



Texas Hospitals Need Immediate Approval of New 1115 Medicaid Transformation Waiver

1. Texas hospitals need immediate resolution of negotiations between the Centers for Medicare & Medicaid Services and the Texas Health and Human Services Commission over the future of the 1115 Medicaid Transformation Waiver. The current 1115 Waiver and its essential \$6.2 billion in earned supplemental payments expire Dec. 31, 2017.
2. The administration has promised states flexibility, but achieving renewal of Texas' cost-effective and innovative 1115 Waiver has been challenging.
3. Failure to continue the 1115 Waiver 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. Hospitals are well into their budget planning processes for next year and need to know if they can count on continued waiver funds.
4. The state has agreed in principle to achieving CMS' long-term objectives of:
 - a. 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.
 - b. Winding down the demonstration Delivery System Reform Incentive Program projects.
5. The state also has agreed to continue discussions with CMS about the underlying method of finance that provides the state share of waiver payments (currently the subject of an appeal before the U.S. Department of Health and Human Services' Departmental Appeals Board).
6. Achieving these objectives cannot happen overnight, and Texas hospitals and the state agencies need a transition period of up to three years to make such significant operational changes.
 - a. Such a transition period is needed to ensure hospitals' financial stability and to prevent disruptions in care delivery. This stability is crucial given the many financial challenges and funding reductions, including imminent 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.
 - b. 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. Changing the UC Tool to align with the S-10 Worksheet's charity care principles will dramatically change how hospitals document their uncompensated care costs. An adequate transition period is needed to give all hospitals time to ensure the accuracy of their data and to give children's hospitals that have had no prior experience with the S-10 (because it traditionally has been used in the Medicare program) sufficient time to adapt their cost reporting systems to the tool's specifications and requirements.
 - c. Adequate time also is needed to figure out how to account for uncompensated care costs associated with physician services, pharmacy and clinics because the S-10 does not allow for reporting of those costs.

- d. Because CMS has indicated it will no longer allow UC payments for Medicaid shortfall costs, the amount of uncompensated care payments hospitals receive could change substantially. For Texas hospitals, the Medicaid shortfall is approximately \$3.5 billion, which accounts for 40 percent of total UC costs. This significant policy change could redistribute UC funds among Texas hospitals, with some hospitals that have a particularly large Medicaid population receiving far less funds than in the past. Distributing payments based on charity care data in year 3 of the new Waiver would give the industry sufficient time to mitigate potential internecine disagreements among hospitals.
 - e. The state Medicaid agency cannot promulgate rules to change supplemental payment policy in the first year of the new Waiver.
 - f. 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.
7. A new waiver also should not include limits on the definition of charity care.

For more information, contact:

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