

Dec. 1, 2021

Dear Members of the Texas Congressional Delegation,

On behalf of our more than 475 member hospitals and health systems, including rural, urban, children's, teaching and specialty hospitals, and private psychiatric facilities, the Texas Hospital Association celebrates passage of coverage provisions in the Build Back Better Act (BBB) by the House. If also approved by the Senate, approximately 771,000 working-age adult Texans who earn too much to qualify for Medicaid but too little to afford commercial health insurance will be able to enroll in free or low-cost coverage in the marketplace through 2025. This will be the first meaningful expansion of comprehensive health coverage for uninsured Texans in roughly a decade and will reduce the number of difficult choices people make about whether to seek medical care due to cost. Our strong concerns about cuts to the disproportionate share hospital program and limits on uncompensated care payments in the underlying bill remain, but the steadfast commitment by many to address the Medicaid coverage gap is greatly appreciated.

We bring to your attention concerns that the broader health care safety net in Texas remains fragile even as we celebrate the coverage expansion passed by the House. Hospitals are gravely concerned about delays in approving directed payment programs (DPPs) that provide critical funding to providers who serve Medicaid enrollees. We write to emphasize the importance of the Centers for Medicare & Medicaid Services continuing to work in earnest with Texas to resolve outstanding concerns affecting these programs.

Two of Texas' longstanding Medicaid payment programs totaling over \$5 billion in annual funding recently expired without any CMS-approved transition program to replace them. Three proposed DPPs that would restore these funds remain pending before CMS. Essential funding to Texas' safety net hospitals has now lapsed, putting at risk access to care for the state's Medicaid enrollees.

**As of Dec. 1, an entire fiscal quarter will conclude with no rate enhancements paid to hospitals on managed Medicaid claims, a loss of nearly \$7 million per day of delay.<sup>1</sup>** Operational complications for hospitals, managed care plans, and the state worsen with every lost day of implementation. Without retroactive approval of DPPs to Sept. 1 as Texas has requested, hospitals will lose rate increases on all services to managed Medicaid enrollees since that date. Even if CMS does approve the DPPs retroactively, managed care plans must then re-process every claim since Sept. 1 to include full payment. This process grows increasingly time consuming the more underpaid claims accumulate. A prolonged delay takes the state deeper into uncharted territory and creates uncertainty as to whether Texas could implement its hospital rate increase at all in state fiscal year (SFY) 2022. *A total loss for the entire program year would be catastrophic.*

Texas hospitals are continuing to provide services to Medicaid patients at a deep discount, assuming full risk that DPPs will eventually be approved. *But they cannot be expected to do so indefinitely.* Safety net hospitals are already beginning to experience financial pressure due to discontinuation of these funds,

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<sup>1</sup> At SFY 2021 Uniform Hospital Rate Increase Program funding levels.

which reduces their flexibility to weather other ongoing fiscal challenges, such as extraordinary COVID-19 related staffing expenses from recent surges. *Furthermore, for the BBB's coverage expansion to provide new marketplace enrollees access to a full array of benefits, there must be a robust network of private and public hospitals willing to participate in Medicaid.* This is because hospitals rely on Medicaid supplemental payments to operate service lines that serve a great number of Medicaid enrollees, such as obstetrics, labor and delivery, and behavioral health. The BBB coverage expansion must work hand-in-hand with DPPs and the 1115 waiver to ensure hospitals can serve anyone who needs care regardless of ability to pay – including 4.9 million current Medicaid enrollees and another roughly 4 million remaining uninsured who will not qualify for any coverage option.

As you may be aware, Texas and CMS have come to agreement on nearly all features of the pending DPPs, including aggregate funding amounts. A sole stumbling block remains: a dispute on the methods Texas uses to finance the non-federal share of Medicaid supplemental payments. The funding mechanism in question, the Local Provider Participation Fund (LPPF), has been used in Texas since 2013 to fund each of the state's hospital supplemental payment programs, all critical to sustaining care for low-income, uninsured Texans. Texas hospitals continue to support the use of LPPFs.

Regardless of whose position prevails as these issues are negotiated and litigated, it is essential that Texas and CMS move off this stumbling block at once, if only on a temporary basis, to avert total loss of Medicaid supplemental hospital payments this year. Hospitals need a short-term resolution that restarts the flow of DPP funds while CMS and Texas negotiate a long-term path forward for Medicaid supplemental payments and the 1115 waiver. **We respectfully ask you to remind CMS of the urgency with which funds to hospitals must restart to maintain current services, and how the lack of clarity on what future programs CMS is willing to approve is harming hospitals' ability to plan.** For those who have already engaged CMS on this issue, Texas hospitals thank you.

Again, THA applauds the hard work of many to deliver a long overdue solution for those in the coverage gap. For the next three years, the BBB will add a key reinforcement to Texas' health care safety net. Texas hospitals value the support and leadership of the delegation, and with your help, the many programs that are linked together to keep Texas' safety net intact will all remain strong. With any questions, please do not hesitate to contact me at [jhawkins@tha.org](mailto:jhawkins@tha.org) or (512) 465-1505.

Sincerely,



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Advocacy & Public Policy  
Texas Hospital Association