



*Administrator*

Washington, DC 20201

**APR - 9 2019**

Stephanie Muth  
State Medicaid Director  
Texas Health and Human Services Commission  
P.O. Box 13247  
Austin, Texas 78711

Dear Ms. Muth:

This letter is in response to the state's request, submitted on June 23, 2013, to amend Texas' section 1115(a) Medicaid demonstration, entitled "Texas Healthcare Transformation and Quality Improvement Program" (Project Number 11-W-00278/6) by increasing authority to make Uncompensated Care (UC) pool payments based on unspent authority under the overall demonstration funding cap or by shifting funding authority from the Delivery System Reform Incentive Payment (DSRIP) pool. The Centers for Medicare & Medicaid Services (CMS) is not approving this request, for the following reasons.

Texas' request would allow the state to shift unspent funds from a funding pool that was targeted for delivery system transformation activities to a funding pool that is directed to uncompensated care. As we noted in our December 12, 2011 approval of the demonstration, redirecting supplemental payments to improve care delivery and capacity is a central part of the demonstration, and it remains so. The demonstration was approved to assist the state in improving care delivery and capacity while emphasizing accountability and transparency. As you know, the DSRIP funding is for projects that undergo a rigorous review prior to approval for the payment of federal matching funds and that achieve the agreed upon milestones and metrics. The DSRIP pool further requires demonstrated improvements at the provider level for the receipt of payments. UC funds are not subject to such reviews and approvals, and there is otherwise no assurance that they will have the same desirable effects on the care delivery systems in the state; therefore, CMS is not approving the state's request to shift funding from the DSRIP pool to the UC pool, or to fund additional UC pool payments with amounts remaining under the overall demonstration funding cap, which would have the same practical effect. As provided in the approved Special Terms and Conditions, the state is required to count November 2011 and December 2011 hospital supplemental payments as spending subject to the demonstration's UC pool limit.

CMS has provided the state guidance on handling the supplemental payments in 2011 that the state and CMS agreed would be included in the UC pool cap. CMS demonstrated flexibility by allowing an overpayment in UC pool funding in Demonstration Year 1 to be accounted for in future demonstration years. Texas chose to spend more than its UC pool expenditure authority limit and rely upon deferred reconciliations, rather than reduce spending to comport with the expenditure authority limit. In the 2017 renewal of the demonstration, we allowed those UC

Page 2 – Stephanie Muth

pool payments that were originally required to be fully reconciled by December 2017 to instead be reconciled by January 30, 2020. CMS also showed additional flexibility by allowing Texas to use recouped UC pool funding from a provider that was initially overpaid to offset the 2011 supplemental payments required to be included in the UC pool cap.

If you have any questions regarding this disapproval, please contact Mr. Judith Cash, Director, State Demonstrations Group, Centers for Medicaid & CHIP Services at (410) 786-9686. We look forward to continuing to work with you and your team on the demonstration.

Sincerely,



Seema Verma



## TEXAS HEALTH AND HUMAN SERVICES COMMISSION

KYLE L. JANEK, M.D.  
EXECUTIVE COMMISSIONER

June 21, 2013

Rob Nelb, MHP  
Centers for Medicare and Medicaid Services  
Center for Medicaid, and CHIP Services  
Division of State Demonstrations and Waivers  
7500 Security Boulevard  
Mail Stop S2-02-26  
Baltimore, MD 21244-1850

Dear Mr. Nelb:

The Texas Health and Human Services Commission (HHSC) is requesting to amend the Texas Healthcare Transformation Quality Improvement Program (THTQIP-11-W-00278-6) waiver program, a Medicaid waiver program operating under the authority of the §1115 Social Security Act. The current waiver is approved for the five-year period beginning December 12, 2011, and ending September 30, 2016. The proposed effective date for the amendment is September 1, 2013.

