The Texas Legislature: The Boys Are Back In Town

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Presentation Overview

- Medicaid
  - Expansion
  - Waiver
  - DSH
  - Budget
- Mental Health
- Trauma
- Workforce
- Advance Directives
SCOTUS Ruling on PPACA

- March 2010, the Patient Protection and Affordable Care Act signed
- Challenged by 26 states and NFIB
- 6/28/12 – Supreme Court rules:
  - Individual mandate constitutional
  - Medicaid expansion optional
- 6/16/12 – Gov. Perry says Texas won’t expand its Medicaid program or create a state insurance exchange, leaving it up to the feds

Reactions to Ruling
AHA & THA Background on ACA

- Hospitals agreed to $155B in Medicare & Medicaid cuts over 10 years
- In return for more insured patients
  - Insurance exchanges w/ subsidies
  - Medicaid expansion to 133% of FPL ($30,657/ year for a family of 4)
  - Individual mandate
  - Insurance reforms
  - Move to a quality-based payment system

Budgetary Considerations of Expansion

- Texas cost estimate to fully expand ACA Medicaid = $15.5B over 10 years
  - Includes the “Woodwork Effect” of those eligible today
- 100% federal for 3 years, 90% for remainder
- Federal matching funds = $100.1B over 10 years
- Net gain to Texas = $85B + more insured Texans
Expansion (cont’d)

- Doughnut hole created for 1 million Texans
  - Over 100% FPL can go into exchange w/ subsidy
  - Under 100% not eligible for exchange so remain uninsured because priced out of market
- Private insurance
  - $1,800/year to cover 1 in 4 Texans who are uninsured
- Hospitals providing
  - $5B/year in uncompensated care

Debate During 2013 Session

- Is Medicaid “broken” and how to fix it?
- How expand coverage to adults under 100% of FPL and address the doughnut hole?
- Will DSH continue to cover uninsured and Medicaid shortfalls?
- Growth of HHS portion of the budget
- What happens if (when) federal government stops enhanced Medicaid match rate for newly-eligible?
- Politics
Medicaid 1115 Transformation Waiver

Medicaid 1115 Waiver Pool

Uncompensated Care Subpool: Pays hospitals for cost of care not compensated by Medicaid directly or through DISH

Delivery System Reform Incentive Payment Subpool: Hospitals eligible for funding must commit to investing in system transformation. Hospitals must participate in a Regional Healthcare Partnership to receive funds from either pool.

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Pays hospitals for achieving metrics that move toward the triple aim.

Medicaid Cost and Caseload

Caseload: 100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

Cost: 100% 90% 80% 70% 60% 50% 40% 30% 20% 10% 0%

- Non-Disability Related Children: 66% 25%
- Non-Disability Related Adults: 33% 9%
- Aged & Disability Related: 9% 58%
Physician Participation In Medicaid

Medicaid DSH

- Funded by 8 large, urban public hospitals
- New supplemental funds available through 1115 Waiver
- Private hospitals cannot transfer
- Limited local funds available
Current Status of Medicaid DSH

- Agreement for 2013; uncertainty beyond
- Need additional state funds
- Reduction in funds under ACA
  - Medicaid DSH cuts occur regardless of expansion

Texas Budget

- Underfunded Medicaid by $5B – supplemental appropriation required
- State’s margins tax underperforms at $5B a biennium
- 12.4% more revenue this session
- Limited use of Rainy Day Fund
- Governor advocates tax cut
Medicaid GR Budget Shortfall

$12.2B Medicaid Shortfall in Current Budget

- Cost Increases, $1.2
- Caseload Increases, $1.0
- Full 24 Months Budgeted for FY2012-13, $4.7
- 5 Months Not Budgeted for FY2012-13, $4.7
- FMAP Revision From LAR, $0.6

Still Implementing 2011 Changes

- Medicaid Managed Care Statewide = no more UPL funding
- Medicaid Transformation Waiver transitions UPL to new regional payment arrangement
- 10% rate cut plus transition to inpatient statewide rate (SDA) with add-on for high cost services (trauma, teaching and wage adjustment)
- Diagnoses codes expanded and implemented (MS-DRG to APR-DRG)
- Outpatient cuts, including 40% cut for non-emergent patients in the ED
- Medicaid & Medicare dual eligible cuts
- Maternity and NICU changes include no payment for elective deliveries before 39 weeks, and NICU accreditation coming soon
- Potentially Preventable Readmission reductions 9/1/2012 (now delayed to Spring 2013)
Mental Health - Many Moving Parts

- PCG Report under DSHS Rider 71
- Mental Health Code Update
- Naranjo Ruling on Competency Restoration
- Focus on Funding
- Medicaid Section 1115 Transformation Waiver

PCG Report

- Required by a DSHS Rider
- Reviewing public behavioral health system and making recommendations
- Will likely be the basis for legislation
Mental Health Code Rewrite

- Texas Appleseed and Disability Rights and contractor Dr. Susan Stone through a Hogg Foundation grant
- Recommended rewriting the code
- Reorganized structure
- Targeting areas of “consensus”
- Forming the basis of legislation

Changes that Should Be Made

- Use of mid-level providers
- Physician-initiated emergency detentions
- Restraint and seclusion
- Hearings on involuntary medication orders being held simultaneously with final commitment hearings
Naranjo Ruling

- In 2007 lawsuit against DSHS, Disability Rights TX claims too much time between finding criminal defendant incompetent to stand trial and admission to state hospital
- 1/2012 - Trial judge ruled for Disability Rights
- DSHS ordered to make a bed available to a detainee who is incompetent to stand trial within 21 days of notice

DSHS’s Response

- Maximum security capacity an issue – In May 141 people on waiting list
- Need transitional forensic beds to allow transition out of maximum security
- Contracting for civil beds to convert state civil beds to forensic beds
- Outpatient competency restoration pilots
Trauma Funding

- Designated Trauma Facility and EMS Account created in 2003
- Funded by portion of traffic fines collected through the Driver Responsibility Program
- Purpose to help offset uncompensated trauma care at hospitals
- Legislature has used funds to balance budget
- Current balance approximately $388 million

Workforce

- Shortage of health care professionals
  - 48th in active PCPs/100,000
  - 46th in all active physicians/100,000
  - 176 physicians/100,000 = 22% below US median
- Texas lacks faculty, residencies and clinical rotation sites
- Last session, Legislature cut
  - Physician loan repayment program
  - Professional Nursing Shortage Reduction Program
  - Article III (Higher Ed)
- Medicaid GME eliminated in 2003
Advance Directives

- End-of-life decisions very emotionally trying
- SB 300 (Deuell) filed
  - Drafted by Texas Catholic Conference, TMA, THA, Texas Alliance for Life, Christian Life Commission
  - Improves notification and appeals processes
  - Extends time to find a provider willing to continue care from 10 to 14 days
- Counters “treatment until transfer” attempts

Bottom Line for Hospitals

- Hospitals cannot sustain 25% uninsured rates or additional payment cuts in 2013 without meaningful coverage expansion.
- Hospitals need financial stability to reform the system to lower cost and increase quality.
- Texas hospitals are a vital part of a community’s infrastructure
  - They employ 369,000 full- and part-time workers.
  - These jobs generate $177 billion in annual economic activity
Questions?

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