



TEACHING  
HOSPITALS  
*of* TEXAS

# Local Provider Participation Funds

**Key to Financing Texas'  
Health Care System**

Some local governments in Texas currently opt to use Local Provider Participation Funds (LPPFs) from private hospitals to finance the required non-federal share of various hospital 1115 waiver related supplemental and directed payment programs, specifically uncompensated Care (UC), Uniform Hospital Rate Increase Program (UHRIP), and in some cases, Delivery System Reform Incentive Payments (DSRIP).<sup>1</sup> In the absence of additional general revenue to fund Medicaid and uninsured care costs, and because only public funds can be used to finance Medicaid, LPPFs let private hospitals join public hospitals in supporting critical Medicaid financing.

The local jurisdictions operating an LPPF assess mandatory fees on privately owned hospitals within their jurisdiction. The LPPF administrative body annually sets the assessment rate, which is applied to each participating hospital's net patient revenue and capped at 6 percent of net patient revenue from all paying hospitals. Currently, 26 public jurisdictions<sup>2</sup> in Texas use LPPFs.

In addition to funds from public hospitals, LPPFs help bring \$7 billion a year in additional Medicaid funds to Texas hospitals to reduce the shortfall from below-cost Medicaid reimbursement, and in some cases, charity care costs.

In Texas, LPPFs are authorized through state statute. Historically, the Texas Legislature has authorized an LPPF only if all private hospitals within the jurisdiction supported such an arrangement. In 2019, the Texas Legislature, through passage of House Bill 4289, 86th Legislature, Regular Session, approved statewide authority for all jurisdictions not served by an existing LPPF to operate one. Prior to passage of this bill, each interested local jurisdiction had to work with its local legislator to get a unique bill passed to authorize LPPF establishment in its jurisdiction, starting with the earliest LPPFs in 2013.

**LPPFs have joined public hospital funding to become an integral part of Texas' Medicaid financing system. However, in early December 2021, the Centers for Medicare & Medicaid Services (CMS) announced that it would not approve supplemental payment programs that use Texas' current LPPF funding mechanisms, further stalling progress on Texas' waiver and delaying billions of dollars in Medicaid supplemental payments to providers.**



<sup>1</sup> Excludes the Disproportionate Share Hospital (DSH) program because its non-federal share is funded solely by state and public hospitals.

<sup>2</sup> These jurisdictions are counties or other local governmental entities.



## The Issue of “Hold Harmless”

In its recent disapproval, CMS argues that federal statute prohibits federal matching funds in programs using “hold harmless” arrangements even when these arrangements are between private entities with no state or local jurisdiction involvement.<sup>3</sup>

Because the fees help fund increased Medicaid rates to hospitals, hospitals with many Medicaid covered patients might receive more in increased Medicaid rates than the cost of their fees.

Hospitals with fewer Medicaid patients might have LPPF fees that exceed the increases in Medicaid rates. CMS argues that it cannot provide federal funding for programs using LPPFs if arrangements are in place to “hold harmless” hospitals that might lose funding under the LPPF (those whose LPPF payments are greater than increases to their Medicaid rates) even if those arrangements are between private entities.

The Texas Health and Human Services Commission, however, argues that:

- Private arrangements are outside the scope of current law and regulations.
- Texas’ LPPFs are allowable.
- Federal funding should be available for LPPF-funded supplemental payment programs, as has been the case since 2013 in Texas.

Without an agreement on funding, hospital supplemental payments using LPPFs are on hold. Funding for all Texas hospitals in several programs that include LPPF funds has been withheld since September 2021.

<sup>3</sup> The U.S. Department of Health and Human Services’ Office of the Inspector General’s audit plan includes assessing permissibility of LPPFs with a report due in 2023. The Government Accountability Office in December 2020 released a report on Medicaid financing and use of provider fees concluding that more oversight was needed and highlighting lowered state general revenue contributions and lower net provider payments in supplemental payment programs: <https://www.gao.gov/products/gao-21-98>

## Provider Fee Waivers: An Alternate Financing Option

Federal law requires individual LPPFs to levy the same tax rate on all private hospitals within its jurisdiction. Rates must be “broad based,” defined as applying to all private hospitals within the jurisdiction, and “uniform,” defined as applying the same rate to all paying hospitals. Under an approved LPPF waiver, an LPPF’s rates could vary by hospital group and limit, though not eliminate, hospital losses, offering one possible path forward. However, even with a waiver, “hold harmless” provisions are forbidden and CMS believes unless at least one provider has a net loss, a prohibited hold harmless exists. If the federal challenges can be resolved under a waiver, state statutes still would have to be amended. The earliest opportunity to amend state statutes would be the 88th Texas Legislature (2022) with no guarantees of the outcome.

## Active Local Provider Participation Funds and Authorizing Legislation

Jurisdiction	Year	Authorizing Legislation
Cameron County	2013	SB 1623
Hidalgo County	2013	SB 1623
Webb County	2013	SB 1623
City of Beaumont	2015	SB 1387
Bell County	2015	HB 2913
Bowie County	2015	SB 1587
Brazos County	2015	HB 3185
Cherokee County	2015	SB 1587
Gregg County	2015	SB 1587
Hays County	2015	HB 3175
McLennan County	2015	HB 2809
City of Amarillo Hospital District	2017	SB 2117
Angelina County	2017	HB 2995
Dallas County Hospital District	2017	HB 4300
Grayson County	2017	HB 2062
Smith County	2017	HB 2995
Tarrant County Hospital District	2017	SB 1462
Tom Green County	2017	HB 3398
Williamson County	2017	HB 3954
Lubbock County Hospital District	2019	SB 2448
Statewide	2019	HB 4289
Ellis County	2019	HB 4548
Bexar County Hospital District	2019	SB 1545
Harris County Hospital District	2019	HB 3459
Wichita County	2019	SB 2286
Travis County Hospital District	2019	SB 1350
Taylor County	2019	HB 1142
Nueces County Hospital District	2019	SB 2315
EI Paso County Hospital District	2019	SB 175

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## About Us

THOT is the principal voice and advocate for health systems that teach the next generation of health professionals and who are united in their commitment to support policies and funding that will ensure healthcare access to all Texans.

THOT members' shared commitments include:

- Supporting access to care for all in our communities, with a special focus on vulnerable populations;
- Providing and coordinating essential community health services, such as trauma and disaster management;
- Preparing for the future by training tomorrow's healthcare providers and supporting health research and healthcare transformation.