

February 8, 2024

To the Honorable Members of the Texas Congressional Delegation:

On behalf of our more-than 450 member hospitals and health systems, the Texas Hospital Association is requesting assistance on several time-sensitive issues before Congress. We recognize the many national and international emergencies currently demanding attention from our nation's leaders; however, the issues detailed below are critically important to the health care infrastructure in Texas and access to care for patients across the state.

(1) Support safety-net hospitals in Texas by eliminating \$16 billion in cuts to Medicaid Disproportionate Share Hospitals (DSH).

The Medicaid DSH program provides essential financial assistance to hospitals that care for our state's most vulnerable populations — children, impoverished, disabled and elderly. Congress reduced Medicaid DSH payments in the Affordable Care Act, reasoning that hospitals would care for fewer uninsured patients as health coverage expanded. However, those coverage gains have not yet been fully realized, and Texas leads the nation in the number of uninsured.

Without action by Congress, payments to Texas safety-net hospitals will be cut by \$800 million in fiscal year (FY) 2024 alone, and by more than \$3 billion over the next four fiscal years. District-specific impact information can be found at www.tha.org/DSHcuts. Loss of these payments would be devastating to Texas hospitals and the patients we serve.

New information from the Centers for Medicare & Medicaid Services (CMS) heightens the urgency to eliminate these cuts. As you know, Congress delayed the Medicaid DSH cuts several times since September, and they are now set to take effect on March 9. Texas hospitals appreciate the most recent short-term relief. However, CMS has notified the Texas Health and Human Services Commission (HHSC) that the full reductions for FY 2024 are being assumed and implemented throughout the year unless Congress enacts a delay for the *entire* fiscal year. Texas' federal DSH allotment has already been reduced even though Congress hasn't yet made cuts. Without certainty from Congress, Texas hospitals are already suffering reductions. Full elimination – or at minimum, a postponement – that lasts the entire fiscal year is urgently needed, no later than June, for Texas HHSC to be able to make safety-net hospitals whole on FY 2024 DSH payments. This ensures uninsured and low-income Medicaid-enrolled patients can continue to access care.

(2) Oppose site-neutral payment cuts, which would reduce access to critical health care services, especially in rural and other underserved communities.

Fundamental differences exist between patient care delivered by hospital outpatient departments (HOPDs) compared to other settings. HOPDs treat more patients from medically

underserved populations who tend to be sicker and more complex to care for than Medicare patients treated in independent physician offices and ambulatory surgical centers. HOPDs – such as hospital-owned clinics that provide complex cancer, pediatric and mental health services – should not be paid the same Medicare rate as a stand-alone physician office.

In rural areas, Medicare beneficiaries (including those who are dually eligible for Medicaid) disproportionately rely on HOPDs to meet their increased health care needs because they have less access to office-based physicians. Site-neutral payment cuts to these facilities will have a direct impact to the care and services available to Medicare patients in rural communities.

HOPDs also are held to more rigorous licensing, accreditation and regulatory requirements. The chart below details the significant differences in patient safety and quality standards provided at different sites of care.

REQUIREMENTS		HOSPITAL	PHYSICIAN OFFICE	FREE-STANDING SITE
SAFE PREPARATION	Clean room with positive air pressure to prevent microbial contamination	✓	✗	✗
	Environmental sampling to ensure sterile conditions	✓	✗	✗
	Drug preparation supervised by a licensed pharmacist	✓	✗	✗
	Employee protections from exposure to hazardous drugs	✓	✗	✗
	Drug Supply Chain Security Act rules prevent use of counterfeit or mishandled drugs	✓	✗	✗
SAFE ADMINISTRATION	Drug barcoding and EHR integration reduce administration errors	✓	✗	✗
	Hospital pharmacist confirms safe dosing and checks for drug-drug interactions	✓	✗	✗
	On-site physician for prompt response to adverse reactions	✓	✓	✗
CARE COORDINATION	On-site pharmacy prevents delays accessing medication	✓	✗	✗
	On-site pharmacy can modify dosing on day of infusion based on therapeutic needs	✓	✗	✗
	Provides care for the most complex patients	✓	✗	✗
	Provides access to care 24 hours per day	✓	✗	✗
	Provides care to uninsured and underinsured patients	✓	✗	✗
SAFETY OVERSIGHT	Food and Drug Administration, state boards of pharmacy, U.S. Pharmacopeia, and The Joint Commission	✓	✗	✗

Credit: The American Society of Health-System Pharmacists/ American Hospital Association

THA urges members of the delegation to oppose site-neutral payment policies that disregard the extensive measures hospitals undertake to ensure patient care is delivered safely. Medicare pays, on average, 82 cents for every dollar of care provided to Medicare beneficiaries. Site-neutral payment cuts will further exacerbate this shortfall and jeopardize hospitals' abilities to meet the needs of their communities. Today almost half of Texas hospitals (48%) are operating in the red, and nearly one out of every 10 is at risk of closure.¹

(3) Call on the Centers for Medicare & Medicaid Services (CMS) to withdraw a proposed rule that will limit states' ability to access federal Medicaid dollars.

Hospitals across the state rely on payments through state-directed payment programs (SDPs) to provide essential care for Medicaid enrollees and the uninsured. In May 2023, CMS issued a proposed rule that would restrict Texas from using longstanding CMS-approved methods to finance its Medicaid program. The rule puts at risk \$6 billion in Medicaid funding and could be finalized in the coming months. THA is grateful to members of the delegation that have expressed concern to CMS about the impact of these policies, and asks for your steadfast engagement on this issue.

As Congress considers federal funding packages and potential reforms to the health care sector, THA asks that you keep the priorities listed above in mind. Texas hospitals are facing significant challenges that include workforce shortages resulting in increased costs, treating sicker patients longer, meeting increased demands for behavioral health services, ensuring a safe work environment, and skyrocketing inflation. Your leadership on behalf of hospitals has a direct impact on the patients they serve and communities where they are located.

Sincerely,



John Hawkins
President/CEO
Texas Hospital Association

¹ KaufmanHall. (2022). The financial impact of Covid-19 on Texas hospitals. <https://www.tha.org/wp-content/uploads/2022/11/Texas-Hospital-Association-Financial-Impact-Report-11.1.22.pdf>