

November 16, 2015

The Honorable Sylvia Mathews Burwell,
Secretary
Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Re: Texas Proposal to Extend its Section 1115 Medicaid Demonstration Project

Dear Secretary Burwell:

The undersigned organizations are writing to provide comments on the proposal for an extension of the Texas Healthcare Transformation and Quality Improvement Program. Thank you for your consideration of these comments.

First, we believe that a five-year extension of Texas' Medicaid demonstration should not be granted because Section 1115(e)(2) of the Social Security Act only allows extensions of demonstrations for three-year periods. To the extent you approve an extension of the Texas waiver, the extension should not be for longer than three years.

Second, we believe that Texas' request for a significant increase in its Uncompensated Care Pool (UCP) does not comply with the principles CMS set forth in its May 21, 2015 letter to Florida, and that therefore the UCP should not be funded at the level the state is requesting. Texas is requesting an increase in the UCP from \$5.8 billion in the first year of the extension, to \$6.6 billion in the second, and to \$7.4 billion for the next three years for a total of \$34.6 billion over five years.

At the same time Texas is requesting a large increase in funding for its UCP, the state is refusing to accept an estimated \$6 billion a year in federal funds to extend Medicaid eligibility to adults with incomes below 138 percent of the poverty line.¹ Accepting these funds would not only extend coverage to about one million uninsured Texans; it would also significantly reduce uncompensated care costs for Texas' hospitals. We support the principle that your department articulated first to Florida and later to other states with UCPs that coverage is the best way to secure affordable access to health care. We urge you to maintain your policy of not providing federal funds for UCPs to the extent the funds are meant to cover the costs of uninsured people who could be insured if the state expanded Medicaid.²

We recognize that this strategy poses risks to Texas' safety net that must be

¹Buettgens et al, *Medicaid Expansion, Health Coverage, and Spending: An Update for the 21 States that have not Expanded Eligibility* (Washington, DC: Kaiser Commission on Medicaid and the Uninsured), April 2015.

² See letter from CMS Director Wachino to Florida AHCA Secretary Justin Senior on May 21, 2015.

carefully weighed, and we do not believe that the state's uncompensated care pool should be eliminated. However in our view Texas should not receive federal funds for uncompensated care that could be paid for by expanding Medicaid.

We also support the principle that managed care payments (and ultimately provider payments) must be actuarially sound and adequate to ensure prompt access to needed services by beneficiaries.³ We understand this principle to mean that direct capitation payments tied to individual Medicaid beneficiaries – rather than supplemental payments -- are the preferred mode of federal financial support. This helps to protect against geographic and economic inequities that can arise when supplemental payments are conditioned upon local ability to make intergovernmental transfers and other payments. Moreover supplemental payments are not always transparent, and they also often raise serious questions of accountability. In applying this principle, however, CMS should ensure that the end result is not simply cuts in supplemental payments. We urge CMS to use the multiple tools at its disposal to ensure that provider payments are adequate to meet the needs of Medicaid beneficiaries.

Finally, we note that Texas requests \$3.1 billion a year to support its DSRIP initiative. While we understand that there are worthy projects incorporated into the state's efforts, we believe there are some reasons to be cautious about continuing the DSRIP funding at this scale. It is especially important that the DSRIP projects be coordinated with care delivered through managed care organizations, which now cover most Medicaid beneficiaries in Texas. DSRIP waivers are intended to help states reform their delivery systems, and particularly to absorb the new Medicaid expansion population. But even without Medicaid expansion, any efforts at delivery system reform should be coordinated with the activities of managed care organizations to ensure that successful projects are sustainable and integrated into the fabric of the state's delivery system.

Thank you for your consideration of our comments. Please contact Joan Alker (jca25@georgetown.edu) or Judith Solomon (Solomon@cbpp.org) if you need additional information.

Center on Budget and Policy Priorities
Community Catalyst
Families USA
Georgetown University Center for Children and Families
HIV Medicine Association
March of Dimes
National Association of Community Health Centers
National Council of La Raza
National Health Law Program

³ May 2015 Letter from Wachino to Senior states "Provider payments must be sufficient to promote provider participation and access, and should support plans in managing and coordinating care."