Texas Hospital Association
Response to House Human Services Committee Request for Information
Sept. 25, 2020

Interim Charge 2.2 - 2.5: Review how Texas is preparing for state and federal budgetary changes that impact the state's health programs, including:

2.2) The next phase of the 1115 Healthcare Transformation and Quality Improvement Program Waiver;

2.3) Texas' Targeted Opioid Response Grant;

2.4) The Centers for Medicare and Medicaid Services proposed Medicaid Fiscal Accountability rule; *and*

2.5) The Healthy Texas Women Section 1115 Demonstration Waiver.

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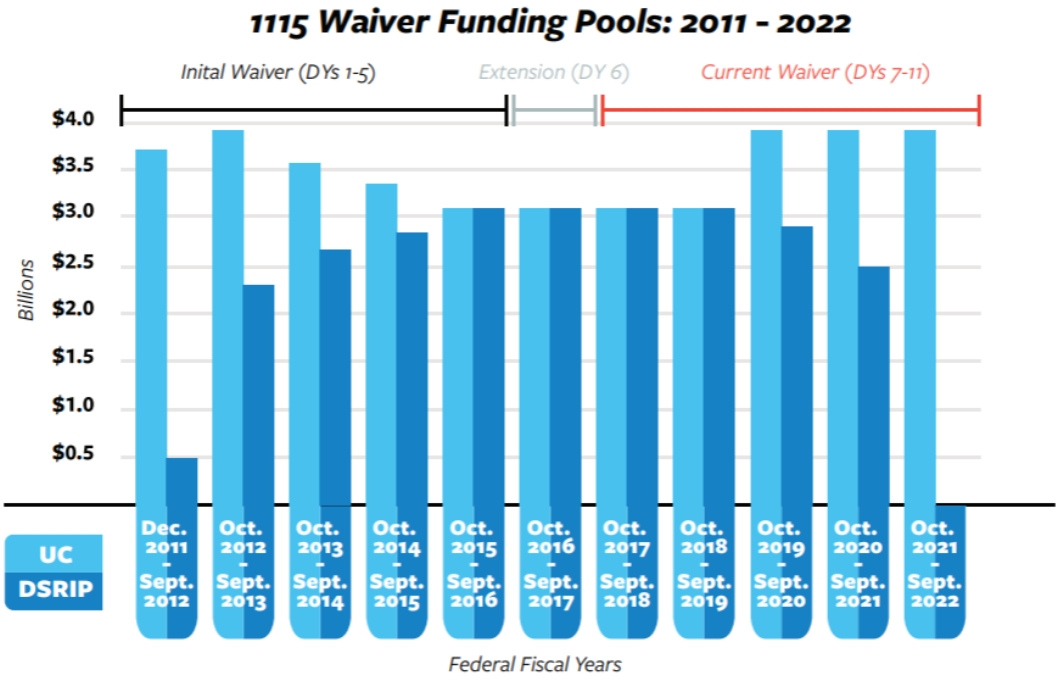
Response to Interim Charge 2.2
2.2) The next phase of the 1115 Healthcare Transformation and Quality Improvement Program Waiver

1115 Healthcare Transformation and Quality Improvement Program Waiver

Initially approved by the Centers for Medicare & Medicaid Services in 2011, Texas' 1115 Waiver has been key to health care delivery reform in the state. Texas hospitals strongly support the waiver and its ability to protect the health care safety net and improve health care delivery and outcomes for Texans. Hospitals that serve vulnerable, uninsured individuals rely on the funding to maintain financial vitality and stability. Without it, critical health care access could be severely compromised.

The waiver allows statewide implementation of managed care for Medicaid beneficiaries and, through two funding pools, has provided more than $40 billion in supplemental payments to Texas hospitals and other health care providers. Most Texas hospitals receive funds from the waiver, which comprise more than a third of all Medicaid hospital payments. A "one-size fits all" approach doesn't work for a state as large and diverse as Texas, but the flexibility inherent in the waiver has afforded the state the authority to test innovative solutions to improve Medicaid service delivery and contain costs.



Under the terms and conditions of the current waiver, one of the two pools of funding, the Delivery System Reform Incentive Payment pool, is phasing out and will be eliminated by 2022. The other pool of funding — uncompensated care pool — is subject to a different methodology governing its size and distribution. UC funding is scheduled to expire in September 2022.

The DSRIP program seeks to transform health care delivery systems, improve individual and population health and lower health care costs through efficiencies and innovations. Since 2012, DSRIP has provided over $19 billion to incentivize providers to collaborate regionally to innovate health care delivery. Through 20 regional health care partnerships across the state, providers have collaborated to identify and meet community needs. From 2014-2017, the DSRIP program served more than 11 million individuals, 40% of whom were uninsured.

The Texas Health and Human Services Commission has submitted a transition plan to pave the way for future programs that may replace funding lost when DSRIP is eliminated. However, the COVID-19 pandemic has stalled progress toward the transition for both the agency and providers. HHSC recently notified providers of its request and CMS' approval to extend the deadlines for five of the ten milestones that will guide the agency's work to establish new programs for the phaseout of DSRIP funding through September 2021 and beyond. Most notably, HHSC is extending from Sept. 30 to Dec. 31 the deadline for it to identify and submit to CMS any proposals for new programs to sustain DSRIP initiative areas in 2022, the last year or the waiver. Following HHSC's submission of new proposals in December and CMS' approval, providers will have limited time to plan for and implement new programs before DSRIP ends.

