



Texas Association of Voluntary Hospitals (TAVH)

November 11, 2015

The Honorable Sylvia Mathews Burwell
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Burwell:

We need your support for a five-year extension of the Texas Medicaid Health Care Transformation and Quality Improvement Program waiver (also known as the 1115 waiver). The waiver is essential to the delivery of health care services for low-income Texans. It has already generated billions of dollars in savings for both the state and federal governments and is projected to save an additional \$65 billion over the proposed five-year extension period.

It is critical that Texas be given the opportunity to invest a portion of the savings generated by the waiver extension to fund the cost of uncompensated care (UC). Texas hospitals incurred more than \$6 billion in uncompensated care costs in 2014, an amount projected to increase to almost \$8 billion annually over the five years of the extension. While Medicaid expansion will not fix the state's uncompensated care challenges, the savings realized by efficiencies created by the waiver in the delivery of services will free-up state and federal funds that can be used to offset the burden of uncompensated care and allow services to be provided to medically underserved individuals in Texas.

Without this investment, access to health care will be jeopardized for low-income Texans, the majority of whom would not be served through Medicaid expansion. In fact, the Urban Institute, a non-partisan social research foundation, found that even when the Affordable Care Act is fully implemented, and if Medicaid expansion were to occur, Texas would still have the highest number of uninsured in the United States. If Texas hospitals are unable to fund their UC with the savings created by the waiver, Texas hospitals will face financial pressures that threaten the viability of many hospitals and significantly impede the ability of low-income Texans to access quality health care.

Background

During 2011, Texas negotiated the Medicaid 1115 waiver with CMS to expand the scope of Medicaid managed care throughout Texas. The result is 80 percent of Medicaid covered lives now enrolled in managed care.

Other significant accomplishments of Texas' implementation of the waiver include:

- Funding of innovative approaches to service delivery.
- Expansion of critical mental health and substance abuse treatment services.
- Expansion of access to health care services by low-income and underserved populations.



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The waiver not only has increased access to quality health care for approximately four million Medicaid members, but it has done so with an efficiency that has saved Texas and the

federal government almost \$40 billion over the five years of its implementation. In negotiating the waiver, CMS approved Texas to use \$30 billion of savings to develop two funding Pools, the Delivery System Reform Incentive Payment Pool (DSRIP) and the Uncompensated Care Pool (UC). The \$12 billion in the DSRIP Pool is available to hospitals to develop innovative models of care and increase access to care. The UC Pool provides \$18 billion to help hospitals offset the unreimbursed cost of providing care to low-income Texans.

Medicaid 1115 Waivers

Medicaid 1115 waivers are approved for an initial five years and can be extended with CMS approval for five more years. In September 2015, Texas applied for a five-year extension of its successful waiver. It is absolutely critical to the continued provision of quality health care to low-income Texans that CMS approve the \$34 billion to reimburse hospitals for the cost of uncompensated care that is projected over the five years covered by the waiver extension.

Texas Waiver Request

In requesting \$34 billion for UC, Texas is not asking for new money but rather seeks to reinvest the savings that will be generated by the waiver over its five-year extension. This investment is budget neutral and will have no impact on either the state or federal budget. Texas is simply requesting that CMS allow it to use the savings that the state generates to fund the \$34 billion needed by hospitals to continue providing access to quality health care to low-income Texans.

In fact, the savings calculations are an inherent component of 1115 waivers. Each 1115 waiver requires a five-year calculation referred to as budget neutrality. The calculation projects what the Texas Medicaid program would cost if it did not implement the waiver and then compares this projection to what the Medicaid costs would be if the waiver were approved by CMS. If the waiver implementation is less costly than the Medicaid program without the waiver, which is the case in Texas, the difference or “savings” can be retained by Texas and invested into other programs. In the Texas extension application, the savings realized over five years are calculated to be almost \$65 billion. Texas is requesting to use \$50 billion to fund the two pools.

