

March 26, 2020

The Honorable Greg Abbott
Governor of Texas
Office of the Governor
P.O. Box 12428
Austin, Texas 78711-2428
Delivered via Email

Dear Governor Abbott:

The undersigned organizations work each day to improve access to health care for all Texans. We care deeply about the well-being of our communities and are ready to play our part in responding to and combating the COVID-19 pandemic. We commend the Abbott Administration for your quick action in response to the COVID-19 outbreak in Texas. We know you and your entire Administration, including the Department of State Health Services (DSHS), Health and Human Services Commission (HHSC), and Texas Department of Insurance (TDI), are working around the clock, and we are grateful for the tireless efforts of executive agency staff.

Our organizations call on state leadership to take immediate action in key areas to protect the health and well-being of children and families, particularly communities in Texas with lower incomes and with the greatest needs. In addition to the specific measures outlined below to protect and improve the health of Texans in Medicaid, Children's Health Insurance Program (CHIP), and private insurance, we call on state leaders to expand coverage to the uninsured as a necessary action to protect the health and safety of Texans in the wake of the COVID-19 pandemic. In a recent article about the pandemic, scholars from the American Enterprise Institute encouraged states that have not already done so to implement Medicaid coverage to low-wage, uninsured individuals with incomes below the federal poverty level.¹ At the state level, we cannot afford to leave millions of Texans out of luck – as this pandemic shows, we are all inextricably tied together. Both in the health and economic sense, the well-being of our neighbors represents our ultimate well-being.

Our organizations stand ready to help the Administration and state leaders respond to this outbreak. We ask that you leverage our collective expertise and community connections as Texas responds to this crisis.

Enhancing Medicaid and CHIP Services to Combat COVID-19

Medicaid has a proven track record of providing critical, nimble, and flexible coverage and care, especially during a health crisis. It is not only a critically important health insurance program for children, people with disabilities, pregnant women, and seniors, it may be the sole vehicle through

which individuals get testing and treatment for COVID-19. This is especially true for medically fragile children and those who have significant health needs who are at high risk of experiencing complications from the virus.

Texas and other states have significant flexibility to adapt their Medicaid programs to combat COVID-19. The Centers for Medicare and Medicaid Services (CMS) released a Medicaid and CHIP Disaster Response Toolkit² and Frequently Asked Questions (FAQs)³ offering specific strategies state Medicaid and CHIP agencies can implement in response to COVID-19.

We urge HHSC to pursue the following steps to strengthen Medicaid and CHIP as vital tools in combating COVID-19. Some measures may be pursued by leveraging a State Plan Amendment, an 1115 waiver, or 1135 waiver.

Getting & Keeping Texans Enrolled

- Explicitly suspend or temporarily delay renewals for Medicaid and CHIP so beneficiaries keep their current coverage and can continue to receive health services. The newly-passed Families First Coronavirus Response Act provides additional federal funding to state Medicaid programs, and conditions the 6.2 point Federal medical assistance percentage (FMAP) increase on states not terminating coverage for current and new enrollees during the period of national emergency. Suspending renewals will ensure HHSC eligibility and enrollment staff are ready to prioritize new applications, in the face of a potential uptick in new applications as more families experience job loss or reduced work hours. As such, requiring renewal paperwork from families would waste state administrative resources, and suspending renewals would be a clear step to ensure compliance with the Families First Act.
- Eliminate periodic data checks between renewals and implement continuous coverage. Like the previous recommendation, this step reduces extra paperwork and workload for state staff and families, particularly when state staff are likely to see an increase in new applications and families are experiencing fluctuating work hours and wages. Likewise, as mentioned above, the Families First Act provides additional federal funding to state Medicaid programs as long as states do not terminate coverage during the period of national emergency. Ceasing mid-year data checks will eliminate unnecessary staff hours and bring Texas into compliance with the Act's requirements to ensure Texas receives additional federal funds through the enhanced match rate.
- Suspend cost-sharing, enrollment fees, and the 90-day waiting period for children applying for or enrolled in CHIP. We appreciate the steps HHSC has taken to waive copayments for office visits through April 2020 and services delivered via telehealth or telemedicine. We urge HHSC to apply this policy to CHIP enrollment fees and co-payments beyond office visits, including medications – just as Texas did during Hurricane Harvey, where HHSC waived enrollment fees and copayments for four months for CHIP covered services, including pharmacy.⁴ The COVID-19 is an unprecedented crisis disrupting the lives of millions of Texans. Children enrolled in

CHIP will need access to much more than office visits and telehealth, such as x-rays, radiology, laboratory services, and inpatient care.

