TEXAS HEALTH AND HUMAN SERVICES COMMISSION

THOMAS M. SUEHS
EXECUTIVE COMMISSIONER

January 5, 2012

Dear Penny Wilson:

I am writing to you to inform you of changes to the state's current Upper Payment Limit (UPL) program that may affect you. The changes are the result of an 1115 Medicaid program waiver approved by the federal government on December 12, 2011. This letter provides background information on who will be affected, an overview of the types of changes, and ways for you to obtain additional information on the changes and what you will need to do if you are currently involved in the UPL program, or if you would like to participate in the opportunities offered under the 1115 waiver program that will replace the current UPL program.

You will be affected by changes to the UPL program if:

- You are a hospital district that provides funding for the current UPL program.
- You are a county that provides funding to a private or public hospital and those funds are matched through the UPL program.
- You are a hospital, public or private, that currently receives UPL funding.
- You are a county that does not currently participate in the UPL program (by providing county funds to a hospital, with those funds matched with federal funds), but has county funds that you are interested in potentially matching with federal funds under the new waiver program.
- You otherwise participate in the current UPL program, or want to learn more about the waiver.

It is important to note that under the changes to the UPL program, entities that want to continue or newly participate with the program at any time over the next five years, must engage in development and transition activities to be eligible for funding at any time in the five year waiver program.

Hospitals that currently receive UPL funding will have new conditions to meet to receive continued funding. One of the most significant changes involves a provider's participation in the regional planning process which will occur in the first year of the waiver. According to the rules of the waiver, if a provider does not participate in the regional healthcare plan development, they will be unable to receive any funds from the Delivery System Reform Incentive Payment (DSRIP) or Uncompensated Care (UC) pools. These changes are currently in effect and redefine the manner in which hospitals can access program funding.

Background

During the last legislative session, the Health and Human Services Commission (HHSC) was directed to achieve cost savings by providing Medicaid through a managed care program throughout the state. This change shifts operations from a fee-for-service model to a captitated managed care delivery system. The phase in of this capitated model began in September 2011 and will be completed in March 2012.

However, federal regulations prohibit UPL payments when Medicaid is provided through managed care. In order to avoid the loss of more than $2 billion in UPL payments to the hospitals, and as mandated by the Texas Legislature, HHSC worked with the federal Centers for Medicare and Medicaid Services (CMS) to both keep the funding for hospitals and expand Medicaid managed care. To achieve these goals, CMS required the state to submit and negotiate an agreement in what is called a federal 1115 waiver.

CMS approved the waiver December 12, 2011. The waiver will be in effect for five years. As negotiated with CMS, additional objectives of the 1115 Waiver are to improve access to care, the quality of care, and the health of the population receiving these services.

For your information and review, a copy of the waiver proposal submitted to CMS, titled the "Texas Healthcare Transformation and Quality Improvement Program Waiver" and the final Special Terms and Conditions are located on the HHSC website at http://www.hhsc.state.tx.us/1115-waiver.shtml. Summary details of key provisions of the waiver are described below.

Waiver Funding

To ensure stability in funding between the last year prior to the waiver and the first year of the waiver (starting December 2011), the HHSC will make Transition Payments to hospitals and physician groups that received supplemental payments under Texas Medicaid State Plan during Federal Fiscal Year 2011. Entities that provide Intergovernmental Transfers (IGT) and hospitals receiving IGT will not need to make changes to receive transition funding during this year.

Starting the second year of the waiver, entities providing IGT and hospitals that had received UPL funding must meet new requirements for program funding. However, under the waiver, the anticipated amount of federal funding available to hospitals is expected to nearly double compared to current UPL amounts. This will provide new opportunities to IGT entities to access additional funding – if additional IGT is identified, and if program requirements are met.

The waiver replaces the UPL program methodology with the concept of pools. There are two funding pools – the UC and DSRIP pools – and funding from both pools requires a state match. A brief description of the funding pools is provided below.

1. **UC Pool Payments** are designed to help offset the costs of uncompensated care provided to Medicaid eligibles or to individuals who have no funds or third party coverage for services provided by the hospital or other providers.

   To qualify for a UC payment, a hospital must submit an annual UC application that will collect cost and payment data on services eligible for reimbursement. Hospitals will be required to submit the application by September 30 of each year, beginning in 2012 in order to qualify for a UC Pool payment. (The document is currently under development and will be available at a future date).

