



June 12, 2017

Jami Snyder
Associate Commissioner, Medicaid and
CHIP Services
Texas Health and Human Services
Commission
4900 N. Lamar Boulevard
Austin, TX 78751

CC: Lesley French
Associate Commissioner, Health
Development and Independent Services
Texas Health and Human Services
Commission
4900 N. Lamar Blvd
Austin, TX 78751

Re: Comments on the Healthy Texas Women Section 1115 Demonstration Waiver Application

Dear Commissioner Snyder:

On behalf of the Texas Women's Healthcare Coalition, thank you for this opportunity to provide input on the Health and Human Services Commission's (HHSC) application to the Centers for Medicare & Medicaid Services (CMS) to request a new waiver under Section 1115 of the Social Security Act for a Healthy Texas Women Section 1115 Demonstration Waiver.

The Texas Women's Healthcare Coalition (TWHC) and its 67 healthcare, faith, and community-based member organizations are dedicated to improving the health and well-being of Texas women, babies, and families by ensuring access to preventive healthcare for all Texas women. Access to preventive and preconception care—including health screenings and contraception—leads to better birth spacing, greater access to prenatal care, and healthier babies.

Women's preventive care saves lives and money. Screening detects health problems early, before they cause complications and become more expensive to treat. For breast and cervical cancer, early treatment means a greater likelihood of cure; for diabetes and high blood pressure, early detection and management can prevent hospital admissions. Contraception, a vital part of preventive care, allows women and couples to plan and space their pregnancies, ensuring their babies have lower risk of prematurity and low birth weight. As our state seeks strategies to combat high maternal mortality rates and the threat of Zika transmission, the need for these services has never been greater.

Women's healthcare is a sound investment. Medicaid pays for 53% of the state's births.ⁱ A healthy, full-term newborn birth costs the state about \$572, while a newborn born premature or with low birth-weight complications costs \$109,220.ⁱⁱ In FY 2015, Medicaid paid over \$402 million for newborns with prematurity and low birth weight.ⁱⁱⁱ Unplanned Texas births cost \$1.34 billion annually.^{iv} Every dollar spent on contraceptive care leads to savings of over \$7.^v

TWHC recognizes the value of maximizing available federal funding, and supports new opportunities to strengthen our state's women's health programs. As HHSC develops its waiver application, we urge the Commission to keep the following considerations in mind. These recommendations are designed to preserve our women's health programs and their core components.

Protect Funding and Access to Preventive Healthcare

- **Protect women's preventive healthcare funding and women's access to care.** Uncertainty remains on whether the Centers for Medicare and Medicaid Services (CMS) will approve a waiver request; how much funding and at what match rate CMS will agree to; and when a waiver would go into effect if approved. Given this uncertainty, the TWHC urges HHSC to ensure that the state's application for or receipt of federal funding does not result in the reduction of overall funding for our state's women's health programs. The number of Texas women in need of essential preventive healthcare far exceeds the current supply; any reduction in funding would have a serious detrimental impact on women, babies, and families in the state. HHSC has done substantial work to increase the ability of our programs to serve more Texas women. Any new program configuration for Healthy Texas Women should be designed to increase the number of women served in the state.
- **Protect the Family Planning Program.** Texas has invested substantially to create a strong family planning infrastructure, with the Family Planning Program (FPP) and Healthy Texas Women (HTW) working together to ensure that women throughout the state have access to care. For many providers, the specific administrative and reimbursement structure of the FPP is the primary reason they have been able to participate in providing women's health services. The FPP is able to meet needs that the HTW is unable to, and providers throughout the state report that this program is in high demand. Any reduction in funding for this program would undermine the ability of the state to provide crucial preventive services to vulnerable Texas women. Based on Family Planning Program contract amounts for 2017, the need for FPP funds is close to \$80 million or more for the biennium. We urge the HHSC to ensure there is sufficient funding in the FPP strategy to meet the needs within this program.

Ensure an Adequate Network of Qualified Providers

- **Ensure the state has an adequate provider network before undergoing substantive changes to state programs.** Though the state has made important investments in women's healthcare in recent years, Texas continues to struggle to ensure an adequate provider network to serve the hundreds of thousands of women in Texas in need of preventive health services.