Texas seeks the same consideration from CMS that already has been given to other states, specifically California and New York. CMS should allow Texas to retain the entire amount of its waiver savings while also giving Texas the authority to fully fund its DSRIP and UC Pools.

It is especially critical that the UC Pool be fully funded in light of the amount of UC in Texas. For example, in 2014, the UC Pool, under the current waiver, paid almost \$3 billion to public and private hospitals as reimbursement for their UC costs, yet, this payment only accounted for 52 percent of the almost \$6 billion in hospital UC costs, leaving the remainder of the cost to be absorbed by local hospitals.



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In 2016, Texas forecasts UC costs at approximately \$5.8 billion, a calculation that includes the reduction in the growth in UC costs associated with the three percent reduction in the number of uninsured from enrollment in the Affordable Care Act's health insurance marketplace. By 2018, the third year of the extension, Texas anticipates that UC costs, as a result of continuing population growth and medical inflation, will increase to more than \$7.4 billion a year, and continue, at least at that level for the remainder of the waiver. If CMS does not approve the state's request for increasing the amount of the UC Pool funding, Texas hospitals will be faced with billions of dollars of unfunded care provided in each year of the waiver's five-year extension. The impact of such a decision would have drastic consequences for the health care and quality of life for millions of Texans.

If CMS does not allow Texas to spend \$34 billion of the waiver savings on UC, the negative impact of this decision will fall disproportionately upon underserved populations throughout the state. For uninsured Texans, Texas hospitals are the safety net for health care. In many instances, these safety net hospitals have created networks of outpatient and primary care clinics that are geographically dispersed throughout their communities. If the waiver extension approved by CMS does not fund UC at an amount that is responsive to costs incurred, hospitals will be unable to sustain their networks with the consequence being a significant reduction in low-income individuals' ability to access care. This contraction in points of access will disproportionately affect Texas' underserved populations.

Medicaid Expansion and Impact on Uncompensated Care

Many incorrectly believe that if Texas could solve its UC problem by expanding Medicaid. While there is little doubt that Medicaid expansion would reduce UC in Texas, such a reduction would not alter the fact that Texas, according to the Urban Institute, will still have the highest number of uninsured in the nation. Currently, there are five million Texans without insurance; a fact that reinforces the Institute's finding that there is a need to optimize resources available to safety net providers as crucial to maintaining, if not expanding, access to quality care for low-income individuals.

Texas' request in its extension application for increasing the funding for the UC Pool cannot become a victim of uninformed calls for Medicaid expansion. Such a result would be disastrous to the Texas safety net and to millions of low-income Texans.

Conclusion

The Texas waiver has been a huge success and should be extended for five more years. It has increased access to quality health care for low-income Texans while saving billions in potential Medicaid costs. In submitting its application for a five-year extension of the current waiver, Texas' hospitals seek to reinvest savings to further build systems of care that provide services to low-income people. For this reason, if for no other, we greatly appreciate your support in helping us achieve this outcome in the forthcoming waiver negotiations. Without this increase in funding, the financial pressures on Texas hospitals to keep pace with the increase in UC cost over the next five years will be suffocating, threatening the financial viability of many hospitals, and ultimately, impeding the ability of low-income Texans to access health care.



Timely action by CMS on the Texas waiver is needed. In order to exercise its fiduciary responsibilities, the hospital industry needs to know by March 2016 how, when and under what terms the waiver will be extended. While it may be challenging for CMS to execute the final waiver extension provisions by March 2016, we encourage you to execute an agreement in principle as quickly as possible, certainly no later than March 2016. The agreement in principle must address:

- Amounts that will be included in the UC pool for each year of waiver extension.
- Any changes to the requirements associated with DSRIP.
- Other changes to the waiver that may impact the hospital industry.

We appreciate your thoughtful consideration for extension of the Texas Waiver on terms that will allow the hospital industry to continue to serve the low-income citizens of Texas.

Sincerely,

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