Cover Texas Now!
Quality Affordable Health Coverage • Sustainable Health Care System

December 22, 2016

Honorable Greg Abbott
Governor
Office of the Governor
P.O. Box 12428
Austin, TX 78711-2428

David Mattax
Commissioner
Texas Department of Insurance
Mail Code 113-1C
P.O. Box 149104
Austin, TX 78714-9104

Dear Governor Abbott and Commissioner Mattax:

As you are aware, earlier this month leaders from the U.S. House of Representatives sent a letter to all governors and state insurance commissioners requesting input on potential changes to the Affordable Care Act (ACA) and Medicaid. The U.S. Senate Committee on Finance sent a separate letter seeking similar input to members of the Republican Governor's Association. As Congress prepares to take up federal health reforms, your advice and input will be critical.

The Cover Texas Now coalition urges you to use these opportunities to voice support for policies that will create a more stable, affordable, and high-quality health care system that builds on recent progress while making improvements. Cover Texas Now is a coalition of consumer and faith-based organizations that desire to see the state of Texas implement a sustainable health care system and provide quality affordable health coverage to its citizens. You can find a full list of our coalition members on our website, www.covertexasnow.org.

To ensure that as many Texans as possible have health insurance coverage and can get the care needed to ensure a healthy future for our state, **we write today to express our opposition to Congress repealing the ACA without simultaneously passing a replacement plan that would ensure no loss of coverage or loss of consumer protections, and to Congress fundamentally altering and reducing federal funding for Medicaid, either through a block grant or per capita cap.**

Please find below key issues and principles that Cover Texas Now has identified. We request that you urge Congress to find solutions that continue to ensure coverage and a healthy future for our state.

Ensuring Choice and Affordability in the Private Market

Efforts to increase choice and affordability of private market coverage should build upon progress made under the ACA. Since 2014, when the ACA fully took effect, the uninsured rate

in Texas has dropped by an 5 percentage points to an historic low, its first meaningful decline in decades. Today, Texas has 1.1 million fewer uninsured residents. Almost all Texas coverage gains have occurred because of the ACA provisions that provide choice and affordability in the private insurance market, including Marketplace subsidies, prohibition of denials and surcharges based on preexisting conditions, and allowing young adults to stay on their parents' plan until they turn 26.

After the close of 2016 open enrollment, 1.1 million Texans were enrolled through the Health Insurance Marketplace. About 84 percent of them, or 913,000 Texans, currently get federal subsidies that lower monthly premiums by $271 on average. Texans will receive $4.1 billion in federal subsidies in 2019 that allow moderate-income Texans to maintain coverage.[i] This federal investment is an essential component to the health of the Marketplace and the ability of Texans to gain coverage. Without these sliding-scale premium supports, only a small number will be able to remain insured. **Congress should protect federal funding for premium and cost-sharing subsidies.**

Texans today cannot be denied coverage, charged more, or subject to a waiting period because they have a pre-existing condition. This key tenet of the ACA protects more than 1 in 4 Texans between the ages of 18-64 (or 4.5 million Texans) who have a pre-existing condition that would have resulted in a denial of coverage in the individual market before the ACA.[ii]

Before the ACA passed, individuals were routinely denied coverage, subject to exclusions of coverage for their illnesses, or charged more due to having health conditions such as asthma or cancer. Texas had a small "high risk pool" for uninsurable individuals, but it never functioned well, with fewer than 30,000 Texans enrolled at peak enrollment and unaffordable premiums set at two times the market rate. A re-established high risk pool would be a completely inadequate alternative to today's sliding-scale, guaranteed-issue coverage, with no increase in price driven by health status or gender. **Congress must preserve protections related to pre-existing conditions.**

The ACA requires all non-grandfathered health plans – including large-group plans – to cover a range of preventive care, care at no additional cost to the patient. Among the benefits included are depression and alcohol misuse screening for adults and adolescents, as well as autism screening and behavioral assessments for children. Other crucial preventive services include mammograms, well-woman exams, maternity care, prescription contraception, sexually transmitted infection counseling and testing, and a broad range of pregnancy-related screening and tests. **Congress should ensure that with any ACA replacement, Texans are able to continue to get cost-effective preventive care with no cost-sharing. To retreat from these standards now would be a setback for Texans' access to crucial care.**

Ensuring a Stable Individual Insurance Market

Congress should not repeal the ACA without simultaneously passing a replacement plan. The American Academy of Actuaries has warned about unintended consequences of repealing the

ACA without simultaneously replacing it. They warn that, *even if Congress delays the effective date of the repeal*, states' individual insurance markets could become destabilized, causing insurers to leave the market, premiums to climb, and Texans to lose coverage.[iii] Today, 1.8 million Texans rely on coverage in the "individual market."[iv] This includes not only Texans with coverage in the Health Insurance Marketplace, but also hundreds of thousands of Texans who buy full-cost coverage outside of the Marketplace, including self-employed individuals and others who do are not offered job-based insurance.

