Texas Hospital Association

Losing Texas’ Waiver Extension Destabilizes the Health Care Safety Net

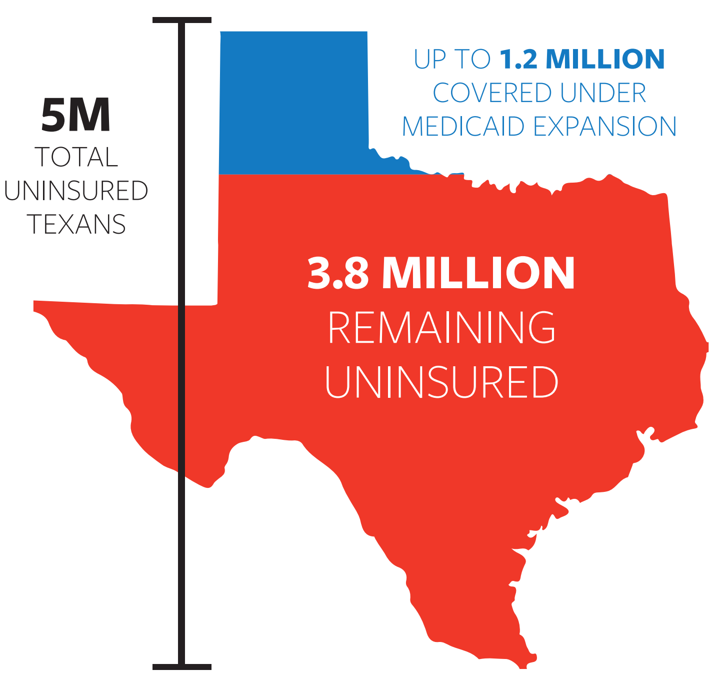
The Centers for Medicare & Medicaid Services on April 16 rescinded the 10-year extension of Texas’ Medicaid 1115 Waiver that the previous administration approved in January. While CMS stated that it rescinded Texas’ waiver extension because it had not complied with certain emergency public notice requirements, some view the waiver rescission as a path to force Medicaid expansion in Texas. Hospitals disagree with this approach and clarify that:

1. **The waiver extension and Medicaid expansion are not mutually exclusive.**
2. **Loss of the waiver extension will have devastating consequences for Texas’ health care safety net and patients’ access to care.**

1115 =

While current waiver’s uncompensated care pool and managed care authority remain in effect through Sept. 30, 2022, the rescission jeopardizes about **$32 billion in new funding and about $10 billion in additional available federal financial support.** This funding, amid the ongoing pandemic, is essential to transition the Delivery System Reform Incentive Payment program and stabilize the health care safety net for the millions of Texans who rely upon it each day.

The Waiver and Coverage Expansion Should Work Together



The uncompensated care pool is the foundation on which health care services for the uninsured are delivered in Texas. Coverage expansion alone cannot meet the needs of Texas’ entire uninsured population. Hospitals support coverage expansion and drawing down the federal dollars available. **However, only about**

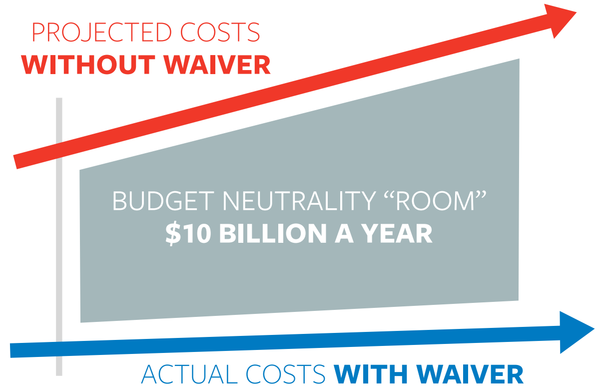
ONE IN FIVE UNINSURED TEXANS

would be covered if the state expanded Medicaid eligibility. The remainder would not qualify for Medicaid and still will seek care often at hospitals, where federal law requires hospitals to provide emergency care to those seeking it, regardless of their ability to pay. A strong UC pool is needed on an ongoing basis to help offset some of the cost providers will continue to incur for delivering unreimbursed care to Texans without health insurance.

Loss of the Waiver Extension Hinders Access to Care

Millions of vulnerable Texans rely on the health care safety net. From routine health care services to chronic disease management to behavioral health and public health support to specialized, life-saving care, the waiver extension would have supported critical infrastructure in communities across the state. The loss of Texas’ waiver extension cannot be understated.

Budget Certainty. The extension preserved about $10 billion in access to federal funding known as budget neutrality "room," or savings generated under the existing waiver that otherwise would have been lost had HHSC pursued a new waiver instead of an extension. Preserving the existing budget neutrality room gave the state certainty in the amount it could spend going forward to expand existing supplemental payment programs and develop new directed payment programs.



Loss of the waiver extension now puts Texas back in danger of facing a budget neutrality "cliff." Under budget neutrality, states cannot spend more with a waiver than they would without one. Based on CMS guidance, the savings Texas has generated by spending under its federal budget neutrality cap can be carried forward continuously in an existing waiver but would be lost under a new waiver. If the state pursues a new waiver, it likely will lose the $10 billion in budget neutrality room associated with the current waiver. This funding loss hinders the state's ability to ensure a stable health care safety net and access to timely care for millions of Texans.

New UC Pool. A wide range of health care providers, beyond Texas hospitals, provide care for the uninsured. Local public health providers and community mental health centers would have received about $5 billion over the life of the extension through a new UC pool to offset uncompensated care costs for providing behavioral health services, immunizations, chronic disease prevention and other preventive and public health services.

DSRIP Transition. While DSRIP was a success, CMS was clear that it would not be renewed. *DSRIP funding ends Sept. 30, 2021.* Texas developed several new directed payment programs that would build DSRIP successes and learnings into Medicaid managed care. Without the waiver extension, the state does not have the funding to transition DSRIP.

Directed Payment Programs. In addition to helping transition DSRIP, HHSC was working with CMS for approval of several new DPPs, set to begin Sept. 1, 2021, to help stabilize the health care safety net through the pandemic and beyond. Expenditure authority for and program size of the DPPs was tied in part to the budget neutrality room afforded under the extension. The extension would have carried forward existing funds and allowed new spending to improve care quality and patients' access to services.

- **Comprehensive Hospital Increased Reimbursement Program: $5 billion for hospitals annually**
- **Texas Incentives for Physicians and Professional Services: $600 million for physician group practices annually**
- **Rural Access to Primary and Preventive Services: $19 million for rural health clinics annually**
- **Ambulance Average Commercial Reimbursement: $150 million ambulance providers annually**
- **Behavioral Health Services: $166 million for community mental health centers annually**

Next Steps

Texas hospitals are working with the state to determine the ongoing impact of the waiver rescission and identify next steps. Hospitals will continue to support a coverage expansion option for low wage working Texans. However, a UC pool and a safety net program that pay providers closer to the cost of providing care will also continue to be a necessity. Funding for the necessary existing UC pool and the state's managed care authority expire Sept. 30, 2022. It is now unclear how, whether or when the UC pool will be continued or sized. HHSC will need to negotiate a new waiver to continue UC funding and Medicaid managed care, which can take months or even years. Conversely, the state potentially could revert to the former Upper Payment Limit methodology to help offset some of providers' UC costs should the state opt to not seek a new waiver or continue Medicaid managed care. Regardless of the decision, hospitals are committed to providing the best quality care to all patients and encourages a thoughtful discussion to ensure the needs of Texas' growing population will be met.

Visit **www.tha.org/waiver** for additional information | | 1108 Lavaca, Austin TX, 78701-2180