



Texas Association
of Voluntary
Hospitals



November 2017

On behalf of the Texas hospital industry, we greatly appreciate your ongoing support of Texas hospitals and the state's 1115 Medicaid Transformation Waiver and its essential \$6.2 billion in annual earned supplemental payments. As you know the Waiver and its funding expire Dec. 31.

We respectfully ask for your assistance in encouraging CMS to finalize negotiations and quickly approve the state's waiver request so that hospital funding can continue and, most importantly, patient care is not undermined or disrupted. We ask each member of the Texas Congressional delegation to contact the CMS Office of Legislative Affairs:

1. To ask that the new Medicaid 1115 waiver terms and conditions be finalized quickly and that they allow for a full two-year transition period to a modified Uncompensated Care Tool that aligns with the S-10 Worksheet's charity care principles.
2. To ask that separate discussions be continued about the underlying method of finance that provides the state share of waiver payments and that the new waiver's terms and conditions not inhibit local entities' ability to fund the state share of supplemental payments.

Status of Negotiations Between the State and CMS

Despite the administration's promise of increased state flexibility, achieving renewal of Texas' cost-effective and innovative 1115 Waiver has been challenging, and Texas hospitals are at a critical juncture.

Hospitals are well into their budget planning processes for next year and need to know that they can count on continued waiver funds and that there is a sufficient transition time to accommodate CMS' required changes. Failure to continue the 1115 Waiver and supplemental payments will cause serious negative consequences for the delivery of health care throughout the state, causing the closure of additional rural hospitals and service reductions in urban areas, including community-based physician and behavioral health care services.

It is our understanding that the state has agreed in principle to achieving CMS' long-term objectives of:

- 1) Transitioning from the current use of the Uncompensated Care Tool to document hospitals' uncompensated care costs to use of a modified Uncompensated Care Tool that aligns with the S-10 Worksheet's charity care principles.
- 2) Winding down the demonstration Delivery System Reform Incentive Program projects.

However, negotiations currently are stalled over the timeline of implementing changes to Waiver policy. CMS is insisting that the state and Texas hospitals transition in the second year of the new waiver to a new method of distributing uncompensated care payments.

We believe that this is too short of a time frame for the state and Texas hospitals to make all the required policy and procedural changes. The state Medicaid agency, for example, will not have sufficient time to promulgate all the necessary rules to change supplemental payment policy. In addition, some of the changes, particularly around the method of finance, could require legislative action, and the Texas Legislature does not meet again until January 2019.

The state, therefore, with Texas hospitals' support seeks a longer transition period – a full two years to transition to the S-10 for calculation and distribution of uncompensated care payments. Such a transition period is necessary for hospitals'



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financial stability and to prevent disruptions in care delivery. This stability is crucial given the many financial challenges and imminent funding reductions, including cuts to Medicaid Disproportionate Share Hospital payments and Medicare reimbursement for drugs purchased through the 340B program, ongoing costs related to rebuilding after Hurricane Harvey and the potential for increased Medicare sequester.

Transition From Using the Uncompensated Care Tool to the S-10 Worksheet to Establish the Total Amount of Uncompensated Care Funding

Since 2011, Texas hospitals have been using the CMS-approved Uncompensated Care Tool to document their uncompensated care costs related to the Medicaid shortfall and care provided to patients with no means of payment. In a new Waiver, CMS will require hospitals to use instead a modified Uncompensated Care Tool that aligns with the S-10 Worksheet's charity care principles.

The uncompensated care costs reported on the S-10 will be the basis on which the state's uncompensated care funding is calculated. Having accurate and complete data, therefore, is vitally important, and hospitals should have two years to transition to the new tool.

In addition, children's hospitals need ample time to adapt their cost reporting systems to the S-10's specifications and requirements. Because the S-10 traditionally has been completed only for the Medicare program, children's hospitals typically have no prior experience with it.

Finally, the S-10 does not allow for reporting of uncompensated care costs associated with physician services, pharmacy and clinics, as the current Uncompensated Care Tool does. A two-year transition period will give stakeholders needed time to figure out how to account for these costs so that the full scope of uncompensated care need is portrayed.

Transition From Using the Uncompensated Care Tool to the S-10 Worksheet to Establish Individual Hospital UC Payments

Since 2011 when the 1115 Waiver first was approved, Texas hospitals received uncompensated care payments to offset some of the costs related to the Medicaid shortfall and to the costs of caring for the uninsured. For Texas hospitals overall, the Medicaid shortfall is approximately \$3.5 billion, which accounts for 40 percent of total uncompensated care costs.

However, in a new Waiver, CMS has indicated it will no longer allow uncompensated care payments for Medicaid shortfall costs. As a result, the amount of uncompensated care payments individual hospitals receive will change substantially. This significant policy change will redistribute uncompensated care funds among Texas hospitals, with some hospitals that have a particularly large Medicaid population receiving far less funds than in the past.

Distributing uncompensated care payments based on a new methodology should not take place until year 3 of the new Waiver so that the industry has sufficient time to address any variations that will occur.

Again, we very much appreciate your longstanding support of the 1115 Waiver as it is fundamental to our ability to provide the best care to all Texans. We recognize the complexities of the issues under discussion and encourage you to contact any of us for more information. As always, we are ready to assist in any way needed.



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Sincerely,

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