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Submitted by email to PFHospitals@hhsc.state.tx.us

Comments on Proposed Rule 21R108 Establishing the Hospital Augmented Reimbursement Program

On behalf of 470 members of the Texas Hospital Association (THA), we appreciate the opportunity to comment in support of establishing 1 TAC §355.8070 concerning the Hospital Augmented Reimbursement Program (HARP) for Medicaid fee-for-service supplemental payments.

Numerous changes to the hospital supplemental payment landscape are imminent, including loss of Delivery System Reform Incentive Payment (DSRIP) funding after September 30, 2021. We applaud the Texas Health and Human Services Commission (HHSC) for taking swift action to create HARP and engaging the hospital industry in program design. Given the uncertainty created by rescission of Texas' 1115 waiver extension, DSRIP termination, and state directed payment programs still pending approval, Texas must work to draw down every available federal dollar into the health care safety net.

HARP will increase financial stability for hospitals transitioning away from DSRIP. To that end, THA supports granting hospitals of all ownership types eligibility to participate in HARP. Originally, HARP was to be limited to publicly owned and operated hospitals with privately owned hospitals incorporated later. We thank HHSC for pivoting to include all hospitals in modeling and rulemaking, opening the door for private hospitals to participate earlier than first conceived.

The preamble of the proposed rule indicates multiple state plan amendment submissions may occur on varied timelines. HHSC's authorization to make payments to hospitals of a particular ownership type relies on Centers for Medicare and Medicaid Services (CMS) approval of the state plan amendment on which those hospitals appear. We urge HHSC to pursue simultaneous approval of the program for all ownership types, prioritize all state plan amendments equally in negotiations, and assertively support the state's proposed method of finance for non-government owned hospital participants. However, in the event CMS indicates not all state plan amendments can progress concurrently, we believe it is prudent to move forward with the program in whatever form can achieve timely approval.

Hospitals support the inpatient and outpatient payment methodologies described in the proposed rule, as well as the proposed reconciliation process and payment schedule. In the interest of potentially expediting CMS approval for private hospitals, we offer an edit for consideration that would proportionally reduce payments within each calculation for hospitals that share the same sponsoring governmental entity in the event less than the full non-federal share is transferred, rather than applying

reductions to individual hospitals. This edit would also amend the rule in order not to arbitrarily limit private hospitals to a single source of intergovernmental transfer.

§355.8070 (e)(2) Non-federal share of program payments

Current:

(e)(2)(B) A hospital under this subsection must designate a single local governmental entity to provide the non-federal share of the payment through a method determined by HHSC. If the single local governmental entity transfers less than the full non-federal share of a hospital's payment amount calculated in any paragraph under this subchapter, HHSC will recalculate that specific hospital's payment based on the amount of the non-federal share actually transferred.

Proposed revision:

*§355.8070 (e)(2)(B) A hospital under this subsection must designate **one or more sponsoring** ~~a single local~~ governmental ~~entity~~ **entities** to provide the non-federal share of the payment through a method determined by HHSC.*

- (i) If ~~the single a local~~ a sponsoring governmental entity transfers **the full non-federal share of the payment amounts calculated in any paragraph under this subsection for all hospitals that designated that entity, each such hospital will receive the full payment amount;***
- (ii) If ~~the local~~ a sponsoring governmental entity transfers less than the full non-federal share of the payment amounts calculated in any paragraph under this ~~subchapter~~ **subsection for all hospitals that designated that sponsoring governmental entity, HHSC will apply a percentage reduction to each such hospital's payment amount based on the amount of the non-federal share actually transferred.***

The example above references private hospital payments, but may also be applicable to private IMDs.

We appreciate HHSC's efforts to establish HARP and share the agency's goal to achieve timely approval of the program. With questions, please contact Anna Stelter at astelter@tha.org.

Kind regards,



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