

July 8, 2022

VIA ELECTRONIC SUBMISSION

Secretary Xavier Becerra
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Re: Texas Healthcare Transformation and Quality Improvement Program Postpartum Coverage Amendment Application

Dear Secretary Becerra,

The undersigned organizations appreciate the opportunity to comment on Texas's proposed postpartum coverage amendment to the "Texas Healthcare Transformation and Quality Improvement Program" section 1115 demonstration. Pursuant to Texas House Bill 133 (2021), the state is proposing to allow individuals covered by Medicaid during pregnancy to maintain coverage for six months after "live delivery or involuntary miscarriage." While we support the state's goals to increase continuity of care and improve maternal outcomes, six months will not address the significant challenges and dangers that individuals face in the late postpartum period and the proposal does not comply with evidence-based best practice recommendations to extend continuous coverage for a full year postpartum. *Therefore, we urge CMS to reject Texas's request and work with the state to extend postpartum coverage for a full 12 months using a state plan amendment as authorized by the American Rescue Plan Act.*

The state's proposed demonstration does not go far enough to address the risks of the late postpartum period and does not comply with evidence-based recommendations.

In Texas, 31 percent of maternal deaths occur between 43 days to 1 year after the end of pregnancy.¹ According to the state's Maternal Mortality and Morbidity Review Committee, the leading cause of maternal death during this period was mental disorders, including those associated with substance use disorder.² This finding aligns with larger studies which show that the risk of suicide during the postpartum period is greatest at 9 to 12 months and, similarly, drug-related postpartum deaths are most likely to occur during the late postpartum period.³

Other leading causes of maternal death in Texas include cardiovascular and coronary conditions, obstetric hemorrhage, preeclampsia and eclampsia, infection, embolism, and cardiomyopathy—many of which can arise in the late postpartum period, especially if an underlying condition is

¹ "Texas Maternal Mortality and Morbidity Review Committee and Department of State Health Services Joint Biennial Report," Texas Department of State Health Services, September 2020, <https://www.dshs.texas.gov/legislative/2020-Reports/DSHS-MMMRC-2020.pdf>, 18.

² *Ibid.*, 20.

³ Susanna Trost et al., "Preventing Pregnancy-Related Mental Health Deaths: Insights from 14 US Maternal Mortality Review Committees, 2008-2017," *Health Affairs* 40, no. 10 (October 2021), <https://www.healthaffairs.org/doi/10.1377/hlthaff.2021.00615>; Sophie Grigoriadis et al., "Perinatal Suicide in Ontario, Canada: a 15-Year Population-Based Study," *Canadian Medical Association Journal* 34, no. 189 (August 2017), <https://pubmed.ncbi.nlm.nih.gov/28847780/>; Marcela Smid, "Pregnancy-Associated Death in Utah: Contribution of Drug-Induced Deaths," *Obstetrics and Gynecology* 133, no. 6 (June 2019), <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC6548332/>.

untreated or proper follow-up care is not received.⁴ Indeed, the state’s Maternal Mortality and Morbidity Review Committee writes that “in the reviewed cases, the lack of access to care or financial resources contributed to inadequate control of chronic disease as well as to delay or failure to seek care and adherence to medical recommendations.”⁵

The dangers of injury and death during and after pregnancy are borne disproportionately by women of color. In 2013, non-Hispanic Black women in Texas accounted for 11 percent of live births, but 31 percent of maternal deaths.⁶ And, starting in 2016, the rate of severe maternal morbidity for non-Hispanic Black women in the state began to increase, widening an already steep disparity; by 2018, the rate of maternal morbidity for non-Hispanic Black women was nearly double that for non-Hispanic white women (299.4 out of every 10,000 live births for non-Hispanic Black women compared to approximately 150 for non-Hispanic white women).⁷ Severe maternal morbidity events can have lasting impacts on an individual’s health and require ongoing care after the fact to ensure that the issue does not progress.

In order to address these challenges, Texas residents need comprehensive health coverage for an entire year after the end of pregnancy so that they can access the full spectrum of health services, including robust behavioral health services. During the pandemic, the Medicaid continuous coverage provisions of the Families First Coronavirus Response Act have provided stable coverage to postpartum women, which has improved access to services. A study of postpartum utilization in Texas found that the share of women accessing care during the 6 to 12 months after birth jumped from 8.8 percent pre-pandemic to 17.9 percent when individuals were protected by the COVID-19 related continuous coverage provision.⁸ Additionally, the share of women accessing mental health and substance use disorder services during the entire postpartum year tripled compared to a pre-pandemic baseline.⁹

In line with other professional organizations and experts, the Texas Maternal Mortality and Morbidity Review Committee recommends that the state extend health coverage for a full year postpartum.¹⁰ Among other organizations, the American College of Obstetricians and Gynecologists, the American Public Health Association, the American Academy of Family Physicians, and the Medicaid and CHIP Payment and Access Commission, recommend extending continuous eligibility for a full 12 months after the end of pregnancy for individuals covered by Medicaid.¹¹

⁴ “Texas Maternal Mortality and Morbidity Review Committee and Department of State Health Services Joint Biennial Report,” Op cit., 8-9.

⁵ Ibid., 18.

