

## Numerous Groups tell Federal Officials that Texas Needs to Close the Health Care Coverage Gap

Analysis of public comments on the Texas Medicaid "1115" waiver shows strong demand for expanded health care

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On September 30, 2015, Texas Medicaid submitted a request for a five-year extension of its Medicaid 1115 Transformation Waiver, which runs through the end of September 2016. Federal Medicaid officials opened a public comment period from October 15, 2015 through November 16, 2015. A number of Texas organizations and elected officials weighed in, submitting at least 18 formal comment letters representing 41 organizations and at least 52 elected officials. **Nearly every comment letter included a call for Texas Medicaid to adopt a health care coverage plan for hard-working Texans in the Coverage Gap.** Most commenters also stressed the need for federal officials to proceed with caution in the timing of any funding changes because of the reliance of Texas' safety net hospitals on the funds provided by the Medicaid waiver.

This brief report summarizes highlights of the public comments.

### What is the Coverage Gap?

About 750,000-850,000 uninsured Texans are in the Coverage Gap, meaning they have no affordable health insurance options but would be covered if the state accepted new federal health care funds intended for them. They do not receive health insurance from their employers, make less than \$24,000 for a family of four, and do not qualify for financial assistance on [healthcare.gov](http://healthcare.gov). The majority of Texans in the Coverage Gap are working. They cook our food, build our houses, take care of our young children or elderly parents, launch small businesses in our communities, and hold other jobs. Others include college students, people with mental health challenges, parents who are raising their young children while a spouse works, and older Texans who don't qualify for Medicare yet but may have reduced earnings due to health care challenges. More information on the Coverage Gap is [here](#), and on occupations of Texans in the Coverage Gap is [here](#).

### What is the Medicaid 1115 Waiver?

Texas' expiring Medicaid 1115 waiver is a mechanism that expanded Medicaid Managed Care and supplemental payments to hospitals, providing important federal health care funding to the state. The waiver itself does not offer health insurance to any Texans. One half of the waiver funding pays for innovative health projects in local communities. The other half helps hospitals cover some of the costs of uninsured patients. The waiver was designed to be temporary, and to build the capability to care for more Texans after Medicaid expansion and affordable private insurance coverage started in 2014. Since Texas has still not expanded Medicaid, there is renewed attention on what the expiring waiver could mean for Texas.

## How are the Coverage Gap and 1115 waiver linked?

Texas' [waiver renewal process](#) and our [Texas Coverage Gap](#) are connected in a couple of ways. Simply put, Texas is losing about \$6 billion a year in federal funds allocated for us under the Affordable Care Act (ACA) to cover uninsured Texas adults under 133 percent of the federal poverty income guidelines (people who earn less than \$15,800 per year for a single adult, or less than \$26,800 per year for a family of 3). And in 2015, federal Medicaid authorities adopted a policy of not using federal Medicaid funds from 1115 waivers like ours to make after-the-fact payments to hospitals for uncompensated care (free care to the uninsured) for people who could have been covered by [Medicaid expansion](#) or [a coverage waiver](#). Texas hospitals in 2016 will get about \$2 billion in federal Medicaid funds for uncompensated care through the Texas waiver, so our state has plenty to lose if the federal government significantly reduces those funds. If our state officials do not adopt a Coverage Gap program of some kind, hospitals will especially suffer because they may lose uncompensated care waiver funds and will not benefit from converting low-income uninsured Texans into paying Medicaid patients.

Too many Texans ([over 750,000](#), with some estimates up to 850,000) are left in the Coverage Gap. This means adults, many of them parents, most of them working (or married to a worker), are left without affordable health coverage. Families with children are more likely to fall into the Gap than adults without children, because their income is stretched further. This means no ongoing care in a medical home for adults with mental illness and other chronic conditions. It also means women in their prime child-bearing years going without pre-conception care, unlikely to have quick access to prenatal care, and lacking care for post-partum issues because their Medicaid cuts off two months after the birth.