According to the state's 2017 Savings and Performance Report for the Texas Women's Health Program, the average number of clients receiving services per provider fell from 150 clients per provider during Fiscal Year 2011 to 103 clients per provider during Fiscal Year 2015. As the

report notes, there was a significant decline during this period in the number of providers seeing large numbers of clients.^{vi}

The effect of this decline in high-volume providers can be seen in the decline in services provided in this program. The Savings and Performance Report indicates that there was a dramatic drop in the provision of injections, oral contraception, condoms, and other forms of contraception in TWHP. As the report notes, some of this decline can be attributed to the increase in Long-Acting Reversible Contraception (LARC) methods, which reflects important efforts by HHSC to increase access to these longer-lasting methods. However, increase in LARC use cannot entirely explain the decline in contraceptive use experienced by clients between 2011 and 2015.

Moreover, data from HHSC indicates that there has been a significant decline in total clients served across the state's women's health programs in recent years.^{vii} This indicates that the state's women's health programs have more work to do to build adequate provider capacity in Texas.

Given these challenges, the TWHC encourages the state to conduct a readiness review to verify adequate provider capacity prior to moving forward with the waiver. As it does with managed care organizations in the state, Texas can implement a mechanism for determining the capacity of the state to serve eligible women prior to implementing a waiver. This readiness review will enable Texas to establish a strong family planning network prior to implementing changes that might further disrupt the current family planning safety net.

- **Increase our current provider network, minimize disruption among providers, and monitor network adequacy.** Undoubtedly, Texas needs more providers to deliver preventive care to women, especially in rural areas. Any new federal partnership should be designed to preserve or increase our current provider network. Since 2011, Texas women's health providers have experienced frequent, substantial changes to the programs they provide. Any major change to our state's safety net should be undertaken in a way that maximizes stability among providers to ensure they are able to continue participation in the state's programs.

In the current state budget for FY 2018/2019, "HHSC Rider 60. Women's Health Programs: Savings and Performance Reporting" indicates that the agency shall undertake corrective measures to expand provider capacity and/or client outreach and enrollment efforts should women enrolled or service utilization drop more than 10 percent relative to the prior two fiscal years. We urge HHSC to closely monitor the progress of the HTW program and ensure that all necessary steps are taken to ensure any historical drop in enrollment or service utilization is adequately addressed.

Crucial to this effort is the provision of comprehensive data regarding provider capacity within the state. A simple headcount of certified providers within HTW is insufficient to provide a true picture of provider capacity. HHSC must use actual historic service levels to provide a more

effective means of evaluating provider capacity in the state. This will enable the state to better address any gaps in services.

- **Ensure Quality Family Planning and well-qualified family planning providers.** We believe it is essential that our state’s women’s health programs meet national standards for Quality Family Planning services as recommended by the Centers for Disease Control and Prevention. These recommendations have been informed by the experience of family planning providers and women’s healthcare experts across the country, and can serve as an important standard for Texas’ own family planning safety net.

In addition, Texas must ensure that all providers offering services through its women’s health programs have the experience and expertise necessary to serve clients. All HTW providers should have a demonstrated commitment to providing clients with the full range of contraceptive methods, counseling, and preventive services that are at the core of Quality Family Planning.

Preserve and Improve Core Services and Benefits

- **Include language clarifying that all FDA-approved methods of contraception, including Long-Acting Reversible Contraception, must be made available to clients.** The current rules for the Healthy Texas Women program define “contraceptive method” as “Any birth control options approved by the United States Food and Drug Administration, with the exception of emergency contraception.”^{viii} Additionally, the current HTW Provider Manual lists all contraceptive methods and services and specifies that “providers must make each method available either on-site or by referral.”^{ix} This list includes Long-Acting Reversible Contraceptive (LARC) methods. In contrast, the HTW 1115 waiver application does not include a comprehensive list of covered contraceptive methods. The list of covered services on Pages 4-5 of the application is overly broad. Furthermore, the list of prescribed drugs on Page 18 indicates they are limited to oral contraceptives, and the Benefits Chart does not include reference to contraceptive implants, intrauterine devices, male/female sterilization, the hormonal contraceptive patch, the Progestin injection, or the vaginal ring. A more detailed list of covered benefits is necessary to ensure the program provides the full range of contraceptive methods.
- **Explore innovative policies to increase access to Long-Acting Reversible Contraception.** With this waiver, HHSC has an opportunity to identify new, innovative strategies to increase access to LARC. Leading health experts recommend that providers offer women access to the LARC method of their choice on the day they request it, rather than requiring them to return for the device. Unfortunately, many barriers currently prevent providers from offering same-day LARC, including low reimbursement rates. Other states have identified successful solutions to this problem. For instance, Oklahoma utilizes the same reimbursement methodology for clinician-administered drugs procured through the medical benefit and the pharmacy benefit.^x An approach like Oklahoma’s may help reduce the often substantial discrepancy between reimbursement rates for drugs billed as a medical benefit versus drugs billed as a pharmacy

benefit, improving the ability of providers to afford to readily stock LARC devices. HHSC should identify and implement innovative strategies that could increase access to longer-lasting, more effective methods.

