



1 WHEREAS, Defendants denied the allegations of the Lawsuit,  
2 denied all allegations of wrongdoing and liability, and denied any  
3 causation of harm or damage to the Medicaid HCV Class; and

4 WHEREAS, The parties mediated this matter on December 1,  
5 2020, with the Honorable Patrick Keel as mediator, and thereafter  
6 successfully reached an agreement in principle on December 17,  
7 2020; and

8 WHEREAS, The Parties have now agreed to a full settlement on  
9 the following terms:

10 (a) HHSC will modify its Medicaid prior authorization (PA)  
11 criteria to treat chronic Hepatitis C clients who have METAVIR  
12 fibrosis scores of F2-F4 with Direct Acting Antiviral (DAA)  
13 treatment by March 1, 2021;

14 (b) Between March 1, 2021, and September 1, 2021, Medicaid  
15 enrollees with severe extrahepatic effects of chronic Hepatitis C  
16 who have fibrosis scores other than F2-F4 will be approved for DAA  
17 treatment on a case-by-case basis by the HHSC Chief Medical  
18 Director or an MCO Medical Director, if they are assigned to an MCO;

19 (c) As of September 1, 2021, HHSC will remove all METAVIR  
20 fibrosis score, drug screening, and specialist prescription PA  
21 criteria requirements for DAA treatment for chronic Hepatitis C  
22 clients, if the legislature approves the funding for HHSC's  
23 Exceptional Item (EI); HHSC agrees that, for the period September  
24 1, 2021, through August 31, 2023, HHSC will not reinstate these  
25 criteria; and

26 WHEREAS, This Agreement is expressly conditioned upon  
27 approval by the Office of the Attorney General of Texas, the

1 Governor of Texas, and the Texas Legislature; and

2 WHEREAS, This Agreement is expressly conditioned upon  
3 enactment by the Texas Legislature of the EI requested by HHSC; and

4 WHEREAS, Section 111.003(b), Texas Civil Practice and  
5 Remedies Code, requires a state agency to obtain legislative  
6 approval of a settlement agreement that "commits this state to a  
7 course of action that in reasonable probability will entail a  
8 continuing increased expenditure of state funds over subsequent  
9 state fiscal bienniums"; therefore, the Settlement Agreement is  
10 expressly conditioned upon the legislature approving and  
11 appropriating the agreed upon settlement amount; now, therefore, be  
12 it

13 RESOLVED, That the 87th Legislature of the State of Texas  
14 hereby approve the proposed Settlement Agreement.