Adding together the human and financial implications, it's no surprise that city and county officials, health care providers, business groups, and consumer advocates are all paying close attention to the Texas 1115 waiver renewal process and why so many commented in November.

### Overview of public comments on the Medicaid waiver renewal request:

- All but two (16 of 18) comment letters addressed the need to close the Coverage Gap.
  - Several mentioned the closure of 10 Texas hospitals and noted that a Texas Medicaid expansion might have allowed them to remain financially sound.
  - Many letters described the challenging political landscape in Texas for Medicaid expansion, and urged the Centers for Medicaid and Medicare Services (CMS) to work with the state to develop a compromise.
- Most letters also recommended exercising caution when considering large cuts to uncompensated care, as emergency care is the only safety net that many uninsured Texans have, and hospitals rely on funding to offset costs of the uninsured.
- Nearly all commenters praised the innovative health care projects funded by the waiver (known as "Delivery System Reform Incentive Payments," or DSRIP) for doing a good job to create a more efficient system and expand capacity to deliver services, particularly mental health care.
  - However, some letters called for additional evaluation of the projects, and acknowledged the need for simplification of the large complex of projects.
- A few letters discussed issues of equity and transparency in access to waiver funds, specifically because providers must have a local source of public matching funds to participate. The issue is that hospitals in wealthier areas of the state with local tax dollars available for matching get the waiver payments, but poorer parts of the state may not.

- A letter sponsored by Texas hospitals and signed by nearly all of Texas’ Congressional delegation points out that Texas hospitals will still experience significant uncompensated care even after Medicaid expansion.
- Several letters discuss Medicaid physician payments and point to a need to increase these so Texas doesn’t lose Medicaid providers.

**CPPP Comments: Close the Gap, and More**

The [detailed comments](#) from the Center for Public Policy Priorities (CPPP) explore several concerns beyond the question of whether Texas will lose uncompensated care pool funds because of our failure to expand Medicaid.

CPPP points out that Texas hospitals actually receive more in Medicaid payments through supplemental payments than through direct Medicaid fees (in this context, supplemental payments are made to some hospitals for their uninsured care, or to make up for low Medicaid fees). Local governments and taxpayers fund most of the state’s share of the supplemental payments, so this financing approach relies on shifting responsibility from the state government to local governments. A problem that arises from this approach is that the supplemental payments under the Medicaid waiver are only available to providers who can “put up” local government dollars to draw the federal match. As a result, wealthier (and/or more motivated) parts of the state get better Medicaid hospital payments than poorer counties.

Like most other commenters, CPPP noted that the heavy reliance of our hospitals on waiver funds makes it critical that federal and state officials work in good faith for a solution, and with deliberate caution to protect the stability of Texas’ safety net.

**Detailed analysis of public comments on the Medicaid waiver renewal request:**

The table below summarizes all formally submitted comments, as well as Congressional letters not submitted through the federal Medicaid comment portal.

**Summary of Comments to CMS on Texas Medicaid 1115 Waiver Extension Request**

*View all letters submitted by the November 16 deadline [here](#)*

Commenter(s)	Close the Coverage Gap?	Other Key Issues	CMS #
<b>Letter by Texas Hospital Association, circulated by Senator John Cornyn and Congresswoman Eddie Bernice Johnson; and signed by nearly all Texas’ members of Congress</b>	<i>No mention of Closing Coverage Gap</i>	<ul style="list-style-type: none"> <li>• Support for renewing the Texas Medicaid 1115 waiver, delivery system reforms to make healthcare delivery more efficient and effective</li> <li>• Focuses on DSRIP benefits to communities and their far-reaching effects</li> <li>• Notes state budget investing \$220 million of General Revenue into improved hospital reimbursement rates</li> </ul>	<i>Congressional Letters were not submitted through the CMS comment portal.</i>
<b>Congressmen Lloyd Doggett, Gene Green, Al Green, Joaquin Castro, Ruben</b>	Yes	<ul style="list-style-type: none"> <li>• Texas leaders could best protect hospitals by adopting a coverage program</li> </ul>	<i>Congressional Letters were not submitted</i>