- **Use 1115(a) demonstration authority to make available administrative funding at the 90 percent federal match to maintain an inventory of LARC for providers.** In guidance^{xi} provided on June 14th, 2016, CMS explicitly encourages states to consider using section 1115(a) demonstration authority to enable Medicaid providers to purchase a stockpile of LARC for use by Medicaid beneficiaries. CMS envisions that the state would incur an administrative expense to purchase a stock, which would be re-stocked at the same amount once the provider had used it. According to CMS guidance, “states would claim the cost of the stock as a family planning administrative cost, make the stock available without cost to providers, prohibit any further claim by the provider for the cost of LARCS taken from stock for Medicaid use (the provider would bill for insertion or removal of the LARC, but not for the LARC itself), and provide for replenishment of the stock when LARCs are used.” Given the current challenges providers face providing same-day LARC, and given CMS’s explicit support for innovative policies to reduce barriers to LARC, the TWHC urges HHSC to explore options for partnering with CMS to increase LARC access. Innovative reimbursement methodologies should ultimately reduce—not increase—administrative barriers to stocking and supplying LARC, and HHSC should seek provider feedback on how to implement any changes to reimbursement.
- **Maintain benefits currently included in our state’s health programs, including coverage in Healthy Texas Women for chronic conditions and postpartum depression.** The TWHC commends HHSC for including coverage of postpartum depression, immunizations, hypertension, and diabetes in its waiver application. In addition to improving healthcare for women, reducing the risk of pregnancy complications, and improving birth outcomes, these new benefits have enabled many providers to continue participating in the programs. The TWHC supports HHSC continuing to cover these benefits, regardless of the Federal Medical Assistance Percentage (FMAP) CMS agrees to for these benefits.
- **Enable continued auto-enrollment of pregnant women in Medicaid into Healthy Texas Women after delivery.** The TWHC commends HHSC for specifying in its waiver application that auto-enrollment will continue for pregnant women from Medicaid into Healthy Texas Women 60 days after delivery. This policy has been successful, providing an opportunity to substantially improve health outcomes for moms, babies, and families. We urge HHSC to ensure this policy is preserved.
- **Maintain the cost reimbursement component of the Healthy Texas Women Program, and provide stakeholders with information on the impact of a waiver on the state’s family planning safety net.** Though the HTW 1115 Demonstration Waiver application addresses only the fee-for-service component of the HTW program, it is important that providers continue to have access to the cost reimbursement component of HTW. HHSC should provide stakeholders

with an overview of how the receipt of a federal waiver will impact the state's family planning safety net, including the continuation of cost reimbursement within HTW.

Address Issues with Client Eligibility

- **Address technological glitches in the state's eligibility and enrollment system that prevent currently eligible clients from accessing family planning services.** Texas CHIP does not cover contraceptive services for its clients. Additionally, CHIP clients cannot receive contraceptive services through the Healthy Texas Women program because the HTW system (based on the Texas Integrated Eligibility Redesign System) is not currently designed to accept CHIP enrollees. As a result, eligible CHIP clients are unable to access contraceptive services through either program. This technological glitch within TIERS substantially undermines the benefits of having HTW serve some teenagers. With the highest rate of repeat teen births in the country^{xii}, Texas has an opportunity to substantially decrease the likelihood of unintended pregnancies and Zika transmission among teenage women by enabling more teens to access contraceptive services through the new HTW program. HHSC should prioritize changes to the TIERS system that would enable it to accept HTW clients who are enrolled in CHIP.

While HHSC determines how to best modify the TIERS system to enable dual enrollment in CHIP and HTW, HHSC should ensure that eligible clients are informed that they may receive more comprehensive benefits through the CHIP program. HHSC should also seek to provide these clients with assistance enrolling in CHIP.

