



Congress of the United States  
House of Representatives  
Washington, DC 20515-3605

December 16, 2021

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human  
Services  
200 Independence Ave., SW  
Washington, DC 20201

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human  
Services  
200 Independence Ave., SW  
Washington, DC 20201

The Honorable Daniel Tsai  
Deputy Administrator and Director  
Center for Medicaid and CHIP Services  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human  
Services  
200 Independence Ave., SW  
Washington, DC 20201

The Honorable Anne Marie Costello  
Deputy Director  
Center for Medicaid and CHIP Services  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human  
Services  
200 Independence Ave., SW  
Washington, DC 20201

Dear Secretary Becerra, Administrator Brooks-LaSure, Deputy Administrator Tsai, and Deputy Director Costello:

Thank you for your tireless work to ensure the health and well-being of all Americans, particularly in the face of the ongoing COVID-19 public health emergency. On behalf of our Texas constituents, we are grateful for your efforts.

As you know, the state of Texas and the Centers for Medicare & Medicaid Services (CMS) are engaged in ongoing litigation over the rescission of the January 2021 approval of Texas's Medicaid 1115 waiver program. The approval of the waiver, including approval of directed payment programs (DPPs) and related sources of financing, is essential to addressing health disparities and maintaining access to health care services for Medicaid beneficiaries in Texas.

While the DPPs are referenced in the waiver, CMS still maintains the discretion and authority to approve the payments separately, regardless of the status of the litigation. As an example, during the week of November 15, 2021, CMS approved two of the five DPPs that had been the subject of negotiation between Texas and CMS.

We know and share your dedication to expanding access to care and reducing health disparities. That is why many of us have sent letters and reached out to CMS asking that the agency approve the DPPs as soon as possible. We understand that CMS has concerns about the use of Local Provider Participation Funds (LPPFs) to provide the non-federal share of the proposed hospital DPPs and other Texas Medicaid supplemental payment programs.

LPPFs are a vital part of our health care safety net in Texas, particularly in areas of the state, such as the southern border region and the 89 Texas counties where Medicaid patients are primarily served by non-governmental hospitals, where Medicaid beneficiaries already have limited access to care. Further, it is our understanding that current LPPF arrangements are compliant local Medicaid provider taxes, as defined under federal statute and regulation, and we ask that CMS continue to engage with Texas to gather all the information needed to resolve outstanding concerns as quickly as possible.

Like you, we are deeply committed to the expansion of Medicaid across the state. We are particularly hopeful to see over one million Texans newly receive health care coverage as part of the historic investments in the Build Back Better Act. As supporters of that legislation, we agree with the Biden administration that this legislation will save lives and have a generational impact to strengthen the country's health care safety net. But until we are successful, these payment programs are critical to protecting our most vulnerable Texans and to preserving our safety net.

We would appreciate the opportunity to meet with you, your staff, and CMS to discuss the importance of these programs to nearly 5 million medically underserved individuals in the state, particularly communities of color, and those hardest hit by the pandemic. In the meantime, we hope that CMS and Texas will agree on a short-term solution to allow Texas providers to continue to ensure the health and well-being of all Texas communities, as you continue to negotiate on the approval of the outstanding DPPs and a sustainable overall waiver renewal.

We stand ready to assist you in any way we can to find a solution that will allow Texas hospitals to continue to provide vital care to our constituents through these DPPs and ensure that all Texans have access to affordable health care coverage. Thank you for your attention to this matter, and thank you for all that you do for our country.

Sincerely,



Colin Allred  
Member of Congress



Henry Cuellar  
Member of Congress



Joaquin Castro  
Member of Congress



Veronica Escobar  
Member of Congress

Lizzie Fletcher  
Member of Congress

Vicente Gonzalez  
Member of Congress

Eddie Bernice Johnson  
Member of Congress

Filemon Vela  
Member of Congress

Al Green  
Member of Congress

Sheila Jackson Lee  
Member of Congress

Marc Veasey  
Member of Congress