<b>Hinojosa, Beto O'Rourke</b>		<ul style="list-style-type: none"> <li>10 Texas hospitals have recently closed; either coverage expansion or continued waiver funds are needed to prevent more closures</li> </ul>	<i>through the CMS comment portal.</i>
<b>Representative Garnet Coleman, plus 39 Texas House members and 6 state Senators</b>	Yes	<ul style="list-style-type: none"> <li>Signers will work to get Texas coverage plan</li> <li>Acknowledges CMS policy that “states making no effort to expand coverage” cannot count on unconditional approval of pre-ACA Medicaid waivers</li> <li>Notes Texas shares issues CMS found in Florida: “overreliance on supplemental payments” and the “distribution of funds based on providers’ access to local revenue instead of service to Medicaid patients.”</li> <li>But 1115 funds “are a kickstand for institutions that do provide indigent care,” so funding is needed to keep safety net afloat.</li> </ul>	208001
<b>Cover Texas Now Coalition (17 groups):</b> Alamo Breast Cancer Foundation; Center for Public Policy Priorities; Children’s Defense Fund – Texas; Community Health Choice, Inc.; Easter Seals Central Texas; Equal Voice Network, Rio Grande Valley; Gateway to Care, Houston; Legacy Community Health Center, Houston, TX; Lesbian Health Initiative of Houston, Inc.; National Alliance on Mental Illness (NAMI) Texas; Proyecto Juan Diego, Brownsville, TX; Texans Care for Children; Texas AFL-CIO; Texas Doctors for Social Responsibility; Texas Impact; Texas Research Institute; Young Invincibles, Texas	Yes	<ul style="list-style-type: none"> <li>Support Medicaid 1115 Waiver renewal, but believe comprehensive health coverage is more effective than uncompensated care payments after emergency care</li> <li>Support for DSRIP projects and funding</li> <li>Texas leaders can avoid negative impact on safety net by adopting a coverage plan.</li> <li>Safety net must be protected in any transition from current funding levels.</li> </ul>	207985
<b>Texas Catholic Conference of Bishops</b>	Yes	<ul style="list-style-type: none"> <li>Hospitals depend on 1115 waiver funding because Texas has not done Medicaid Expansion.</li> <li>DSRIP projects applauded, and safety net needs continued funding.</li> <li>Calls on “state and federal leaders to achieve a workable compromise” that combines a coverage plan with the 1115 waiver</li> </ul>	208013