- **Align the waiver's proposed citizenship requirements with federal policy regarding citizenship status verification.** 42 CFR §435.956(a)(5) requires state agencies to provide Medicaid and CHIP applicants or recipients who declare themselves to be U.S. citizens or declare to have an eligible alien status, but for whom verification of citizenship or alien status is unavailable, a period of reasonable opportunity (90 days) to provide verification of citizenship or alien status. During a period of reasonable opportunity, the agency must provide Medicaid or CHIP benefits if the individual is otherwise eligible. In contrast, HHSC's waiver application proposes allowing applicants at least 30 days to provide verification at application and at least 10 days to provide verification at renewal (Page 13). TWHC recommends that HHSC align the state's policy regarding citizenship status verification with federal policy by allowing a 90-day period of reasonable opportunity. This will enable prospective clients to receive critical preventive services as they wait for eligibility determination.
- **Align the waiver's proposed citizenship requirements with HTW's current policy regarding verification at renewal.** The current rules for the Healthy Texas Women program indicate that "Citizenship is only verified once, unless HHSC receives conflicting information related to citizenship. If an applicant's citizenship has already been verified by HHSC for eligibility for Medicaid or HTW, the applicant is not required to re-verify her citizenship."^{xiii} In contrast, HHSC's waiver application indicates that individuals have 10 days to provide

verification at renewal, and that renewal applications will be denied the last day of the certification period if the individual does not provide the required verification (Page 13). HHSC should modify the application so it aligns with current HTW rules specifying that citizenship is only verified once, unless HHSC receives conflicting information.

- **Ensure Qualified Immigrants are eligible for HTW.** The current waiver application indicates that “qualified immigrants” are eligible for HTW, but there is some confusion whether this term refers to Qualified Immigrants as defined in Section 431 in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The TWHC strongly urges HHSC to ensure that all Qualified Immigrants are eligible for HTW, including Legally Permanent Residents.
- **Enable eligible women with Medicare Part A and B to enroll in the HTW program.** Women with Medicare are able to receive contraception and sterilization if these services are medically necessary, but not if they are used for contraceptive purposes. Enabling women in Medicare Part A and B to enroll in HTW will help reduce the chances of high-risk pregnancies and improve infant and maternal health outcomes.
- **Implement Presumptive Eligibility.** Currently, states may use presumptive eligibility (PE) in their family planning State Plan Amendments, and the TWHC encourages HHSC to enable presumptive eligibility within the HTW program. PE would allow providers to grant temporary eligibility to individuals, with providers paid for any care provided to individuals during the PE period. In turn, states would receive federal matching funds. Implementing Presumptive Eligibility would help increase the number of women able to receive services and reduce the financial burden for providers seeing these women.

Streamline Access to Care

- **Add the Children’s Health Insurance Program (CHIP) to the list of programs that qualify a client as adjunctively eligible for HTW.** CHIP is currently not included on the list of programs qualifying an applicant as adjunctively eligible for HTW. Adding CHIP to the adjunctive eligibility list is an important step for streamlining eligibility and improving access for qualified clients.
- **Align income eligibility rules for HTW with the rules used for Medicaid for Pregnant Women.** According to 42 U.S.C. Section 1902(e)(14), a state cannot waive the requirement to use Modified Adjusted Gross Income (MAGI) to determine eligibility for Medicaid or a Medicaid waiver. HHSC should align the income eligibility rules of HTW with MAGI, not only to comply with federal law, but also because this will streamline eligibility and improve continuity of care for women.
- **Ensure that clients eligible for Medicaid or for coverage on the Health Insurance Marketplace are assisted with enrollment in these programs.** Applicants should be informed that Healthy Texas Women does not qualify as minimum essential coverage as

required by the Affordable Care Act, and that enrollment in HTW will not prevent a tax penalty. Furthermore, HHSC should assist clients who are eligible or likely eligible for Medicaid or the Health Insurance Marketplace with applications to these programs. Medicaid and the Marketplace provide more comprehensive services than HTW, and eligible clients should be informed and assisted in accessing these healthcare options.

Thank you for your consideration of these recommendations, and for your commitment to women in the state. Please let us know if we can provide you with any additional information.

Respectfully,

A handwritten signature in black ink, appearing to read "Janet Realini MD MPH". The signature is fluid and cursive, with the first name "Janet" being the most prominent.

Janet Realini, MD, MPH
Chair, Texas Women's Healthcare Coalition

Texas Women’s Healthcare Coalition Steering Committee Members

Texas Medical Association
District XI (Texas) American Congress of Obstetricians and Gynecologists
Texas Academy of Family Physicians
Texas Association of Community Health Centers
Methodist Healthcare Ministries
Teaching Hospitals of Texas
Women’s Health and Family Planning Association of Texas
Texans Care for Children
Center for Public Policy Priorities
Healthy Futures of Texas

