August XX, 2021

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| The Honorable Xavier Becerra Secretary of Health and Human Services U.S. Department of Health and Human Services 200 Independence Avenue, S.W. Washington, DC 20201 | The Honorable Chiquita Brooks-LaSureAdministratorCenters for Medicare & Medicaid Services200 Independence Avenue, S.W., Room 445-GWashington, DC 20201 |
| Daniel TsaiDeputy Administrator and Director of the Center for Medicaid and CHIP Services Centers for Medicare & Medicaid ServicesDepartment of Health and Human Services7500 Security BoulevardBaltimore, MD 21244 |  |

Dear Secretary Becerra, Administrator Brooks-LaSure, and Deputy Administrator Tsai:

On behalf of [hospital/health system name] and the patients we serve, we write to request your approval of Texas’ application to extend the Texas Healthcare Transformation and Quality Improvement Program 1115 Demonstration Waiver for 10 years and under the same terms and conditions as the Centers for Medicare & Medicaid Services approved in January 2021. We thank our federal partners for ongoing collaboration to sustain the state’s successful demonstration and ensure Texas’ Medicaid program remains strong.

The waiver is a fundamental element of Texas’ health care infrastructure. For the past 18 months, we have fought the COVID-19 pandemic—diagnosing, triaging, treating and vaccinating our community. While we suffered devastating losses, we also have successfully healed the sick and saved countless lives. We cannot underestimate the role of a strong health care infrastructure both in times of crisis and for a healthy, thriving population. We encourage the federal government to work with Texas to continue policies and funding that will reinforce the state’s health care safety net.

In the last year of the current waiver, CMS has offered Texas a one-year, $2.49 billion extension of the Delivery System Reform Incentive Payment program and two options to secure approval of state-directed payment programs, which are key components of the state’s DSRIP transition plan. When DSRIP terminates, a waiver extension must afford Texas the budgetary room to execute its DSRIP transition with minimal disruption to the safety net. We hope CMS will collaborate with Texas to achieve timely approval of DPPs and avoid destabilizing gaps and cliffs in funding that threaten providers’ ability to continue serving Medicaid enrollees.

We urge CMS to work with Texas to reapprove its waiver extension application and achieve the following outcomes.

1. **Equivalent or Better Budget Neutrality Determination: The budget neutrality determinations in any future waiver extension must be no less than what the Centers for Medicare & Medicaid Services approved in January 2021.**
	1. 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. This will 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.
	2. Without adequate budget neutrality room, the state’s ability to transition DSRIP and improve care quality with new DPPs would be significantly limited. The amount of total funding for DPPs and the length of time that funding is approved depends on the budget neutrality agreement reached between Texas and the federal government. A budget neutrality rebasing that reduces funds available for these new programs just as they are getting off the ground, which could occur as soon as state fiscal year 2022, would create a “fiscal cliff” with serious implications for providers and patients.
	3. Providers’ ability to plan beyond the next year is impaired without certainty that funding is protected for Texas’ eventual DPPs and other payment pools. Texas needs a budget neutrality determination at least equal to the previously approved extension to ensure DPPs and waiver pools can operate predictably into the future.
2. **A Strong Hospital Uncompensated Care Pool: Texas needs continued funding for the existing hospital uncompensated care pool.**
	1. If Texas were to expand Medicaid eligibility, Texas providers still would continue to incur significant uncompensated care costs. Expansion would cover about 1.2 million of Texas’ 5 million uninsured, leaving the remaining 3.8 million still reliant on indigent care services for which UC funding helps offset the cost.
	2. 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, Texas hospitals incurred more than $4.6 billion in UC costs in 2020 alone.
3. **Reinforce the Behavioral Health Safety Net: Urgent action is needed to preserve access to safety net mental health and substance use services.**
	1. With significant funding loss on the horizon for community mental health providers, patients’ access to medically necessary behavioral health care is in jeopardy. The behavioral health safety net stands to lose $330 million a year in federal funds when DSRIP expires.
	2. The waiver extension application includes the public health providers – charity care pool, worth $500 million a year, to offset unreimbursed costs community mental health centers and local health departments incur caring for people with serious mental illness and substance use disorders without any form of third-party payment.
	3. We also urge CMS to work with Texas to establish the directed payment program for behavioral health services, which as previously proposed would provide $166 million annually in payments to community mental health providers serving Medicaid clients.
	4. If these funds are not preserved, Medicaid enrollees and uninsured patients with serious behavioral health conditions may lose access to community-based services, increasing reliance on clinically inappropriate care settings such as hospital emergency departments.
4. **Comprehensive Health Care Coverage: Enroll more Texans in a comprehensive health coverage option and reduce the number of uninsured.**
	1. Since the inception of the Affordable Care Act, Texas hospitals have supported and led efforts to address Texas’ high number of uninsured residents, either through Medicaid expansion or subsidies for enrollment in the private insurance marketplace.
	2. Comprehensive coverage ensures access for low wage working Texans and their families to preventive, primary and specialty care as well as chronic disease management services. With better access to community-based services, more Texans will be healthier and productive, which supports the state economy. Hospital care is reserved for the sickest patients.
	3. Texas needs both coverage expansion **and** a strong waiver to meet the unique health care needs of a growing population. Texas is too large and demographically diverse for a one-size-fits-all health care approach. A 2018 report by the Urban Institute estimated that 1.6 million or 34% of Texas’ uninsured population were noncitizens. These individuals would not qualify for Medicaid or subsidized marketplace insurance unless they are lawfully present and meet special qualifying conditions.
	4. The waiver extension provided predictability and resources needed to sustain providers delivering care to Medicaid clients as well as Texans who would remain uninsured even under a robust coverage expansion.

We appreciate CMS’s consideration of waiver extension priorities that will ensure a high quality, sustainable health safety net. Prompt reapproval of Texas’ waiver extension application, with an equivalent or better budget neutrality calculation and strong uncompensated care pools, is critical to providers’ ability to plan for the future and ensure access to care. Thank you again for your favorable consideration of Texas’ waiver extension request and commitment to protecting the health of all Texans.

Sincerely,

Name

Title

Hospital/health system name