- Implement a public awareness campaign that leverages social media, local community-based organizations, 2-1-1 call centers, and local health providers to ensure more children and families know about Medicaid and CHIP as a coverage option and that families can apply without fear of any impact to a family member's immigration status.
- Integrate into communications on COVID-19 information about Medicaid and CHIP as a coverage option for some Texans.
- Ensure sufficient staffing levels at HHSC to process applications. The new Families First Coronavirus Response Act offers an increased Medicaid federal matching rate intended to help offset the state's health care costs related to COVID-19 and potential higher enrollment.
- Minimize verification of eligibility criteria required from applicants by relying on self-attestation and electronic data sources to the maximum extent possible. Texas should enroll people based on their self-attestation and follow up with verification requests only when the attestation is not compatible with electronic data sources.
- Adopt presumptive eligibility for all eligible populations including children. Consider creative ways to utilize presumptive eligibility (PE) through expansion of qualified entities, including PE determinations at drive-by COVID-19 testing sites. CMS has indicated flexibility to states around PE.⁵
- Adopt Express Lane Eligibility (ELE) to help reach uninsured children who are eligible for Medicaid and CHIP by using verified information from other programs such as SNAP to confirm eligibility and get children enrolled.

Benefits & Access to Care

- Ensure Medicaid and CHIP cover at least 90-day supplies of medications and allow advance or early refills to ensure enrollees have an adequate supply of their medications for an extended period of social distancing. The Families First Act and CMS guidance have removed barriers to this, and any remaining Texas policy barriers should be removed.
- Maximize the use of telehealth for Medicaid and CHIP enrollees. As clarified in the Families First Act and CMS FAQs, states have broad flexibility to cover telehealth through Medicaid, including the methods of communication (such as telephonic, video technology, and smartphones). Texas Medicaid covers and reimburses services via telehealth in many instances, but not all. It is critical to facilitate expanded use and reimbursement of Medicaid- and CHIP-covered services provided via telehealth, including behavioral health. We appreciate the Administration and Texas Department of Insurance (TDI) waiving certain regulations to facilitate expanded use of telehealth for enrollees in TDI-regulated private insurance.⁶

Opportunities under the Families First Coronavirus Response Act

The newly-passed Families First Coronavirus Response Act provides states with a temporary increase to their FMAP in Medicaid in order to help states address higher healthcare costs and potential increased insurance enrollment due to COVID-19 and its effects. This 6.2 percentage point boost in every state's federal matching fund rate provides relief to states and helps prevent Texas from having to divert state General Revenue funds from other parts of the state budget to cover health costs – ultimately ensuring our state budget remains balanced.

Additionally, the Families First Act takes a vital step by covering the costs of COVID-19 testing and related visit expenses at 100% FMAP for uninsured individuals who do not qualify for public or private insurance programs. **We urge Texas to opt-into these federal funds to make sure all Texans can be tested.**

Because roughly 1 in 5 uninsured Texans could be excluded from the Medicaid-linked COVID-19 testing option depending on the interpretation of the law, Texas must also take steps quickly to access funding from the National Disaster Medical System that can be used to support testing without regard for immigration status. Texas' share of the Families First Act's \$1 billion allocation for that fund can be in addition to the uncapped Medicaid-linked funding for testing – helping Texas avoid the dangerous public health consequences if a large share of the population were left out of testing and tracking of the disease.

Enhancing State-regulated Private Insurance Coverage to Combat COVID-19

We applaud the Governor's and TDI's March 10th request for state-regulated insurers to waive out-of-pocket costs for COVID-19 testing and to take six specific actions aimed at increasing access to prevention, testing, and treatment of COVID-19.⁷ Subsequently, the Families First Act requires most types of commercial health insurance to cover COVID-19 testing and testing-related services with no out-of-pocket costs for patients, though the federal requirement does not apply to short-term health plans or indemnity-only plans overseen by TDI or health sharing ministries that TDI does not regulate.⁸

We urge the Administration to:

- Take any additional steps needed to ensure that *all* state-regulated plans in Texas are held to the same high standard of coverage of testing and testing-related services without out-of-pocket costs;
- Review plan actions taken to date to determine whether plans have uniformly complied with each action in Texas' March 10 request, such as allowing for coverage of a 90-day supply of prescription medication; waiving penalties and denials for necessary out-of-network services;

and waiving requirements for prior authorization, referrals, and utilizations review to ensure care consistent with CDC guidance. If needed, take additional steps to ensure uniform access by Texas consumers; and

- Require any short-term plans, indemnity-only plans, health sharing ministries, and any other bare-bones plans that are not required to cover testing with no out-of-pocket costs to immediately inform their customers and provide them with information on how to access free testing for the uninsured.

