



TEXAS
HOSPITAL
ASSOCIATION

Health Care Advocate

A weekly update on state and federal legislative/regulatory issues.

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The Texas Hospital Association has created a [Web page](#) of up-to-date Ebola resources for hospitals, including the [hospital preparedness checklist](#) from the Centers for Disease Control and Prevention and the most recent [health alert](#) from the Texas Department of State Health Services. The CDC's [Ebola website](#) also contains numerous resources and the latest information.

Advocacy News

If you have questions or comments about the articles below, please contact Communications@tha.org.

CMS Defers \$75 Million in Federal UC Payments

The Texas Hospital Association received notice on Oct. 1 that the Centers for Medicare & Medicaid Services is deferring approximately \$75 million in federal uncompensated care payments to certain private hospitals in Regional Healthcare Partnerships 4, 9 and 10 under the Texas Healthcare Transformation and Quality Improvement Program Waiver. A deferral is triggered when CMS questions the allowability of all or part of the amount of claimed Medicaid payments and needs additional information to resolve the question.

CMS is deferring the uncompensated care payments in response to its review of financing mechanisms for the non-federal share of certain Waiver payments. The review was initiated following a May 9 State Medicaid Director letter intended to provide guidance to states on "the allowable and unallowable use of provider-related donations."

The financing mechanisms in question are governed by required affiliation agreements between public and private hospitals and met existing laws and regulations. Also as required, the agreements have been and continue to be available for review by the Texas Health and Human Services Commission and the public.

According to THHSC, safeguards put into place in 2008 under the former hospital upper payment limit program to ensure that no hold-harmless agreements existed between the hospitals and their affiliated governmental entities remain in place under the current uncompensated care program. However, the CMS review team believes, based on the guidance in the May 9 State Medicaid Director letter, that funding arrangements like those that supported private hospital UPL payments now constitute impermissible donations.

CMS has also indicated that federal funds may not be available for future Delivery System Reform Incentive Payments to the private hospitals that participate in the funding arrangements under question.

THA is coordinating with THHSC on developing a response to CMS and will notify members as new information becomes available. (*Jennifer Banda, J.D./Stacy Wilson, J.D./John Berta*)