Texas Women’s Healthcare Coalition General Members

Access Esperanza Clinics Inc.	National Latina Institute for Reproductive Health
Amistad Community Health Center	North Harris Montgomery Advanced Practice Nurse Society
Austin Advanced Practice Nurses	North Texas Alliance to Reduce Teen Pregnancy
Austin Physicians for Social Responsibility	North Texas Nurse Practitioners
AWHONN Texas	Panhandle Nurse Practitioner Association
Brazos Valley Nurse Practitioner Association	People’s Community Clinic
Cardea	Port Arthur Housing Authority
Center for Community Health, UNTHSC	SALVERE (Striving to Achieve Literacy via Education, Research, and Engagement)
Central Texas Nurse Practitioners	San Antonio Metropolitan Health District
Children’s Hospital Association of Texas	San Antonio Nurses in Advanced Practice
Coalition for Nurses in Advanced Practice	Schneider Communications
Coastal Bend Advanced Practice Nurses	South Plains Nurse Practitioner Association
Coastal Bend Wellness Foundation	South Texas Family Planning & Health Corp.
Consortium of Texas Certified Nurse Midwives	Southeast Texas Nurse Practitioner Associates
Department of Ob/Gyn of UNTHSC and the ForHER Institute	St. David’s Foundation
El Paso Area Advanced Practice Nurse Association	Texas Association of Obstetricians and Gynecologists
Food Bank of the Rio Grande Valley	Texas Campaign to Prevent Teen Pregnancy
Fort Worth Region Nurse Practitioners	Texas Council on Family Violence
Gateway to Care	Texas Health Institute
Good Neighbor Health Center	Texas Hospital Association
Hill Country Advanced Practice Nurses & Physicians Assistants Association	Texas Medical Association Alliance
Houston Area Chapter of NAPNAP	Texas Nurse Practitioners
Houston Area Nurse Practitioners	Texas Nurses Association
League of Women Voters of Texas	Texas Pediatric Society
Legacy Community Health Services	Texas Unitarian Universalist Justice Ministry
March of Dimes - Texas	The Contraceptive Initiative
Mental Health America of Greater Houston	University Health System
National Council of Jewish Women—Texas State Policy Advocacy Network	Women’s & Men’s Health Services of the Coastal Bend, Inc.

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- ⁱ French L & Delgado E. *Presentation to the House Committee on Public Health: Better Birth Outcomes*. Texas Health and Human Services Commission. May 19, 2016.
- ⁱⁱ French L & Delgado E. *Presentation to the House Committee on Public Health: Better Birth Outcomes*. Texas Health and Human Services Commission. May 19, 2016.
- ⁱⁱⁱ French L & Delgado E. *Presentation to the House Committee on Public Health: Better Birth Outcomes*. Texas Health and Human Services Commission. May 19, 2016.
- ^{iv} Sonfield, A & Kost, K. *Public Costs from Unintended Pregnancies and the Role of Public Insurance Programs in Paying for Pregnancy and Infant Care: Estimates for 2008*. New York, NY. Guttmacher Institute. 2013. Retrieved from <http://www.guttmacher.org/pubs/public-costs-of-UP.pdf>.
- ^v Frost J, et al. *Return on Investment: A Fuller Assessment of the Benefits and Cost Savings of the US Publicly Funded Family Planning Program*. New York. Guttmacher Institute. 2014.
- ^{vi} Texas Health and Human Services Commission. *Final Report of the Former Texas Women's Health Program: Fiscal Year 2015 Savings and Performance: House Bill 1, 84th Legislature, Regular Session, 2015 (Article II, Health and Human Services Commission, Rider 41)*. March 2017.
- ^{vii} Texas Health and Human Services Commission. *HHS Women's Health Update*. May 15, 2017.
- ^{viii} Texas Administration Code. Chapter 382. Women's Health Services. Subchapter A: Healthy Texas Women §382.5(6).
- ^{ix} Texas Health and Human Services Commission, Women's Health Services Division. *Policy and Procedure Manual for Healthy Texas Women (HTW) 2017*. 2017. Page II-39.
- ^x Center for Evidence-based Policy. *Medicaid and Specialty Drugs: Current Policy Options*. June 2016.
- ^{xi} Department of Health and Human Services, Center for Medicare and Medicaid Services. *SHO #16-008 Re: Medicaid Family Planning Services and Supplies*. June 14, 2016. Retrieved from: <https://www.medicare.gov/federal-policy-guidance/downloads/sho16008.pdf>
- ^{xii} Centers for Disease Control and Prevention. *Vital Signs: Repeat Births Among Teens — United States, 2007–2010*. Morbidity and Mortality Weekly Report (*MMWR*). April 2013. 62(13), 249-255. Retrieved from: https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6213a4.htm?s_cid=mm6213a4_w
- ^{xiii} Texas Administration Code. Chapter 382. Women's Health Services. Subchapter A: Healthy Texas Women §382.9(g).