We appreciate the Administration and TDI waiving certain regulations to facilitate expanded use of telehealth for enrollees in TDI-regulated private insurance, including use of mental health services via audio-only telephone.⁹ Yet, more guidance is needed to ensure that Texans with federally-regulated health insurance are able to receive needed behavioral health services via telehealth. We ask the Administration to work with federal partners to ensure private health plans cover behavioral health provided through telehealth, at the same rate as in-person visits.

Action Needed to Expand Access to Care for Low-Income Texans

We urge Texas to take rapid action to address a massive gap: the millions of Texans without health insurance. Failure to address the lack of health insurance for millions of Texans will put the health and economic security of all Texans at risk.

Texas has the highest number and percentage of uninsured adults in the nation, many of whom are janitors, child care teachers, restaurant workers, and other low-wage adults who are seeing their paychecks shrink. Despite the option in the Families First Act to cover the costs of COVID-19 *testing* for the uninsured, much more is needed. Research shows that uninsured Americans wait longer to seek medical attention when they are sick. Uninsured Texans have very limited access to treatment services, which will be costly and could be ongoing. Low-wage workers – and the Texas economy – will feel the economic repercussions of this crisis long after the pandemic has ended.

In the wake of an infectious disease that threatens *all* Texans, accepting federal funds to offer insurance to low-wage workers is a necessary action to protect the health and safety of Texans. Coverage will encourage timely testing, provide much needed treatment, and provide more financial stability for families struggling with reduced earnings. One of the best ways we can provide Texans financial security is by making sure they can afford their health care and don't have another financial hit every time they get sick in the years to come. Scholars from the American Enterprise Institute recently urged states to implement Medicaid coverage options for families making lower incomes during the current crisis, recognizing that these families have no realistic alternative for getting health insurance if their incomes are too high to qualify for Medicaid under current state rules and too low to qualify for affordable coverage on HealthCare.gov.¹⁰

Accepting our large share of federal Medicaid dollars – estimated at \$6-10 billion a year – will also provide an important boost to the Texas economy by bringing billions of federal dollars to Texas when we most need it. These funds will help keep rural hospitals open, stabilize our hospital and healthcare infrastructure across the state, and be part of the economic stimulus we need by creating hundreds and thousands of good jobs.

Additionally, we encourage the administration to work with federal partners to achieve these goals, via legislation or administrative actions:

- Open a special enrollment period for individuals to purchase commercial health insurance on HealthCare.gov during this crisis and future public health crises. Taking this step and publicizing a ‘get enrolled’ message broadly will help reach additional uninsured Texans.
- Seek further enhancement of the federal Medicaid matching funds rate to further ease pressure on the state budget in this economic crisis.
- Suspend pending CMS regulations that would limit Medicaid financing to states, such as the Medicaid Financial Accountability Rule.
- Provide special funding for Community Health Centers (FQHCs) to help with costs of serving uninsured individuals and the costs of helping Texans enroll in Medicaid, CHIP, and HealthCare.gov coverage.
- Allocate additional federal funds for outreach and enrollment assistance for public and private insurance.

Responding effectively to COVID-19 is a responsibility we all share. State actions made in the days, weeks, and months ahead will have tremendous impact on the health and wellbeing of Texas families. We urge state leaders to act swiftly to alleviate immediate and long-term impacts on communities and our economy. We welcome the opportunity to work with the Administration and state leaders through this crisis and beyond. For more information, please contact Adriana Kohler, Texans Care for Children at akohler@txchildren.org; Anne Dunkelburg, Center for Public Policy Priorities at dunkelberg@cphp.org; and Laura Guerra-Cardus, Children’s Defense Fund - Texas, LGuerraCar@childrensdefense.org.