The Urban Institute estimates that repealing the ACA without a simultaneous replacement will cause 2.6 million Texans to lose coverage by 2019, with most losses resulting from the near collapse of the individual market.[v] When these Texans lose coverage, they will still need health care, placing more stress on state and local taxpayers and safety net health care providers. Texas hospitals provided $6.5 billion worth of uncompensated care in 2015 (actual costs, not charges) for uninsured charity care patients and Medicaid enrollees. While $4.6 billion of that amount was offset by Medicaid supplemental payments, those payments appear targeted for possible elimination under the recent and current federal Medicaid proposals. **Congress should not act in a reckless manner that threatens access to health coverage and financial security for millions of Texas. It should ensure a smooth transition that does not cause chaos in the individual insurance market or increase the demand for uncompensated care.**

The Future of Medicaid in Texas

The letters sent to you from leaders in the United States House of Representatives and U.S. Senate also ask for input on the future of Medicaid, requesting your suggestions to reduce costs and improve outcomes in Medicaid "while still delivering high quality healthcare for the most vulnerable." We hope you will share with Congress these concerns for the protection of Texas' most vulnerable.

Texas Medicaid's current enrollment is composed wholly of highly vulnerable Texans with incomes below or near the poverty line: children, seniors, people with disabilities, and pregnant women (with coverage ending 2 months after delivery). Only a small group of deeply needy parents qualify, so that only one in twenty children covered in Texas Medicaid has a parent who is also enrolled. Texas' overall health care infrastructure relies on the stability of Medicaid, both economically and from a public health perspective. Over half of Texas births, and two-thirds of our Nursing Facility residents rely on Medicaid funding. **Congress should ensure that Medicaid can continue to serve these vulnerable Texans with comprehensive care.**

We are concerned that restructuring Medicaid as either a Block Grant or under a Per Capita Cap will put Texans and the state budget at risk if Medicaid costs increase. Texas taxpayers would have to make up the difference without any federal help in this major cost shift to state and local governments. Today, if Texas encounters a surge in uninsured residents qualifying for Medicaid due to a natural disaster, epidemic, or economic recession, or faces a jump in per-capita costs when a new life-saving medical advance becomes available, we know we can rely

on federal matching funds to meet the need. **Congress should ensure that Medicaid changes do not shift costs to state or local governments.**

Texas Medicaid already aggressively pursues innovative cost savings, but without taking on the risk of being left holding the bag in the case of calamity. In addition, the Texas Legislature eliminated most automatic inflation updates in Medicaid provider payments over the last 20 years, so that many provider payments fees fall well below cost. Texas Medicaid per-enrollee costs[vi] have held nearly constant over the last 15 years when adjusted for inflation. In fact, national health spending data show that that inflation-adjusted per capita Medicaid spending growth was flat or declining between 1998 and 2014, lower than for either Medicare or employer-sponsored insurance, and that Medicaid spending growth has been driven primarily by increased enrollment.[vii] This evidence of effective per-person cost controls should signal the need to carefully avoid "cutting beyond fat and into muscle or bone." The recent public outcry over Texas Medicaid rate cuts and policy limits for therapy services for children with disabilities and complex medical needs illustrates how easily unintended consequences can arise when cost-cutting measures are imposed without due caution.

We have grave concerns that either a Block Grant or a Per Capita Cap approach will not only expose Texas to cost-shifts from Congress, but also lock our state into an inadequate funding basis tied to our historically low Medicaid provider payment rates and minimal adult coverage beyond seniors and Texans with serious disabilities.

