

**HOUSE OF REPRESENTATIVES  
COMPILATION OF PUBLIC COMMENTS**

Submitted to the Committee on Human Services  
For HB 2401

Compiled on: Tuesday, April 4, 2023 9:18 PM

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Hearing Date: April 4, 2023 8:00 AM

Stephen Love, CEO  
Dallas-Fort Worth Hospital Council  
Irving, TX

We oppose this bill because it would hurt hospital-district owned community health plans. In 2022, the four largest hospital districts that owned Medicaid Managed Care Organizations leveraged \$611 million in federal Medicaid matching funds without any state dollars. The dollars stay in these communities and protect patient access.

We oppose this bill!

Steve Wohleb  
Texas Hospital Association  
Austin, TX

On behalf of our 475 member hospitals and health systems, Texas Hospital Association respectfully opposes House Bill 2401. We appreciate the opportunity to offer our concerns with this legislation, which would lead to further consolidation in the managed care organization (MCO) market, reduce patient access and choice in Medicaid, and jeopardize the financial stability of the safety net. Section 533.004 of the Government Code requires the Texas Health and Human Services Commission (HHSC) to award Medicaid contracts to hospital district-owned non-profit plans who meet all managed care contract requirements and whom HHSC certifies can fulfill their contracted obligations.

The mandatory contracting requirement ensures the state fulfills two essential functions in the Medicaid program. First, promote a competitive Medicaid MCO marketplace. In 2022, every Medicaid managed care service program in all 13 service delivery areas offered enrollees between two and five choices of carrier. Built into the Medicaid program are minimum standards for MCO quality, customer satisfaction, and efficiency. HHSC can also reject any hospital district-owned plan who does not meet standards for best value.

Secondly, it recognizes costs borne by public hospital districts in financing safety net care for low-income and uninsured patients. A goal of this requirement is to offset investments public hospital districts make to supplement state dollars. Medicaid disproportionate share hospital (DSH) payments are intended to offset hospitals' higher costs of caring for a disproportionate share of low-income, uninsured patients. In 2021, DSH payments to 180 Texas hospitals with high Medicaid and uninsured utilization – both privately and publicly owned – totaled approximately \$1.8 billion. The nonfederal share of DSH payments is financed without state dollars, mostly by intergovernmental transfers from the state's five largest public hospitals. Four of the five public hospitals who transfer nearly all DSH matching funds (Bexar, Dallas, Harris, and El Paso) have nonprofit health plans impacted by HB 2401.

The mandatory contracting requirement does not unfairly advantage hospital district-owned health plans. Hospital district-owned health plans enroll 11% of the Texas Medicaid market, while national for-profit plans enroll 73%. In fact, 45% of the Medicaid market is enrolled in two national plans. National for-profit plans' offices dedicate teams of expert proposal drafters to write responses to agency solicitations for Medicaid managed care plans in states across the country. Hospital district-owned and community health plans lack this same infrastructure. The possibility of a community health plan losing ground based on asymmetrical capacity to contract with the state is a real risk.

Eliminating the mandatory contracting requirement would further consolidate the Medicaid MCO market and reduce patient access.

Ron Simmons, Policy Advisor  
Government Performance Partners  
Austin, TX

Government Performance Partners is a reform-minded, business coalition with the common goal of fostering an effective and efficient procurement environment. GPP is founded on the principles of fair competition and transparency. There is a basic principle at stake with House Bill 2401: no company enterprise should ever be guaranteed a contract from the state. There is no rationale that would justify a legal mandate to give a contract to a company.

Since 1997, state law requires HHSC to award Medicaid managed care contracts to health plans that are controlled by local officials in big Texas counties through taxing hospital districts. This has guaranteed state Medicaid contracts to health plans owned by taxing hospital districts in Dallas, Harris, Bexar, and El Paso counties, regardless of the health plans qualifications or competency. HHSC spends nearly \$33 billion a year on managed care. Public hospitals and clinics in big Texas cities receive billions more through Texas' 1115 waiver specifically to provide care to indigent patients. The districts awarded these contracts make the claim that their hospitals' indigent care responsibilities justify these Medicaid contracting preferences for the health plans they create. However, mandatory contracts and the provision of indigent health care are entirely unrelated. Instead, they are simply another in a line of preferences and revenue streams that the state already provides or allows to help counties provide indigent care.

Texas courts have ruled that only the legislature can change this law. If allowed to stand, urban county governments and taxing hospital districts will reap huge financial gains without having to compete for the business. Also, the state will lose the ability to operate the state's managed care system in a way that protects Texas taxpayers and Medicaid members. It also will create a patchwork of single payer-style Medicaid systems — not the competitive, market-driven model that Texas pioneered. HB 2401 is a necessary change to the outdated system that no longer serves the state in healthcare.

Allison Greer  
CHCS  
San Antonio, TX

My name is Allison Greer Francis and I work for CHCS in San Antonio. I am in opposition of HB 2401. This bill would repeal the mandatory contract provision for hospital district owned/community based MCO's, like the Community First Health Plan (CFHP) in San Antonio. CFHP covers 190,000 lives through Medicaid, and this bill would prevent those in San Antonio from receiving medical coverage. Please vote in opposition of HB 2401.

Carla Riedl  
CHCS  
San Antonio, TX

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Terri Carriker  
PTFK  
Austin, TX

We support this bill