CC: HHSC Commissioner Phil Wilson
HHSC Medicaid Director Stephanie Muth
Texas Department of Insurance Commissioner Kent Sullivan
DSHS Commissioner John Hellerstadt
Lt. Gov. Dan Patrick
House Speaker Dennis Bonnen

Sincerely,

Access Esperanza Clinics Inc.
American Cancer Society Cancer Action Network
American College of Obstetricians and Gynecologists - Texas District XI
American Diabetes Association
American Heart Association
Autism Society of Texas
Healing Hands Community Doula Project
Black Mamas ATX
Center for Public Policy Priorities
CHILDREN AT RISK
Children's Defense Fund - Texas
Circle Up United Methodist Women for Moms
Coalition of Health Services, Inc.
Coalition of Texans with Disabilities
Dallas-Fort Worth Hospital Council
Deeds Not Words
Disability Rights Texas
Easterseals Central Texas
Feeding Texas
Foundation Communities
Harris Health System
Indivisible Austin
Jolt Action
La Union del Pueblo Entero (LUPE)
League of Women Voters Texas
March of Dimes
Methodist Healthcare Ministries of South Texas, Inc.
Mi Familia Vota
NAMI Central Texas
NAMI Texas
National Association of Social Workers - Texas Chapter
National MS Society
Progress Texas
Proyecto Azteca
Texans Care for Children
Texas Academy of Family Physicians
Texas AFL-CIO
Texas Alliance for Retired Americans

Texas Association of Community Health Centers
Texas Association of Obstetricians and Gynecologists
Texas Campaign to Prevent Teen Pregnancy
Texas Council for Developmental Disabilities
Texas Counseling Association
Texas Criminal Justice Coalition
Texas Democrats with Disabilities Caucus
Texas Hospital Association
Texas Interfaith Center for Public Policy/Texas Impact
Texas Nurses Association
Texas Women's Healthcare Coalition
TexProtects
The Arc of Texas
UnidosUS
United Ways of Texas
Via Hope
Women's Health and Family Planning Association of Texas
Young Invincibles

¹ Joseph Antos, James C. Capretta. American Enterprise Institute. "Covering the Uninsured During the COVID-19 Pandemic." (Mar. 19, 2020). Published in RealClearHealth. Available at

<https://www.aei.org/articles/covering-the-uninsured-during-the-covid-19-pandemic/>

² <https://www.medicaid.gov/state-resource-center/disaster-response-toolkit/covid19/index.html>

³ <https://www.medicaid.gov/state-resource-center/downloads/covid-19-faqs-20200312.pdf>

⁴ During Hurricane Harvey, HHSC waived enrollment fees for families approved for CHIP coverage or renewal in August, September, October and November 2017. See CMS letter to HHSC (Aug. 31, 2017). See HHSC Hurricane Harvey Medicaid and CHIP FAQ. Question #10. Available at <https://apps.hhs.texas.gov/documents/hurricane-harvey-faq.pdf> ("HHSC is waiving co-payments for CHIP covered services, including pharmacy, for CHIP members with a permanent address in one of the Hurricane Harvey FEMA-declared disaster counties. Co-payments are waived for services provided Aug. 25 through Nov. 30, 2017.")

⁵ CMS has indicated that, for the traditional PE program (non-hospital PE), additional entities may become PE sites as long as the state deems the entity capable of making a presumptive eligibility decision.

⁶ <https://gov.texas.gov/news/post/governor-abbott-waives-certain-regulations-for-telemedicine-care-in-texas>

⁷ <https://gov.texas.gov/news/post/governor-abbott-tdi-ask-health-insurance-providers-to-waive-costs-associated-with-coronavirus>

⁸ Kaiser Family Foundation, Private Health Coverage of COVID-19: Key Facts and Issues, March 18, 2020, <https://www.kff.org/private-insurance/issue-brief/private-health-coverage-of-covid-19-key-facts-and-issues/>

⁹ <https://gov.texas.gov/news/post/governor-abbott-waives-certain-regulations-for-telemedicine-care-in-texas>

¹⁰ Joseph Antos & James C. Capretta. American Enterprise Institute. "Covering the Uninsured During the COVID-19 Pandemic." (Mar. 19, 2020). Published in RealClearHealth. Available at

<https://www.aei.org/articles/covering-the-uninsured-during-the-covid-19-pandemic/>