<b>Texas Medical Association</b>	Yes	<ul style="list-style-type: none"> <li>Physician and community inclusion not meaningful in all DSRIP areas; Systemically the waiver is hospital-centered despite the key role of community physicians</li> <li>Waiver invests in DSRIP projects to increase access to certain services, but takes no steps to stabilize/increase physicians accepting new Medicaid patients (need adequate rates)</li> <li>Texas should adopt a coverage plan, as other conservative states have, for adults in the coverage gap.</li> <li>Physician advisory councils should be required after renewal</li> <li>DSRIP reforms should be integrated into Medicaid Managed Care</li> </ul>	207965
<b>March of Dimes, Texas Chapter</b>	Yes	<ul style="list-style-type: none"> <li>Lack of Medicaid Expansion is a missed opportunity (i.e., for better outcomes and reduced public spending) for pregnant women, infants, women of child-bearing age</li> <li>Marketplace coverage may not be affordable even for some women just above poverty line, due to out-of-pocket costs.</li> <li>Note that federal law limits waiver “extensions” to 3 years, not 5.</li> </ul>	207893
<b>National Groups:</b> Center on Budget and Policy Priorities; Community Catalyst; Families USA; Georgetown University Center for Children and Families; HIV Medicine Association; March of Dimes; National Association of Community Health Centers; National Council of La Raza; National Health Law Program	Yes	<ul style="list-style-type: none"> <li>Federal law limits waiver “extensions” to 3 years, not 5.</li> <li>Opposed to Texas’ request for increase in Uncompensated Care Pool from 2016 \$3.1 billion to \$5.8 billion in 2017, \$6.6 billion in 2018, and \$7.4 billion for 2018, 2019 and 2020. Support CMS policy to eliminate UC payments for potentially Medicaid-eligible uninsured.</li> <li>With coverage plan, nearly 1 million in Texas Coverage Gap get real coverage, and hospitals will do better.</li> <li>Supplemental payments risk geographic and economic inequity; front-end payment rates should be adequate instead.</li> <li>Risks to Texas safety net stability must be weighed in waiver transition.</li> <li>DSRIP reforms should be integrated into Medicaid Managed Care.</li> </ul>	208085, 207929 (Dup.)
<b>Texas Association of Community Health Centers (TACHC); Texas Academy of Family Physicians</b>	Yes	<ul style="list-style-type: none"> <li>Texas request for large UC increase despite no steps to reduce uninsured through Medicaid Expansion is reflected in TACHC patient base, still nearly 50 percent uninsured.</li> <li>Texas will continue to have uncompensated care needs, but commenters support CMS policy to</li> </ul>	207941

		<p>promote comprehensive health coverage instead of hospital payments for the uninsured.</p> <ul style="list-style-type: none"> <li>• Sufficient provider/health plan payment rates are necessary to promote access to services</li> <li>• Medicaid Expansion would benefit Texas economy and improve circumstances for Texans in poverty.</li> </ul>	
<p><b>Texas Hospital Association; Teaching Hospitals of Texas; Texas Organization for Rural and Community Hospitals; Texas Association of Voluntary Hospitals, Children’s Hospital Association of Texas</b></p>	<p><i>No mention of support for Closing Coverage Gap</i></p>	<ul style="list-style-type: none"> <li>• Asserts savings in the Texas extension application of almost \$65 billion should be used to approve a 5-year extension at amounts requested by HHSC.</li> <li>• Notes that even after Medicaid expansion Texas would still have the highest number of uninsured in the U.S.</li> <li>• Does not specify to what degree Medicaid Expansion would reduce need for UC, but proposes that an increase in UC would be needed even after Medicaid Expansion.</li> <li>• Requests terms of extension be known by March 2016.</li> </ul>	<p>207889</p>
<p><b>CPPP</b></p>	<p>Yes</p>	<ul style="list-style-type: none"> <li>• CPPP strongly supports a waiver extension, but not exactly as HHSC requested. Support CMS policy preference for coverage rather than supplemental payments.</li> <li>• Mental health access would be optimally enhanced if Texas not only had the new capacity built under waiver, but also adults with MH needs had Medicaid coverage to pay for services in those new sites.</li> <li>• Successful waiver reforms from DSRIP should be integrated into Medicaid Managed Care to greatest degree possible. This cannot be optimized unless adults are covered and the legislature allows innovative services models to be covered by Medicaid.</li> <li>• Texas’ reliance on supplemental payments that depend on local dollars to draw federal match creates an uneven playing field: some hospitals are paid better than others simply because of where they are located.</li> <li>• Despite need for changes, it is critical to protect the safety net in any transition.</li> </ul>	<p>207981</p>
<p><b>National Multiple Sclerosis Society, South Central Region.</b></p>	<p>Yes</p>	<ul style="list-style-type: none"> <li>• Low-income Texans living with MS in Coverage Gap are particularly vulnerable to disease progression</li> <li>• Pairing waiver funds with coverage expansion would maximize federal funding and provide the best quality health care for all Texans, including those living with a chronic illness like MS</li> <li>• Move cautiously to avoid a crisis in Texas’ already-fragile safety net, and find a way to close Coverage Gap.</li> </ul>	<p>207949</p>

