October 1, 2021

Mr. Daniel Tsai
Deputy Administrator and Director of Medicaid and CHIP Services
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Ave. SW
Washington, DC 20201
Daniel.tsai@cms.hhs.gov

Dear Director Tsai:

On behalf of our memberships, we write to request the Centers for Medicare and Medicaid Services (CMS) grant swift approval to programs that will keep Texas' health care safety net funded for FY 2022.

While you indicated in your letter dated August 13, 2021 that CMS was not prepared to approve Texas' proposed suite of five state-directed payment programs, you also presented options to sustain critical near-term funding for Texas' health care delivery system while CMS and the Texas Health and Human Services Commission (HHSC) work toward resolving CMS's concerns. We thank you for presenting alternatives that will temporarily fund Texas' safety net during an extended negotiation on the state-directed payment programs. Further, we are pleased that Texas has since agreed to CMS's offer to extend the Delivery System Reform Incentive Payment (DSRIP) program for an additional year and renew the Uniform Hospital Rate Increase Program (UHRIP) for one year at SFY 2021 rates.

However, Texas' acceptance now awaits CMS action at a time of urgency for hospitals: As of September 1, 2021, the state's authority to direct UHRIP payments expired, and under the present terms of the existing section 1115 waiver, Texas was obligated to terminate its DSRIP pool on September 30, 2021.

We request CMS promptly take the following actions to permit Texas to implement programs CMS previously indicated would be acceptable for SFY 2022:

- Immediately approve a one-year, $3.3 billion continuation of UHRIP at SFY 2021 rates upon receipt of a modified preprint;
- As soon as practical after fulfilling public notice and comment requirements, approve a waiver amendment to extend DSRIP in the amount of $2.49 billion for DY 11. Work collaboratively with

Texas to select new health equity measurements that will be reasonable to implement in a short time frame, as 20% of DY 11 DSRIP payments will be tied to these new measures; and

- Continue discussions to achieve final approval of the pending state-directed payment programs, including acknowledging the historically approved, legal, and absolutely essential financing mechanisms like local provider participation funds used here in Texas and elsewhere around the nation.

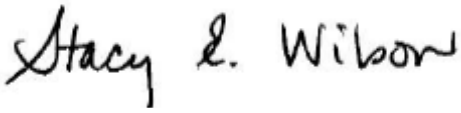
Public confirmation that CMS agrees to the approach HHSC described in its Sept. 7, 2021 letter, which we have summarized above, would provide needed reassurance to hospitals. Hospitals must be able to plan for the year ahead with certainty that Medicaid payments will occur timely. Their ability to keep serving Medicaid enrollees ought not be strained by further delays.

We sincerely appreciate CMS and HHSC's willingness to collaborate on long-term solutions to transition DSRIP and improve the state's Medicaid program, while ensuring gaps in critical safety net funding are resolved quickly. With your approval of Texas' temporary programs, health care providers can continue to carry out their mission to care for the state's most vulnerable populations while CMS and HHSC chart a path forward. If you have any questions, please feel free to contact John Hawkins at the Texas Hospital Association at 512-465-1000.

Kind regards,

Ted Shaw
President/CEO
Texas Hospital Association

Maureen Milligan
President/CEO
Teaching Hospitals of Texas



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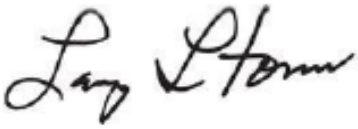

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