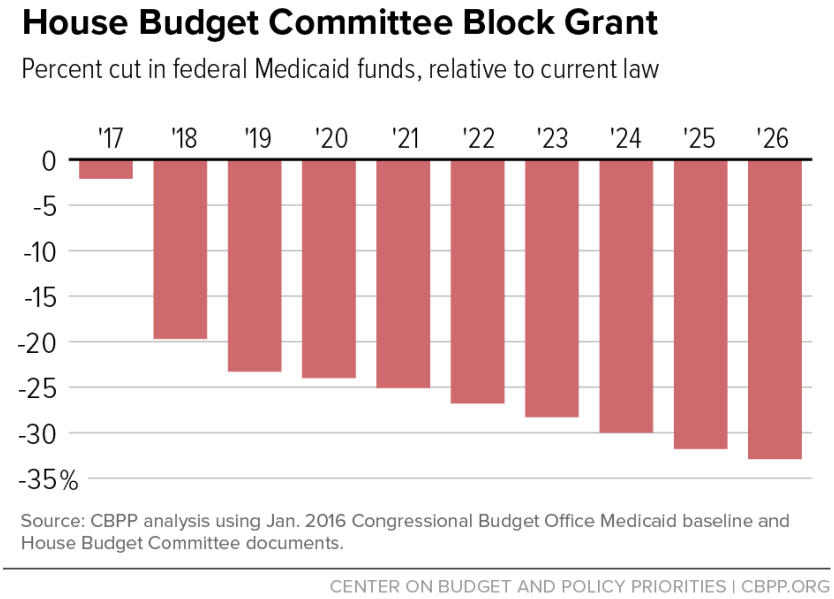
- We have special concerns about our safety net hospitals. It is not clear whether Texas' supplemental Medicaid payments (Disproportionate Share Hospital payments and the 1115 waiver) will continue to be available to Texas under either Medicaid restructuring scenario. According to Texas HHSC and the recent analysis of Texas hospital costs by Health Management Associates,[viii] half of Texas hospital Medicaid payments are now delivered via these supplemental programs, with the non-federal share of that half financed almost entirely with local taxpayer funds or "IGT." At least one Congressional proposal would prohibit use of the local taxpayer "IGT" dollars that help fund the supplemental payments today. **Will Texas' 1115 waiver federal funding be treated like Medicaid expansion funding, and eliminated in an ACA repeal (partial or full)? Will the use of local "IGT" funding continue to be allowed?**

- Also unknown is how Texas taxpayers will fare if the 31 states with Medicaid expansions fight to retain their federal funding for those populations. Will Texas' leaders then take steps to ensure our state is not short-changed, and claim the projected $6 to $8 billion in annual federal funding that Texas HHSC has estimated would have accompanied that coverage?[ix] Texans will continue to pay the same federal taxes as residents in other states, while states that cover more of the uninsured and spend more per enrollee will get larger block grants or higher spending per enrollee caps because they spend more today. These disparities would be locked in under these kinds of proposals.

To recap, for these reasons we fear that the formula negotiations around a Block Grant or a Per Capita Cap redesign of Medicaid will leave Texas' most vulnerable exposed to damaging cuts, our safety net hospitals in crisis, and other inadequate Medicaid provider payment rates that have lacked regular updates for decades, locked in for years to come.

Congressional proposals to establish a Medicaid block grant are explicitly designed to reduce federal Medicaid spending. By basing Texas' initial block grant amount on our current or historical spending and then increasing it annually at a much lower growth rate than currently projected annual growth in federal Medicaid spending, federal funding cuts would grow progressively larger each year. In this way, Chairman Price's House Republican budget plan for fiscal year 2017, for example, would have cut federal Medicaid funding by $1 trillion—or nearly 25 percent—over ten years, relative to current law (without including the additional funding cuts from repealing the ACA's Medicaid expansion, which increases the cut to 33% below the baseline projection)[x]. And, the size of the cuts would have kept growing after 2026.

FIGURE 1



In order to operate a program under increasingly constrained funding, many of the minimum standards and protections in Medicaid today would likely no longer be supportable, and Congress is considering repealing the guarantee of medically necessary care without arbitrary limits for children under the federal Medicaid law's Early and Periodic Diagnosis, Screening and Treatment (EPDST) program. Requirements that Rural Health Clinics and Federally Qualified Health Centers can cover their true costs of care are also likely targets for elimination from law. **Congress should ensure that the guarantee of medically necessary care without arbitrary limits remains intact for America's children, and that our critical community providers can rely on the support they need to keep their doors open.**

Most seriously, under a Block Grant or a Per Capita Cap redesign of Medicaid, Texans would no longer be guaranteed coverage (i.e., with no enrollment caps or waitlists) if they meet financial

and categorical program standards. In addition, the state of Texas would lose the current guarantee of federal matching dollars adequate to pay the health care bills for those qualifying persons. How big a gap the state experiences will depend entirely on the specific formula adopted for either the Block Grant or Per Capita Cap model. Texas would trade in the current state-budget uncertainty tied to Medicaid enrollment growth and some cost growth. In its place, we will experience the annual uncertainty over whether Congress will fully fund the Medicaid Block Grant or reduce the Per Capita Cap allocation, as these non-entitlement re-designs will be subject to annual appropriations. This uncertainty will have implications for low-income uninsured Texans, and for the stability of our health care infrastructure. **Congress should guarantee that Texans will not face waiting lists for Medicaid care in the future because of inadequate federal funding.**

