May 12, 2021

The Honorable Greg Abbott
Office of the Governor
P.O. Box 12428
Austin, Texas 78711-2428

Dear Governor Abbott:

On behalf of the hospitals, health systems and health care providers we collectively represent, we request your support of two key priorities for the potential negotiations around Texas' Medicaid 1115 Waiver extension. As you know, the Centers for Medicare & Medicaid Services recently rescinded Texas' 10-year Medicaid 1115 Waiver extension that it approved in January. Texas hospitals truly appreciate your leadership to secure a waiver extension that was carefully tailored to meet the needs of the health care safety net and Texas patients. You negotiated and secured two key items in the January waiver extension that determine providers' ability to deliver quality health care services: a favorable budget neutrality calculation and strong uncompensated care pools. You well know that the stability of Texas' health care safety net hinges on these items, and we urge the state to prioritize them again in potential future waiver extension negotiations.

While the current waiver and its existing UC pool remain intact through Sept. 30, 2022, the waiver extension rescission hurls the state at a "budget neutrality" or fiscal cliff that is severe and imminent. Without the waiver extension, the funds available to Texas in any future waiver—regardless of whether it includes any Medicaid expansion components—are severely limited. Short of the technical adjustments from the extension, any new waiver and its associated funding would be wholly insufficient to support the 4.6 million Medicaid beneficiaries and 5 million uninsured Texans that rely on our health care safety net. In addition, Texas is committed to maintaining its uncompensated care pools as an essential part of the safety net. Assuming Texas resubmits its previous extension request, Texas hospitals urge support of the following priorities.

1. **Budget Neutrality Determinations: The budget neutrality determinations in any future waiver extension must be the same as or better than what CMS approved in January 2021.**

    a. Texas sought and received the necessary budget neutrality room to sustain needed programs in the January extension. An inadequate budget neutrality determination threatens to significantly reduce the overall available funding for Texas' new waiver extension period and hinder Texas' ability to maintain its current Medicaid program, services for the uninsured and payment programs to offset costs providers incur for treating underinsured and uninsured individuals.
    b. Without adequate budget neutrality room, the state's ability to transition the Delivery System Reform Incentive Payment program and improve care quality with new directed payment programs would be significantly limited. The Texas Health and Human Services Commission

currently is working with CMS to approve and implement several new DPPs through Medicaid managed care. These new payments will provide safety net providers, particularly rural and behavioral health providers, with invaluable sources of supplemental funds to improve care quality and offset looming losses from the scheduled DSRIP transition. The state only has budget neutrality room under the current waiver to fund the programs for one year. A budget neutrality rebasing that cuts funds available for these new programs just as they are getting off the ground would result in the "fiscal cliff" that would have serious implications for providers and patients.

2. **Strong Uncompensated Care Pools: Texas needs continued funding for the existing uncompensated care pool as well as new funding for the new UC pool for community mental health centers and public health providers that was created in the January 2021 extension.**

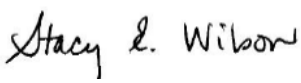
    a. Even if Texas were to expand Medicaid eligibility, Texas providers would continue to incur significant UC costs. Expansion would cover about 1.2 million more Texans, leaving the remaining 3.8 million still reliant on indigent care services that the UC funding helps offset the cost of.
    b. Limiting or eliminating UC pools hurts patients' access to care and the safety net providers that are required by the Emergency Medical Treatment and Labor Act to provide emergency care for anyone who seeks it, regardless of their ability to pay. Even after funding from the waiver and other supplemental payment programs were applied, Texas hospitals incurred more than $4.6 billion in UC costs in 2020 alone.

Texas hospitals have supported and led efforts to address the high number of uninsured in Texas. Coverage expansion alone is insufficient to meet the unique health care needs of a state as demographically diverse and fast growing as Texas. While Texas hospitals believe we need both coverage expansion and a strong waiver, the waiver extension provided stability for an essential component of Texas' health care safety net.

We look forward to continuing our close work to address the waiver extension rescission and appreciate your leadership on this issue. A clear process going forward is critical to providers' ability to plan for the future and ensure access to care. Thank you for your work to protect the health of all Texans.

Sincerely,

Ted Shaw
President/CEO
Texas Hospital Association



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