⁶ Ibid., 9.

⁷ Ibid., H-1.

⁸ Xiao Wang et al., “Extending Postpartum Medicaid Beyond 60 Days Improves Care Access and Uncovers Unmet Needs in a Texas Medicaid Health Maintenance Organization,” *Frontiers in Public Health* 10 (May 2022), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9110670/>.

⁹ Ibid.

¹⁰ “Texas Maternal Mortality and Morbidity Review Committee and Department of State Health Services Joint Biennial Report,” Op cit., 9.

¹¹ “Extend Postpartum Medicaid Coverage,” American College of Obstetricians and Gynecologists, <https://www.acog.org/advocacy/policy-priorities/extend-postpartum-medicaid-coverage>; “Expanding Medicaid Coverage for Birthing People to One Year Postpartum,” American Public Health Association, October 2021, <https://www.apha.org/Policies-and-Advocacy/Public-Health-Policy-Statements/Policy-Database/2022/01/07/Expanding-Medicaid-Coverage-for-Birthing-People-to-One-Year-Postpartum>; “Pregnant Women,” Medicaid and CHIP Payment and Access Commission, March 2021,

The short duration of the extension is contrary to the state plan amendment (SPA) option to extend postpartum Medicaid coverage for one year.

In light of the national maternal health crisis and the overwhelming body of evidence pointing to the importance of access to postpartum care throughout the year after pregnancy, the American Rescue Plan Act of 2021 created a state plan amendment (SPA) option allowing states to receive federal matching funds to provide 12 months of continuous coverage to beneficiaries covered during pregnancy.¹² If a state chooses to adopt the SPA option, they must also apply the continuous coverage period to individuals covered by the Children’s Health Insurance Program (CHIP) during pregnancy.¹³

With the SPA option, Congress has provided a clear pathway for states to extend postpartum coverage, and to date 35 states have adopted or are planning to adopt a 12-month extension.¹⁴ By comparison, section 1115 demonstrations are designed to test new and novel approaches. CMS should not use the demonstration authority to authorize less coverage than the state could adopt via the SPA option which the majority of states are already pursuing.

Your recent approval of Florida’s section 1115 amendment required the state to comply with the terms of the SPA option and there is no reason to diverge from this path in considering Texas’ request.¹⁵ We urge CMS to ensure that postpartum coverage is available for everyone who was enrolled in Medicaid and CHIP during their pregnancy for the full 12-month period.

Finally, the state’s proposed implementation date of September 22, 2022 raises questions about interactions with the continuous coverage provisions of the Families First Coronavirus Response Act should they remain in place through July 2023, as the Congressional Budget Office expects.¹⁶ CMS should clarify that so long as the the continuous coverage requirement is in effect, pregnant people must remain covered after their pregnancy ends for the duration of the continuous coverage requirement.

Conclusion

Our comments include numerous citations to supporting research, including direct links to the research for HHS’ benefit in reviewing our comments. We direct HHS to each of the studies cited and made available to the agency through active hyperlinks, and we request that the full text of each

<https://www.macpac.gov/subtopic/pregnant-women/#:~:text=In%20March%202021%2C%20the%20Commission,year%20period%20beginning%20April%202022>; Stephanie Quinn, “A Maternal Health Breakthrough and a PCF Model Update,” American Academy of Family Physicians, <https://www.aafp.org/news/blogs/inthetrenches/entry/20210413itt-maternalhealth.html>.

¹² “H.R.1319 - American Rescue Plan Act of 2021,” U.S. Congress, passed on March 11, 2021, <https://www.congress.gov/bill/117th-congress/house-bill/1319/text>.

¹³ Centers for Medicare and Medicaid Services, “SHO# 21-007 Improving Maternal Health and Extending Postpartum Coverage in Medicaid and the Children’s Health Insurance Program (CHIP),” December 7, 2021, <https://www.medicaid.gov/federal-policy-guidance/downloads/sho21007.pdf>.

¹⁴ “Medicaid Postpartum Coverage Extension Tracker,” Kaiser Family Foundation, June 17, 2022, <https://www.kff.org/medicaid/issue-brief/medicaid-postpartum-coverage-extension-tracker/>.

¹⁵ Centers for Medicare and Medicaid Services, “Amendment Approval Letter,” Letter to Tom Wallace, Deputy Secretary for Medicaid, Florida Agency for Health Care Administration, May 25, 2022, <https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/fl-mma-ca1.pdf>.

¹⁶ Congressional Budget Office, “The Budget and Economic Outlook: 2022 to 2032,” May 2022, <https://www.cbo.gov/publication/58147>.

of the studies cited, along with the full text of our comments, be considered part of the administrative record in this matter for the purposes of the Administrative Procedure Act.

Thank you for your consideration of our comments. If you would like any additional information, please contact Joan Alker (jca25@georgetown.edu) or Allison Orris (aorris@cbpp.org).

Sincerely,

Center for Law and Social Policy
Center on Budget and Policy Priorities
Epilepsy Foundation
Families USA
Georgetown University Center for Children and Families
March for Moms
National Birth Equity Collaborative
National Health Care for the Homeless Council
National Multiple Sclerosis Society
Physicians for Reproductive Health