In closing, the full or partial repeal of the ACA and a permanent restructuring of Medicaid funding with the goal of reducing federal spending would have detrimental effects on the quality and sustainability of the health care system in Texas. Repealing the ACA would not merely return our state to the situation before the ACA; rather, the collapse of the individual market would lead to uninsured rates even higher than before ACA reforms. The reduction of Medicaid funding via block grant or per capita caps would put further pressure on our health system by permanently reducing available federal dollars, dollars that are used to provide health care to our most vulnerable citizens. It is for these reasons that we request that you urge Congress to find solutions that continue to ensure coverage and a healthy future for our state.

Sincerely,

Organizations of Cover Texas Now:

ADAPT of Texas
Alamo Breast Cancer Foundation
Bibliosol Global
Center for Public Policy Priorities
Children's Defense Fund – Texas
Coalition of Texans with Disabilities
Consumers Union – Southwest Regional Office
Easter Seals Central Texas
La Union del Pueblo Entero (LUPE)
League of Women Voters of Texas
Lesbian Health Initiative
Methodist Healthcare Ministries
National Alliance on Mental Illness Texas
National Association of Social Workers/Texas
National Latina Institute for Reproductive Health
National MS Society, Texas
Progress Texas
Proyecto Azteca
Texans Care for Children
Texas AFL-CIO
Texas Impact
Texas Organizing Project
Young Invincibles

Cc: Texas Congressional Delegation
Members of Texas Legislature

Questions about this letter may be directed to dunkelberg@cppp.org, for distribution to Cover Texas Now organizations.

Notes:

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[i] Linda J. Blumberg, Matthew Buettgens, and John Holahan, Implications of Partial Repeal of the ACA through Reconciliation, Urban Institute, December 2016, http://www.urban.org/research/publication/implications-partial-repeal-aca-through-reconciliation.

[ii] Kaiser Family Foundation, Pre-existing Conditions and Medical Underwriting in the Individual Insurance Market Prior to the ACA, December 12, 2016, http://kff.org/health-reform/issue-brief/pre-existing-conditions-and-medical-underwriting-in-the-individual-insurance-market-prior-to-the-aca.

[iii] The American Academy of Actuaries Health Practice Council, Letter to Congress, Consequences of Repealing ACA Provisions or Ending Cost-Sharing Reduction Reimbursements," December 7, 2016, http://www.actuary.org/files/publications/HPC_letter_ACA_CSR_120716.pdf.

[iv] Kaiser Family Foundation, State Health Facts, "Health Insurance Coverage of the Total Population, 2015." http://kff.org/other/state-indicator/total-population/?dataView=1&currentTimeframe=0

[v] Linda J. Blumberg, Matthew Buettgens, and John Holahan, Implications of Partial Repeal of the ACA through Reconciliation, Urban Institute, December 2016, http://www.urban.org/research/publication/implications-partial-repeal-aca-through-reconciliation.

[vi] Texas HHSC, Presentation to the House Appropriations, Subcommittee on Article II: Growth Trends and Quality Initiatives; April 2016, Slide 13, https://hhs.texas.gov/sites/hhs/files//040616-hhsc-costgrowth-quality.pdf

[vii] Kaiser Family Foundation, Medicaid Spending Growth Compared to Other Payers: A Look at the Evidence; April 2016; Table 2, http://kff.org/report-section/medicaid-spending-growth-compared-to-other-payers-issue-brief/

[viii] Health Management Associates, Evaluation of Uncompensated Care and Medicaid Payments in Texas Hospitals and the Role of Texas' Uncompensated Care Pool; September 2016; https://hhs.texas.gov/sites/hhs/files//91316-hma-uc-study-report.pdf

[ix] Texas HHSC, Presentation to the Senate Health & Human Services and Senate State Affairs Committees on the Affordable Care Act; August 2012, https://hhs.texas.gov/sites/hhs/files//080112-senate-hhs-aca-presentation.pdf

[x] Center on Budget and Policy Priorities, Medicaid Block Grant Would Slash Federal Funding, Shift Costs to States, and Leave Millions More Uninsured; November 2016, Figure 1; http://www.cbpp.org/research/health/medicaid-block-grant-would-slash-federal-funding-shift-costs-to-states-and-leave