



March 8, 2024

Texas Health and Human Services Commission  
Attention: Jayasree Sankaran, Waiver Coordinator, Federal Coordination, Rules and Committees  
701 W. 51st Street  
Austin, TX 78751

Via Email: [TX\\_Medicaid\\_Waivers@hhsc.state.tx.us](mailto:TX_Medicaid_Waivers@hhsc.state.tx.us)

Re: Comments on the Healthy Texas Women Section 1115 Medicaid Demonstration

Dear Ms. Sankaran:

Every Texan appreciates the opportunity to comment on the Texas Health and Human Services Commission's (HHSC) application to the Centers for Medicare & Medicaid Services (CMS) to extend the Healthy Texas Women (HTW) demonstration under Section 1115 of the Social Security Act.

Every Texan is a nonpartisan, nonprofit 501(c)(3) public policy organization that uses data and analysis to advocate for solutions that enable Texans of all backgrounds to reach their full potential. Improving access to health care for Texans has been at the core of our mission and activities since our founding more than 30 years ago. Every Texan has been a vocal advocate for improving access to publicly funded, quality family planning services because making sure that all Texans have access to the tools they need to plan the timing and size of their families is a critical piece of the puzzle in building equal economic opportunity for Texans.

We urge HHSC to amend its waiver application, as outlined below, before submitting it to CMS, to ensure that the program can maximize access to quality family planning services for Texas enrollees.

We echo comments made by the Texas Women's Healthcare Coalition, including requesting the use of a short form family planning only application, opting-in to presumptive eligibility, and ensuring network adequacy and expedited provider credentialing when moving HTW into Managed Care.

While we are supportive of the HTW program and the coverage it offers to enrollees in Texas, we are concerned that the extension application would continue to exclude access to certain well-qualified family planning providers, which will continue to needlessly harm access to health care. We recommend that HHSC remove the request to waive federal freedom of choice protections in Section 1902(a)(23) with respect to providers that do not adhere to Texas Human Resources Code 32.024(c-1) or any similar consideration of services provided (or by affiliates), before submitting the waiver extension application to CMS.

The current extension application seeks to continue to waive Medicaid's freedom of choice of provider protection – excluding qualified providers who provide clients with the full spectrum of reproductive health services or affiliate with providers who do so from participating in the HTW demonstration. Continuing this authority holds no experimental purpose and its negative consequences directly conflict with the purpose of 1115(a) waivers in Medicaid. Excluding providers for reasons unrelated to their

qualifications does not further the objectives of the Medicaid program because it severely reduces low-income women's access to family planning and other preventive services.

Based on current Texas state law, there is no longer a basis for waiving freedom of choice based on services providers are now largely prohibited from legally providing in Texas. Following the *Dobbs v. Jackson Women's Health* decision in June 2022, abortions became inaccessible in almost every case in Texas beginning in August 2022. There is no demonstration value, if there ever was one, to waiving freedom of choice to exclude certain providers now in Texas. It is only restricting access to care, including preconception services that can help promote healthy pregnancies.

At this time, we do not oppose a waiver of freedom of choice that is solely intended to implement managed care networks and does not restrict access to providers based on the range of services they (or their affiliates) provide. We would not support any freedom of choice waiver if the state uses its managed care contracts to limit or impede access to providers (or those with affiliates) that offer the full range of reproductive health services. We also urge the state, in its managed care contracts and contracting process, to set strong requirements ensuring that contractors have robust provider networks that include the community-based providers that have the most experience providing reproductive health services to low-income populations.

In conclusion, we urge HHSC to restore freedom of choice in the HTW demonstration waiver with respect to providers that provide a full range of services. We appreciate Texas's recognition of the need to support access to women's health care services. However, the current waiver extension application continues to exclude well-qualified providers which will limit eligible women's ability to receive important services. Restoring Medicaid's freedom of choice protection for providers that offer the full range of services is critical to ensure access to needed care.

Thank you for consideration of our comments on this demonstration extension application. If you have any questions regarding these comments, please contact Brittney Taylor-Ross, Senior Policy Analyst with Every Texan at [taylor-ross@everytexan.org](mailto:taylor-ross@everytexan.org).

Sincerely,  
*Brittney Taylor-Ross*, MPAff  
Senior Policy Analyst