Texas Hospital Association

A Perfect Storm in Texas

Access to Health Care in Jeopardy as Texas Hospitals Face Uncertain Financial Future

A number of complex policy variables are coming together to create a difficult and uncertain financial equation for Texas hospitals. This instability and unpredictability threaten hospitals' ability to plan appropriately and, if unresolved, could seriously impact the delivery of health care throughout the state with the closure of hospitals — particularly in already hard-hit rural areas — and service reductions.

The Texas Hospital Association is focused on ensuring Congress does not further reduce hospital payment or use hospital payments as funding for any additional federal programs. THA is also working with the state Medicaid agency to keep hospital needs and priorities at the forefront of discussion and negotiation about hospital funding.

Medicaid Disproportionate Share Hospital Payments:

Background: These payments to approximately 186 Texas hospitals offset some of the costs hospitals incur for providing health care to low-income and uninsured Texans. In 2018, these payments totaled nearly $1.9 billion.

Challenge: Scheduled Cuts to Payments

- The Affordable Care Act scheduled reductions to these hospital payments in anticipation of a reduction in the number of residents without health insurance and the amount of uncompensated care hospitals provide. Texas, however, as a non-Medicaid expansion state, has seen the number of uninsured residents increase, becoming the state with the largest number of residents without health insurance.
- These scheduled Medicaid DSH cuts so far have been successfully delayed, but, absent Congressional action, will take effect Oct. 1. The impact to Texas hospitals of these scheduled cuts is estimated to be $450 million in 2020.

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Challenge: Unspent DSH Funds

- If Congress adopts the recommendation of the Medicaid and CHIP Payment and Access Commission regarding the methodology to reduce Medicaid DSH payments, Texas hospitals could have an even greater cut to payments. MACPAC's recommendation is that reductions be applied first to states with unspent DSH allotments. Texas has approximately $250 million in unspent DSH funds from 2014 to 2017 because of a lawsuit involving children's hospitals, the Centers for Medicare & Medicaid Services and Medicaid costs and payments. The state will begin to pay out these unspent funds by August of this year but will likely take several years to do so.

Medicaid 1115 Transformation Waiver

Background: Approved by CMS in 2011, the 1115 Waiver allows statewide implementation of managed care for Medicaid beneficiaries and, through two pools of funding, provides approximately $6.2 billion a year in supplemental payments to Texas hospitals and other health care providers. As with all Medicaid payments, a state contribution is required to draw down federal dollars. Texas hospitals themselves provide that state contribution. One of the two pools of funding, the Delivery System Reform Incentive Payment pool, will phase out beginning in 2020, going to zero by 2022. The other pool of funding — uncompensated care pool — is subject to a changing methodology governing its size and distribution and is scheduled to expire in September 2022.

Challenge: Changing Uncompensated Care Pool Methodology

- The renewal of the 1115 Waiver in 2018 brought required changes to how uncompensated care costs and payments are calculated. Beginning in 2020, eligible uncompensated care costs are limited to uninsured charity care costs reported on schedule S-10 of 2017 Medicare cost reports (or a proxy for hospitals that do not use the S-10). No longer will hospitals be allowed to include Medicaid shortfall costs (difference between cost of a service and reimbursement) or bad debt in their uncompensated care costs. This methodology change has implications for both the total amount of available uncompensated care funding and payments to individual hospitals. The distribution of payments among hospitals likely will change because the methodology has different outcomes for different classes of hospitals. For example, children's hospitals typically have a larger share of Medicaid-covered patients and fewer uninsured patients and therefore more Medicaid shortfall costs and fewer charity care costs.

  At the same time, CMS will reduce total available uncompensated care funding by a share of payments Texas hospitals earn under Medicaid DSH. The impact of this methodology change is a reduction in total available uncompensated care funding of an estimated $600 million each year.

  At this point, the amount of available uncompensated care funding for 2020 and beyond is not known.

Challenge: Recoupment of Previous Waiver Payments

- When CMS approved the state's Waiver in 2011, hospitals received approximately $300 million in payments from the Upper Payment Limit program, which Waiver supplemental payments were intended to replace. For a short period, hospitals received both UPL and Waiver uncompensated care pool payments. In 2013, the Texas Health and Human Services Commission proposed an amendment to the Waiver (Amendment 4) which would have applied the balance of unspent DSRIP funds from the first waiver period to cover the UPL debt. CMS recently indicated it will not approve this proposal and the state will have to determine a different approach to pay this debt from the UC pool.

Challenge: Elimination of the Delivery System Reform Incentive Payment Program

- 1115 Waivers are intended as demonstration waivers. States use them, in part, to test innovative models of financing and delivery. The Texas Medicaid 1115 Waiver DSRIP component served more than 11 million individuals from 2014 to 2016, 40 percent of whom were uninsured. While never intended to be permanent, DSRIP nonetheless has been a vital part of the hospital safety net, providing primary, school-based, behavioral health and specialty health care to Texans who otherwise would not have received it. Funding for DSRIP projects begins to decrease in 2020, dropping from $3.1 billion a year to $0 by 2022.

  Without funding, the future of these delivery system reform initiatives is uncertain.

Challenge: Changes to 1115 Waiver Budget Neutrality Formula

- Medicaid 1115 Waivers are intended to be "budget neutral," meaning they should not cost the federal government more than it would have absent the Waiver.

  In August 2018, CMS issued guidance in the form of a State Medicaid Director letter describing changes to the methodology used to calculate whether an 1115 Waiver is budget neutral. If Texas applies for a renewal of its 1115 Waiver when the current one expires in 2022, this methodology change will result in a significant reduction in the amount of funding available to the state for the various Waiver supplemental payment programs.

Challenge: Disallowance of Federal Uncompensated Care Payments

- In September 2016, CMS notified Texas that it was disallowing $27 million in federal uncompensated care payments in the Dallas/Fort Worth region because they constituted "impermissible provider donations." The basis of the disallowance is the funding mechanism, known as burden alleviation, used by hospitals to provide the state share of 1115 waiver uncompensated care payments for private hospitals in Texas. The state conducted a review and determined that there are other arrangements throughout the state similar to those governing the disallowed payments. Some regions are using this legislative session to pursue authority for a local provider participation fund to replace their burden alleviation model.

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