The Delivery System Reform Incentive Payment (DSRIP) funding in the waiver is for incentive payments to hospitals and other providers who develop programs or strategies to enhance access to health care, and increase the quality of care, cost-effectiveness of care provided, and the health of the patients and families served. HHSC is requesting an amendment to the THTQIP that would provide either room under the overall waiver budget neutrality cap or unspent DSRIP funds from Demonstration Year 2, which is October 1, 2012 – September 30, 2013, or later waiver years, to count as a “credit” toward Upper Payment Limit (UPL) expenditures made during two months in late 2011. A separate program under the THTQIP, the Uncompensated Care (UC) pool, which replaces the former UPL supplemental payment program, provides funding to eligible providers for the uncompensated costs of care to Medicaid eligible or uninsured individuals.

Currently, funds from the UC pool will need to be credited against these UPL expenditures at some point during the waiver. It appears that Texas providers will have more uncompensated care costs than the UC pool allows and it is likely that not all DSRIP pool dollars will be used. Additionally, waiver expenditures may remain below the overall budget neutrality cap. Given these possibilities, HHSC seeks the flexibility to use either cap room or unspent DSRIP funds to offset the UPL expenditures rather than UC pool funds.

Rob Nelb  
June 21, 2013  
Page 2

The Health and Human Services Commission is requesting that the Centers for Medicare & Medicaid Services approve the waiver amendment beginning September 1, 2013, and ending September 30, 2016. The amendment does not impact budget neutrality.

Please let me know if you have any questions or need additional information, Betsy Johnson, Policy Analyst in the Medicaid and CHIP Division, serves as the lead staff on this matter and can be reached at (512) 462-6286 or by email at [betsy.johnson@hhsc.state.tx.us](mailto:betsy.johnson@hhsc.state.tx.us)

Sincerely,



Kay Ghahremani  
State Medicaid Director

cc: Bill Brooks, ARA, CMS Dallas Regional Office

Attachments

Fourth Proposed Amendment to the Texas Healthcare Transformation and Quality Improvement Program §1115 Demonstration Waiver: Offset of certain supplemental provider payments

Supplemental Medicaid provider payments were provided to Texas providers in November and December 2011. These payments totaled \$466,091,028. Given that these payments were provided prior to the approval of the §1115 waiver, but were included in the budget neutrality test, CMS required this amount to be offset by the end of the waiver through the use of funds available in the Uncompensated Care (UC) pool. Paragraph 44.b.iv of the Standard Terms and Conditions (STCs) state:

The supplemental provider payments to hospitals and physicians made in November and December 2011 under the Medicaid State plan in the amount of \$466,091,028 will be considered as if they were payments under this Demonstration, and will be included in the budget neutrality test, and the amount available as payment from the UC Pool. The State may count these payments under the UC Pool limit for any of the five years of the Demonstration.

HHSC believes that all available funds in the UC pool will be claimed for the entire demonstration. However, as the end of the second demonstration year (DY2) nears, it is becomingly increasingly clear that not all of the funds available for the DY2 Delivery System Reform Incentive Payment (DSRIP) pool will be utilized. That DSRIP funds remain for DY2 does not indicate a lack of effort on the part of providers. Rather, it is a reflection of the biennial state legislature. Certain appropriations and statutes had to be approved before a governmental entity could have the proper funds to dedicate to DSRIP projects.

Additionally, internal calculations of the savings realized from the Medicaid managed care transition reveal greater savings than anticipated. Given that the DY2 DSRIP funds will not be fully utilized, and that HHSC will likely save more from the managed care transition than anticipated, HHSC requests that CMS approve the following amendment to the waiver. This amendment allows HHSC to credit unutilized DSRIP funds and unanticipated savings from managed care to the \$466,091,028 that will have to be accounted for under the UC pool.

The supplemental provider payments to hospitals and physicians made in November and December 2011 under the Medicaid State plan in the amount of \$466,091,028 will be considered as if they were payments under this Demonstration, and will be included in the budget neutrality test, and the amount available as payment from the UC Pool. The State may count these payments under the UC Pool limit for any of the five years of the Demonstration, under the DSRIP Pool limit for any of the five years of the Demonstration, or from savings generated from Medicaid managed care that were not assumed in the budget neutrality calculations. (STC 44.b.iv)

This amendment has no impact on Medicaid beneficiaries and would no effect evaluation design.