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RIO GRANDE VALLEY - EDINBURG
Doctors Hospital at Renaissance

September 30, 2020

House Committee on Appropriations, Article II Subcommittee
Texas Capitol – E1.032
Austin, TX 78701

RE: Interim Charge 1 - Monitor the agencies and programs under Article II and oversee the implementation of relevant legislation and riders passed by the 86th Legislature. In conducting this oversight, the Subcommittee will also specifically monitor fulfillment of requirements in Health and Human Services Commission (HHSC) Rider 114, including HHSC Office of Inspector General alignment of oversight of managed care organizations.

Chair Davis and Members of the Committee,

Thank you for the opportunity to provide information on Interim Charge 1 regarding fulfillment of requirements in HHSC Rider 114, including HHSC Office of Inspector General (OIG) alignment of oversight of managed care organizations. The Teaching Hospitals of Texas members include large public urban teaching hospitals and several affiliated non-profit health systems sharing three core commitments. They provide quality care to all, in particular vulnerable Texans; are prepared for and provide trauma and disaster services and care; and support Texas' healthcare workforce and graduate medical education as well as clinical and delivery system research and transformation.

HHSC Rider 114 requires OIG to collaborate with Medicaid and CHIP managed care organizations to continue to review cost avoidance and waste prevention activities employed by MCOs throughout the state, as well as OIG's efforts to combat fraud, waste, and abuse in Medicaid managed care (MCO) programs. As a result of this rider OIG has begun performing utilization reviews on hospital claims in the managed care programs. The OIG currently conducts utilization reviews (UR) on hospital claims in the Medicaid fee for services program and has implemented a similar program for hospital claims in managed care.

We very much appreciate that the OIG has proactively reached out to stakeholders to discuss its current approach to MCO UR reviews. In meetings with hospital stakeholders, the OIG made clear that these processes are still being developed. At the same time, hospitals are being required to send information to the OIG for MCO

UR audits; are being notified of remittances due if data are not provided within the OIG's timeframe, and the OIG indicated that it anticipates that it would hold hospitals financially responsible for UR issues even though Texas' Medicaid managed care program clearly holds the MCOs responsible for services, authorizations and oversight of the program consistent with Medicaid requirements.

Hospitals, in particular in the last several years, have worked closely with the OIG to better understand requirements, methodologies, and benchmarks for collaborative improvement for Medicaid Fee for Service (FFS) claims and UR. SB 207 (84th Legislature) also improved the process by clarifying that Texas' OIG and HHSC are required to use, in their reviews, the same coding requirements to which hospitals are held at the federal level. This streamlining of expectations and criteria has reduced confusion and time wasted for providers and the OIG alike. We appreciate that collaboration in the FFS program and believe it has led towards program improvement.

However, in Medicaid managed care, hospitals are under contract to a variety of HMOs, each with unique utilization criteria and processes and each responsible for the delivery of the services for which those HMOs are directly paid by HHSC. While our hospitals remain fully committed to collaborative work with the OIG, insofar as the State has contracted with MCOs to provide Medicaid services; the OIG's review should be a review of the MCOs. The state pays MCOs to provide services and manage the administration of services consistent with state requirements and guidelines – including abiding by OIG standards.[1] Financial penalties, remittances etc., should not accrue to the hospitals. If the state finds performance of its direct contractor that is inconsistent with contract requirements, the financial burden of dollar recoupment should fall to the MCO consistent with business and contract practices and as in other business arrangements. Further, since MCOs are paid for the services provided, it makes no sense to seek remittances from hospitals rather than from MCOs prospectively paid by the state for the services provided. We recommend that in the OIG's MCO UR work:

- the focus be on MCO policies and their practices to monitor conformance to their policies and procedures. First, these should be consistent with OIG expectations; and second, they should be clearly communicated by the MCOs to hospitals and other providers just as the OIG has worked with providers in FFS.
- if hospitals are following all applicable MCO guidance and criteria e.g., including processes and approvals for medical necessity; quality; coding, etc., and the OIG finds fault with those MCO process and expectations, hospitals should be exempt from any penalties or recoupment from the OIG or the MCO. The resolution should be a required change in those MCO processes with time for hospitals to conform. If hospitals are not in conformance with an appropriate (per OIG) policy, they should be notified by the MCO and given the opportunity to conform.
- medical necessity guidelines be standardized across Texas Medicaid programs and contractors, so requirements are clear and consistent and not dependent upon which MCO a patient sees or a provider contracts with.
- MCOs should be required to make hospitals and other providers, as constituents, aware of the OIG findings regarding the MCOs; including the dollars recouped from the MCOs and why. This would approximate the same level of transparency as HHSC now shares with stakeholders on quarterly calls and could be published as part of an MCO's report care, which HHSC makes available to the public.

[1] Regarding federal coding guidelines, for example. No HMO should require coding that is inconsistent with the federal coding guidelines that hospitals are legally obligated to follow in Texas

In conclusion, we support the OIG's transparency and willingness to work with providers. Its approach has been very helpful to improve our collaboration and reduce wasted time and effort. We remain committed to the quality of care and compliance with OIG requirements, and that the OIG's focus on MCO UR should focus on MCOs' responsibilities for UR and related program requirements.

Thank you for your consideration of these comments. Please let me know if you have any questions or we can be of assistance to the Committee.

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