751

Dear Commissioner Young:

We write on behalf of our members, Texas hospitals and health systems, to express our support for the monitoring plan proposed by the Texas Health and Human Services Commission ("HHSC") to collect and assess information on all financing arrangements that generate local funds transferred or certified by governmental entities as the non-federal share of Medicaid supplemental and directed payments.

We applaud HHSC's proactive stance on the important issue of transparency in Medicaid financing. It is important for Texas' Medicaid agency to make an independent and informed evaluation of Texas Medicaid financing strategies, both to ensure compliance with federal law and to put the agency in the best possible position to advocate for Texas' Medicaid policy goals with our federal partners. To ensure HHSC's monitoring plan drives transparency and program integrity while supporting Texas' Medicaid policy goals and program infrastructure, we urge HHSC to consider two consensus recommendations from our members.

*1. HHSC's monitoring plan should not impose additional administrative burdens on local governmental entities that are already complying with LPPF reporting requirements*.

- As part of the proposed monitoring plan, we understand that HHSC will conduct a risk assessment by analyzing several factors, including whether local funds used as the source of the non-federal share are permissible under applicable state and federal law. We note that counties, hospital districts, and cities that administer local provider participation funds ("LPPFs") already provide quarterly information to HHSC. While follow up may, of course, be necessary in cases where responses to these existing reporting requirements are incomplete, we urge HHSC to consider complete responses to the existing LPPF reporting requirements as establishing compliance with state and federal law.

*2. HHSC's monitoring plan should include process requirements to ensure that providers and governmental entities are consulted and have an opportunity to react and discuss before HHSC refuses to receive non-federal share transfers or reports any findings to CMS, formally or informally*.

- It is unclear how HHSC intends to coordinate with providers, counties, and other stakeholders in developing preliminary conclusions regarding the compliance of various Medicaid financing programs (including but not limited to LPPFs) or in reaching out to Centers for Medicare and Medicaid Services ("CMS") for additional guidance on any programs. We respect the need for HHSC to independently evaluate local funding programs, but we are also aware that such programs often involve unique local policy choices. Local stakeholders are likely in the best position to provide clarifying information about their programs.

- Allowing local stakeholders a chance to respond to specific concerns before the agency makes a decision that will affect program viability is the best way to ensure that HHSC's monitoring program balances the need for transparency with robust support for Texas-specific Medicaid solutions.
- Additionally, given the longstanding and important role many of these programs play in local communities, we ask that HHSC establish a process that would allow stakeholders to appeal any monitoring program determinations that adversely affect a program's viability (such as a decision to refer the program to CMS or a decision to stop accepting program IGTs), and ensure that any such determinations will be applied only on a prospective basis (not retrospectively).

We appreciate your work to support Texas hospitals and your willingness to engage with us on these issues. We look forward to continuing to work with HHSC to ensure transparency and program integrity in Texas Medicaid.

Sincerely,

Don Lee
President
Texas Essential Healthcare Partnerships

Richard Schirmer
Vice President of Health Care Policy Analysis
Texas Hospital Association