THA has joined other hospital and health care provider groups to request that HHSC ask CMS to extend the DSRIP program for at least one more year. With the ongoing COVID-19 pandemic, now is not the time to require the development of new programs nor the loss of essential DSRIP funding. In response to the pandemic, Texas health care providers have pivoted to provide emergent and ongoing care to tens of thousands of Texans and have provided millions of COVID-19 tests. As such, providers have lacked the bandwidth, resources and staff to devote to transformation activities and have had to reconfigure the way they provide care to mitigate risk of disease spread. An extension would allow hospitals and other providers to continue transforming health care delivery — as envisioned through the DSRIP program— when the system stabilizes following the pandemic. It would also allow providers to build on lessons learned from COVID-19 response, including related to telehealth and others, and to continue those innovations post-DSRIP. Ultimately, the transition of funding streams during the current COVID-19 crisis will further destabilize the health care safety net. Access to physical and behavioral health care is critical during the pandemic, and the loss of DSRIP funding will jeopardize access to care for vulnerable Texans.

Regardless of when DSRIP funding phases out, a strong, clear transition is critical for the future of the health care safety net in Texas. Texas hospitals' priorities for the DSRIP transition include:

- Ensuring access to care for the uninsured.
- Building DSRIP successes into existing Medicaid managed care structures.
- Preserving and maximizing federal payments for hospitals and other providers.
- Rewarding collaboration and partnerships among local providers.

With the current waiver set to expire Sept. 30, 2022, state leaders and providers will need to determine the best path forward to ensure sustainability for our health care safety net. A long-standing requirement of 1115 waivers is that they must be "budget neutral" to the federal government, meaning Texas can't spend more federal Medicaid dollars with the waiver than it would without the waiver. CMS is seeking to change the way it calculates budget neutrality for the next waiver renewal, which could potentially result in fewer dollars available for supplemental payments. THA encourages HHSC and state leadership to share budget neutrality analyses with providers to allow stakeholders ample time to determine the impact of these changes going forward.

Leading the nation in the number of uninsured residents, Texas remains one of 13 states choosing not to increase access to coverage under the Affordable Care Act. Even before COVID-19, Texas had both the largest uninsured population (5 million) and the highest uninsured rate (18 percent). COVID-19-related job-losses have pushed Texas' unemployment rate to 12.8 percent, the worst on record and up from 3.5 percent in January and February. For many Texans, losing a job or having hours cut also means losing job-based health insurance. Before COVID-19, 13 million Texans had job-based health insurance. As job losses mount, so will the number of uninsured Texans.

Two recent reports — one from the Kaiser Family Foundation and another from the Urban Institute — have started to shed light on the scope of health insurance losses in Texas:

- 1.6 million Texans have already lost job-based health insurance because of a job loss in the family between March 1 and May 2 (KFF).
- The Urban Institute projects that if Texas hits a 20 percent unemployment rate, 2.3 million Texans will lose job-based insurance. At 25 percent unemployment, 3 million will lose job-based insurance.

Regardless of the future of the 1115 waiver, Texas needs a comprehensive plan to increase health care coverage to Texans.

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Response to Interim Charge 2.4
2.4) The Centers for Medicare and Medicaid Services proposed Medicaid Fiscal Accountability rule

Medicaid Fiscal Accountability Rule

In November 2019, CMS proposed the Medicaid Fiscal Accountability Rule, which would have limited states' ability to draw down federal Medicaid funding, jeopardizing approximately $11 billion in Texas hospitals' annual supplemental Medicaid payments. Although the President's Office of Information and Regulatory Affairs added MFAR to its regulatory agenda in July, CMS Administrator Seema Verma announced in September that the agency would withdraw it from the agenda to better understand its impact on providers. Texas hospitals remain concerned about the potential for MFAR to reemerge.

Texas hospitals worked closely with state and federal leaders to share concerns about the rule and its detrimental impact on health care in state. In addition to written comments to CMS, THA wrote letters to Gov. Greg Abbott and the Texas Congressional delegation and brief state and federal leaders through ongoing discussions. In March, all 36 members of the Texas Congressional delegation signed onto the bipartisan letter, expressing concern to CMS about the expected impact of the rule on providers, patients and the Texas economy. Since the COVID-19 pandemic, members of the Texas Congressional delegation have filed legislation and taken other action to delay implementation of the rule. The state's leadership was similarly engaged in discussions at the federal level about the impact of the rule to Texas.

The proposed rule would have restricted the ability to finance the state share of Medicaid supplemental payments through intergovernmental transfers, health care-related assessments,

such as local provider participation funds, and provider-based donations. Texas, like other states, has worked closely with CMS over the years to identify acceptable methods of financing the non-federal share of Medicaid payments. Shifting rules at this stage undermines the stability and flexibility states need to sustain Medicaid programs and ensure access to care for the growing number of Texans who depend on it. The rule would have increased state and local taxes, eroded the state's control the Medicaid program and devastated the state's health care infrastructure.

The end of DSRIP and several other complex policy variables are coming together to create a difficult and uncertain time 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 service reductions and the closure of hospitals, particularly in already hard-hit rural areas. THA encourages the Texas Legislature to support efforts to ensure sustainability of the health care safety net.

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