Texas Essential
Healthcare Partnerships

August 30, 2021

Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
200 Independence Ave. SW
Washington, DC 20201

Re: Texas Healthcare Transformation and Quality Improvement Program Extension Application

To Whom it May Concern:

We are writing on behalf of health care systems operating hospitals across the state of Texas, providing access to high quality care for Texas' Medicaid beneficiaries. Texas Essential Healthcare Partnerships, or TEHP, is an advocacy and education non-profit organization created by Texas hospitals to focus on issues related to health care access and financing in the state of Texas. TEHP keeps its members informed of issues impacting Medicaid coverage and reimbursement, including, but not limited to, changes in legislation and updates on guidance from the Texas Health and Human Services Commission (HHSC) and the Centers for Medicare & Medicaid Services (CMS). TEHP and its member hospitals strongly support policies that strengthen the health care safety net, and improve access to, and the availability, delivery, efficiency and funding of, quality health care services within the state of Texas. TEHP has 12 member health systems with hospitals in 42 states and the District of Columbia. TEHP members operate 131 hospitals in Texas.

As members of the state's critical safety net, we support CMS approval of extension of the Texas Healthcare Transformation and Quality Improvement Program (THTQIP) section 1115 demonstration waiver. An extension of the Texas 1115 waiver is crucial to the solvency of the Texas health care safety net and the Medicaid beneficiaries that rely on the state's Medicaid providers.

Texas Health Care Safety Net

Texas' section 1115 waiver has transformed the Texas health care safety net system and helped Texas providers improve and expand access to care for our majority-minority communities. In particular, the supplemental funding programs such as the Uncompensated Care Pool, Delivery System Reform Incentive Payment program and managed care directed payments have allowed Texas Medicaid providers to improve equitable access to care for the Medicaid and uninsured populations in many ways.

It cannot be stressed enough that understanding the importance and the impact of the programs CMS approves requires understanding the availability of access points and the demographic profile of Texas' communities. For example, the only major public hospital along the entire Texas-Mexico border is in El Paso, at the far northwest tip of that 1,250 mile border. As a result, the safety net for the region is fully served by a network of non-governmental hospital and rural health providers. Recent census data indicates that at least one county along the border - Cameron County - is 90 percent Hispanic. And, the per capita income in the last 12 months is $17,430. As a result, 25.5 percent of the population—more than double the national average—in Cameron County is challenged by extreme poverty. Because of these high levels of poverty in Cameron County, 30 percent of the population 65 years or younger is uninsured, and 27 percent of our population receives Medicaid.

The resolve of these safety providers and vulnerable populations continues to be tested as a result of the ongoing COVID-19 public health emergency. Improving equitable access to high quality care depends on CMS support for a THTQIP extension.

Directed Payment Programs

As you know, Medicaid managed care provides for the delivery of Medicaid health benefits and additional services through contracted arrangements between state Medicaid agencies and managed care organizations (MCOs) that accept a set per member per month payment for these services. The agency's Medicaid Managed Care Final Rule introduced the possibility for special contract provisions in which states may direct MCOs to make payments to certain Medicaid providers, i.e. directed payments or DPPs, which are intended to implement value-based purchasing, delivery system reform models, and provider payment initiatives. To date, at least 34 states have received CMS approval for at least one directed payment arrangement, including two directed payment arrangements in Texas.

Among other requirements set forth in the Medicaid managed care regulations, states seeking approval of a directed payment arrangement must submit a template written request to CMS for review and approval. States must receive CMS approval before implementing a DPP. Texas was an early adopter of directed payment arrangements and is currently seeking approval of several new DPPs. The ongoing implementation of directed payment programs is essential to maintaining the solvency of Texas' health care safety net, particularly given phase out of Texas' Delivery System Reform Incentive Payment Program (DSRIP). As set forth in Texas' DSRIP transition plan, TEHP supports the State's intention to implement new directed payment programs that will (1) build on DSRIP successes; (2) ensure the maintenance and sustainability of care delivery for hospitals, skilled nursing facilities, physicians, rural health clinics, and behavioral health providers that serve Texas' most vulnerable populations; and (3) further improve quality, equity and innovation in care delivery and reward collaboration and partnerships among local providers.

By any measure, CMS approval of hospital directed payment arrangements is imperative to the continued operation of safety net providers across the state of Texas. Even with existing programs that are intended to offset providers' costs associated with providing care to Texas' vulnerable populations, Texas faces significant unreimbursed costs related to services provided to Medicaid and the uninsured. Directed payments enable our providers to continue to meet the needs of Texas' most vulnerable patients, providing access to high quality, comprehensive care.

Budget Neutrality

While the budget neutrality requirement is longstanding and respected CMS policy, State Medicaid Director Letter (SMDL) 18-009, published on August 22, 2018, introduced new policies regarding budget neutrality "rebasing" that may have a significant impact on states, like Texas, seeking waiver extensions.

Under the THTQIP extension request, the state proposes that CMS and Texas will rebase the budget neutrality per member per month (PMPM) amount that will be effective in federal fiscal year (FFY) 2023 (October 1, 2022-September 30, 2023) using FFY 2022 (October 1, 2021-September 30, 2022) data to establish the rebased without-waiver (WOW) PMPMs for use beginning in FFY 2023. This rebasing timeline, included in the extension application submitted in November 2020, allows for the rebasing calculation to account for the loss of DSRIP funds and annualized amounts of directed payments made in FFY 2022.

We recognize that CMS has procedural concerns regarding the January 2021 approval of the Texas section 1115 waiver. Additionally, approval of directed payment arrangements for FFY 2022 is still pending. However, the January 2021 extension of the waiver included the above accommodation on the budget neutrality rebasing, providing the state with additional funding and time to prepare for the budget neutrality rebasing adjustments. Regardless of which and how many directed payment arrangements are ultimately implemented in FY 2022, CMS must consider and address the challenges associated with implementing the budget neutrality rebasing as required under the 2018 guidance. To move forward without a rebasing accommodation would be devastating for Texas Medicaid, for Texas safety net providers, and for the program beneficiaries.

As part of the renewal, we strongly urge CMS to approve the budget neutrality rebasing timeline as proposed by the state. If CMS cannot approve the budget neutrality rebasing timeline as proposed, CMS must include at least some accommodation in the budget neutrality rebasing requirement. To enforce the rebasing requirement as set forth in the 2018 guidance in the first year of the waiver extension will result in significant and unsustainable cuts to the funds available through the section 1115 waiver. Texas' Medicaid and safety net institutions continue to incur the financial strain of the COVID-19 pandemic. Cuts to waiver funding, particularly supplemental payments like the uncompensated care pool and directed payment arrangements, will be devastating for Texas' safety net providers and the beneficiaries that rely on those providers.

Uncompensated Care Funding

An extension of the Texas section 1115 waiver with a fully funded uncompensated care pool is essential to maintaining the stability of the safety net in Texas. Texas has on average $6.6 billion in uncompensated health care each year. Regardless of potential coverage expansion, there will still be a need for uncompensated care consistent with our mission to provide care for the poor and vulnerable. Notably, it is projected that the expansion of Medicaid would only cover only one fifth of Texas's uninsured population leaving a significant need for this supplemental program UC funding.

We greatly appreciate your willingness to continue working with HHSC to support the long term sustainability of the Texas health care safety net. We stand ready to be of assistance and would welcome the opportunity to meet with you and discuss these proposals in greater detail. If you have any questions, please feel free to contact me.

Sincerely,

Donald Lee
President
TEHP

Medicaid.gov
Keeping America Healthy

Thank you for your comment. It has been recorded.

Return to Demonstration details

Return State Waiver List