<b>Children’s Defense Fund, Texas</b>	Yes	<ul style="list-style-type: none"> <li>• Texas could better address uncompensated care costs through a more deliberate effort to reduce the high rates of uninsured individuals in our state; i.e., use Medicaid expansion funds to provide full coverage to uninsured.</li> <li>• Must protect safety net in transition.</li> <li>• Support DSRIP and integration of innovations into Medicaid Managed Care.</li> <li>• Lack of Medicaid Expansion and access to local matching dollars disadvantages rural hospitals, contributing to Texas’ high closure rate.</li> </ul>	207957
<b>Trans Pride</b>	Yes	<ul style="list-style-type: none"> <li>• Trans and gender-nonconforming persons have experienced discriminatory treatment in access to health insurance and basic health services, made worse by extremely high poverty rates.</li> <li>• Support for DSRIP continued operations and funding.</li> <li>• Movement to a Coverage Gap plan must not create a crisis in the Texas safety net, but the goal should be to move all to medical homes, not emergency care reliance.</li> </ul>	207905
<b>League of Women Voters Texas</b>	Yes	<ul style="list-style-type: none"> <li>• DSRIP capacity and innovations are positive, and should be extended to all Medicaid and Texas.</li> <li>• Medicaid Expansion will best serve the health of Texans and the viability of the safety net.</li> <li>• Hospitals rely on waiver funds, with special stress on rural hospitals. Federal authorities should use caution not to destabilize safety net.</li> <li>• Reliance on UC funds from 1115 waiver is driven by the lack of effort by Texas elected officials to decrease the numbers of uninsured. Instead of accepting Medicaid Expansion billions, our leaders rely on other sources of federal money, such as the 1115 waiver to keep hospitals open.</li> </ul>	207925
<b>Gateway to Care</b>	Yes	<ul style="list-style-type: none"> <li>• Support 1115 renewal, but believe comprehensive health coverage is more effective than uncompensated care payments after emergency care</li> <li>• Support for DSRIP projects and funding</li> <li>• Texas leaders can avoid negative impact on safety net by adopting a coverage plan.</li> <li>• Safety net must be protected in any transition from current funding levels.</li> </ul> <p><i>(Cover Texas Now Letter, late signer)</i></p>	207989

<b>Disability Rights Texas</b>	Yes	<ul style="list-style-type: none"> <li>• Positive waiver impact for Texans with disabilities, including DSRIP innovative programs to better support individuals with co-occurring disabilities.</li> <li>• Support extension or renewal to evaluate outcomes, find ways to build capacity in community settings, improve health outcomes and prevent unnecessary institutionalization.</li> <li>• Support a new managed care "risk group" that, consistent with the <i>Olmstead</i> case, can reduce or eliminate a referral to an institutional setting and the withdrawal or denial of community based services for those with significant, justifiable service needs.</li> <li>• (Because of the Coverage Gap), some Texans with disabilities are still without coverage, reducing their access to health, mental health and disability-related services that could help prevent institutionalization and homelessness.</li> </ul>	207921
<b>Mental Health America (MHA) of Greater Dallas</b>	<i>No mention of Closing Coverage Gap</i>	<ul style="list-style-type: none"> <li>• MHA asserts that Collin, Dallas, Ellis, Hunt, Kaufman, Navarro and Rockwall Counties were not given parity of access to DSRIP participation in the original waiver development.</li> <li>• With the impending dissolution of the NorthSTAR project, which served these counties behavioral health consumers, MHA requests assurances that the North Texas Behavioral Health Authority and Collin County Behavioral Health Authority will be allowed to expand their participation in the waiver extension.</li> </ul>	207945

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**About CPHP**

The Center for Public Policy Priorities is an independent public policy organization that uses research, analysis and advocacy to promote solutions that enable Texans of all backgrounds to reach their full potential. Learn more at [Cphp.org](http://Cphp.org).

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