

June 26, 2018

Dear Texas Legislative Leaders:

Like many Texans, we were deeply disturbed by the stories and systemic breakdown described in the recent Dallas Morning News investigative series on Medicaid managed care in Texas. The series reinforces three facts that have come to light in past legislative hearings, research, and conversation with Texans enrolled in the state's managed care programs. Our organizations represent a long history of advocacy for access to health care and long-term services and supports, working alongside and on behalf of Texans in the Medicaid program.

First, Medicaid is a critically important health insurance program providing preventive care, acute and long term services for many Texans. In fact, [a recent survey by the Kaiser Family Foundation and the Episcopal Health Foundation](#) found that 71 percent of Texans have a very or somewhat favorable view of the health insurance program.

Second, we recognize there are benefits to managed care *if the system is adequately funded and properly managed*. We have seen positive benefits when services are coordinated and health plans use innovative solutions, such as after-hours care and value-added services that are meaningful and improve health outcomes. However, the current managed care system has deep structural problems that are hurting children, people with disabilities, and other Texans. Our organizations can attest that the issues described are not isolated incidents, but recurring systemic flaws. Even putting aside the specific stories brought to light in the Dallas Morning News series, there is ample evidence of the gut-wrenching results of chronic underfunding and structural problems in Texas Medicaid managed care.

Third, the Legislature, Governor, Health and Human Services Commission (HHSC), and Managed Care Organizations (MCOs) must engage in an urgent, vigorous, and sustained effort to ensure that Texans enrolled in Medicaid managed care programs receive the care they need. We recognize and appreciate that state leaders have already scheduled hearings, communicated concerns to HHSC, and taken other steps to shed light on and address this problem, but much more work is needed.

Medicaid is a lifeline for many Texans, a program that deserves to be protected, adequately funded, and effectively managed. We urge state leaders to take steps to improve the following issues in Medicaid managed care, noting that the most fundamental problem is that chronic underfunding of the state's health care and community services system has devastating consequences for everyday Texans:

**Funding and revenue:** State leaders have cut back on sources of revenue for the state budget, underfunded Medicaid, and insisted on finding more "savings" and "cost containment" even when there is no clear way to make cuts without compromising health care and services for children, people with disabilities, pregnant women, and seniors. This approach is not only short-sighted but is also out of tune with the views of many Texans. The recent survey by the Kaiser Family Foundation and the Episcopal Health Foundation found that Texans were adamant about the Legislature prioritizing health care in the state budget, with 54 percent of Texans saying they favor increased spending on health care programs, while only 12 percent support decreased state spending on health care. We urge state leaders to fully fund the state's health care programs and to keep in mind

the stories brought to light in the Dallas Morning-News series the next time they consider cutting back on sources of revenue for the state budget or shortchanging Medicaid.

**Provider rates:** Many provider types are paid rates that reflect only a portion of the costs of care. The Legislature sets provider rates for doctors and specialists so low that many professionals who want to serve Medicaid clients cannot financially justify participating in the program. Rate cuts by the Legislature to some community care waiver providers and inadequate wages and benefits for personal attendants who provide critical support for Medicaid clients with disabilities and seniors seriously undercut a critical workforce in our state. In past years, the Legislature significantly cut reimbursement rates for life-changing therapies for kids with disabilities -- and only restored 25 percent of these Medicaid pediatric therapy rate cuts after families and professionals stressed the real-life, devastating impact on kids. In contrast, payment formulas for Texas Medicaid managed care organizations generally not only cover all costs, but often gain substantial retained profits, even as clients struggle to access service providers.

Texas needs to create a sustainable process in which provider payments match the cost of delivering care and ensure provider networks are adequate to meet the needs of enrollees. Further, where possible, it is vital to incentivize consumer-directed services as part of the long term services and support (LTSS) delivery system.

**Network adequacy:** While the state has taken some steps in prior legislative sessions to address Medicaid provider networks, much more work is needed. A doctor who is not taking new patients or who is not participating in Medicaid is of no help to a parent trying to find a specialist for her son or daughter. Children, pregnant women, seniors, and people with disabilities deserve to be able to find a health professional in their area -- and in their health plan's network -- who is available to provide care they need. The lack of a sufficient number of providers -- especially psychiatrists -- for vulnerable children in foster care is a major concern and runs counter to the state's recent focus on mental health and foster care. The challenge is more than just inaccurate provider directories. State leaders must work to ensure Medicaid plan networks include a sufficient number and geographic distribution of health and community service providers that are available to meet the needs of Medicaid clients. This includes primary care, specialists for children and adults, hospital systems, and a robust network of personal attendants, among others.

**Care coordination:** According to a January 2017 Legislative Budget Board (LBB) report, "[m]ost members in managed care programs receive minimal or no coordination services from their managed care organization. The low utilization of care coordination services delivered by managed care organizations may limit access to and coordination of key health services." We encourage state leaders to consider options presented in the January 2017 LBB staff report. These include funding strategies to increase care coordination utilization, as well as simplifying and clarifying requirements for benefits related to care coordination across Medicaid programs.

**Complaint and resolution system:** Texas needs a true system of appeals that facilitates due process and prioritizes keeping people healthy. As a Medicaid client's complaint or appeal is moving through the process, continued access to medications and medical care are critical and even life-saving. If a needed service is denied, Medicaid clients are told to go to different places -- their health plan, HHSC, and the HHSC Ombudsman's office, among others -- to make a complaint or resolve a dispute. This patchwork of different processes is not only confusing for clients, it doesn't resolve issues effectively for plans, consumers, and providers. Texas needs to prioritize a stronger system

for complaints, appeals, and resolution, including an adequate level of staffing to ensure complaints are followed from beginning to end, until they are resolved.

**Accountability of managed care organizations:** The state should hold health plans accountable if they have done wrong or failed to meet program obligations. This includes enforcing penalties like liquidated damages and freezes on new enrollment. Texas' Medicaid program deserves an appropriate team of program surveyors that check on services and unmet needs experienced by children, pregnant women, seniors, and people with disabilities in Medicaid. We have seen the positive health benefits when plans promote after-hours care and value-added services that are meaningful and improve health outcomes. This innovation should continue. On the other hand, when health plans do not properly manage care and cut off medically necessary services, some of our most vulnerable Texans are left without vital medications or medical care – with potentially damaging and gut-wrenching results.

**Proactive agency oversight must be backed by Legislative openness to bad news:** The recent reports include stories of dangerous MCO policies that should have been stopped before ever taking effect, and of agency findings of threats to health and safety that never became public. If this is to change, our Texas Legislative culture must welcome hard truths about problems and challenges state agencies face, including those that will require appropriations as part of their solutions. A culture of transparency and high performance—one that does not encourage agencies to obscure problems but rewards them for confronting them—could have identified and prevented many of the issues raised in the Dallas Morning News series.

If you have any questions regarding this letter, we invite you to contact Dennis Borel, Executive Director of Coalition of Texans with Disabilities, at [dborel@txdisabilities.org](mailto:dborel@txdisabilities.org). We appreciate your attention and look forward to working with you on these critical issues.

CC:  
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