   Uncompensated care amounts will be based on:
   - Uncompensated Medicaid costs and uninsured patients' costs not covered by Disproportionate Share Hospital (DSH).
   - Medicaid non-hospital uncompensated care costs (such as physician, clinic and pharmacy settings which will be defined by the UC Application document).

2. **DSRIP Pool Payments** are available as incentive payments to hospitals that develop programs or strategies supporting hospitals' efforts to enhance access to health care, increase the quality of care, the cost-effectiveness of care provided and the health of the patients and families served. Programs or strategies eligible for incentive payments must be included in program plans submitted to the state as described below.

Regional Healthcare Partnerships and Plans

Under the waiver program, eligibility to receive payments from either of the funding pools described above will require participation in a Regional Healthcare Partnership (RHP). Entities providing IGT will work with other IGT-providing entities in geographical regions as Regional Healthcare Partnerships. The RHP regions will be developed throughout the state with each RHP required to submit a RHP plan to the state in order to receive funding.

Each RHP will include the IGT providers in an area, other hospital providers as well as other various healthcare providers. Each RHP will be 'anchored' by a public hospital or by the governmental entity providing IGT. The 'anchor' will be responsible for coordinating with other participating entities in the development of the RHP plan and for being the single point of contact for reporting with HHSC. (Details are noted in the section that follows). At a minimum, the plans will identify the participating partners, community needs, the proposed projects, and funding distribution.

DSRIP Pool Programs

Hospitals with IGT or IGT provided for them can receive incentive payments for improvement programs that increase access to care, improve the quality or cost-effectiveness of care, or improve the experience of care to improving the health of populations and reduce per capita costs of health care. There are four program categories from which RHPs may select to receive DSRIP funding. HHSC is working collaboratively with a variety of hospitals and organizations to create an expanded list of programs for each category. Once approved by CMS, the list will be made available to RHPs and serve as the basis for RHP plan development. The categories are:

- **Category 1: Infrastructure Development** – addresses investments in people, places, processes and technology (i.e. expand primary care/behavioral health capacity).
- **Category 2: Program Innovation and Redesign** – includes the piloting, testing and replicating of innovative care models (i.e. primary care redesign, medical homes).
- **Category 3: Clinical Quality Improvements** – major improvements in care provided in hospitals that can be achieved within a four year time span, e.g., reduced central line infections.
- **Category 4: Population Focused Improvements** – includes reporting measures across several domains based on regional/community needs that will favorably impact the healthcare delivery system (i.e. patient experience, preventive health).

Many hospitals, county commissioners and judges may have already heard about the waiver and the program changes. HHSC has been working with the Texas Organization of Rural and Community Hospitals (TORCH), the Texas Association of Counties (TAC), County Judges and Commissioners Association of Texas as well as the Texas Hospital Association (THA) and other hospital associations to discuss the waiver and the upcoming changes. These groups can serve as resources for you.

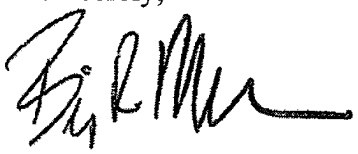
In addition, HHSC staff is currently focusing efforts on expanding rural county participation and have scheduled several technical assistance site visits. A series of webinars will also be scheduled, and we encourage you to contact us if you are interested in receiving information about meetings and webinars. If you are interested in being notified about local meetings and webinars, please email Shanece Collins and provide her with your name, the IGT providing entity you represent (hospital, county, or other), and the name of the best point of contact for you, email, phone and mailing address. Shanece can be emailed at shanece.collins@hhsc.state.tx.us.

A schedule of implementation activities is noted below and will also be posted on the agency website.

March 31, 2011	HHSC must submit a description of the state's plan for forming the RHPs, identifying the public hospitals directing each RHP, and the general projects and quality measures to be addressed in each RHP DSRIP to CMS for approval.
August 31, 2011	HHSC, CMS, and Texas Medicaid hospitals are required to work collaboratively to develop the RHP planning protocols and the program funding and mechanics protocol.
October 1, 2011	RHPs must submit their final DSRIP plans to the HHSC and CMS for approval.

I look forward to working with you over the next year as we transition the program and your ongoing participation in the Texas Healthcare Transformation and Quality Improvement Program. Should you have questions about any information contained in this letter, please feel free to contact Maureen Milligan, Deputy Director for Quality and Cost Containment Department at (512) 491-1328 or maureen.milligan@hhsc.state.tx.

Sincerely,



Billy Millwee
Deputy Executive Commissioner for Health Services Operations