

February 19, 2024

Texas Health and Human Services Commission

Attention: Gina Gudzelak

Via Email: HealthyTexasWomen@hsc.tx.state.us

Re: Comments on Proposed Rule 21R082

Dear Ms. Gudzelak,

The **Texas Women's Healthcare Coalition (TWHC)** is a partnership of 88 healthcare, faith, and community-based member organizations - dedicated to improving the health and well-being of Texas women, babies, and families by ensuring access to preventive healthcare for all Texas women. Access to preventive and preconception care – including health screenings and contraception – means healthy, planned pregnancies and the early detection of cancers and other treatable conditions.

We thank the Texas Health and Human Services Commission (HHSC) for this opportunity to provide feedback on the proposed amendments to Chapter 382 of the Texas Administrative Code - Women's Health Services. We appreciate all the work and commitment that goes into administering the state's Women's Health Programs (WHPs) - including Healthy Texas Women (HTW) and the Family Planning Program (FPP).

Please find our feedback on the selected amendments below:

1. Allowing emergency contraception to be a covered service under HTW and FPP (§382.15 and §382.113).

TWHC enthusiastically supports this change, as it is an exciting and long-awaited opportunity to increase access to all FDA approved forms of birth control for women across Texas.

Emergency contraception (EC) can be a critical form of birth control for women of reproductive age if other methods fail or in cases of sexual assault. According to the 2022 Kaiser Family Foundation (KFF) Women's Health Survey (a nationally representative survey of 6,442 people ages 18 to 64, including 5,201 females and 1,241 males), 22% of women aged 18 to 64 have used EC at least once in their lifetime. Yet many women struggle to find and obtain it when needed. Over one in four women aged 18-35 (27%) and 37% of those aged 36-49 do not know where to obtain EC if they want it.ⁱ

Most women cannot purchase or obtain EC due to high out-of-pocket costs and a lack of insurance coverage. And this is especially true for women in Texas.ⁱⁱ According to the 2022 Emergency Contraception Access Report conducted by the American Society for Emergency Contraception (ASEC), the average out-of-pocket selling price of individual Plan B One-Step is \$49 per dose, and generics cost

about \$35 per dose (ranging from \$5.18-\$54.00).ⁱⁱⁱ These prices are considered unaffordable for many women.

By allowing emergency contraception to be a -covered service under HTW and FPP, HHSC will give the women who qualify for these programs the opportunity to plan better and space their pregnancies appropriately. This holds an array of benefits, including improved infant and maternal health, better educational and economic opportunities for families, and cost savings for the state. This will also align with other state agency policies for reimbursing programs that need to provide EC to patients, as the Office of Attorney General currently does for victims of sexual assault that receive a forensic exam.

Women who can plan pregnancies are more likely to receive early prenatal care, have healthier pregnancies, and reduce their risk of having babies born too early or too small.^{iv v} We know unintended pregnancies have a higher likelihood of poorer health outcomes for the mother and infant. And since over half (53%) of Texas births are paid by Medicaid,^{vi} these poor health outcomes mean higher costs for the state. Prematurity and the health complications associated with it are common reasons newborns need to be admitted into the neonatal intensive care unit (NICU). The cost of NICU care in Texas Medicaid was over \$630 million for fiscal year 2016, representing about 86% of all newborn costs in Texas Medicaid.^{vii}

2. Clarifying that clients in HTW may also qualify to receive HTW Plus services if they meet the eligibility requirements for HTW, and have been pregnant within the last 12 months; and Incorporating HTW Plus services into the list of covered services under HTW (§382.15 and §382.7).

TWHC supports the addition of HTW Plus into the Texas Administrative Code, as we believe that allowing new Texas mothers to reap the benefits of HTW Plus for twelve months will improve their continuity of care, help reduce instances of maternal death, improve health outcomes for Texas mothers and babies, and benefit taxpayers all across the state.

HTW Plus is an enhanced postpartum services package under HTW that focuses on providing services to HTW clients who have been pregnant within the last 12 months and do not qualify for full Medicaid but may still need healthcare support. While this temporary and conditional dual eligibility for these two programs has been implemented for HTW clients for some time - it has yet to be formally written in the Administrative Code. Nor have any of the covered services under HTW Plus previously been listed in the Administrative Code.

While not comprehensive, these benefits are similar to those resulting from the recent passage of Texas's 12-month Medicaid for Pregnant Women postpartum extension. For optimal health outcomes, experts say that postpartum care should be an ongoing process tailored to every woman's specific needs rather than time-limited access to care.^{viii} This is demonstrated in the report released by Texas' Maternal Mortality & Morbidity Review Committee (MMMRC) in December of 2022. This report

found that 90% of Texas' pregnancy-related deaths in 2019 were preventable, and chronic disease was the top patient-related factor. The MMRC identified the lack of access to care or financial resources as a contributing factor to inadequate control of chronic disease.^{ix} Access to comprehensive healthcare that treats chronic conditions saves lives. Improving health outcomes for women, mothers, and their babies also benefits taxpayers across the state. According to Mathematica, a national research organization, the failure to treat maternal mental health conditions, such as postpartum depression, across all childbirths in 2019 created an estimated \$2.2 billion in societal costs from conception through five years postpartum.^x By providing mothers with comprehensive healthcare coverage for up to one year after giving birth, these extra costs incurred by the state could diminish or even disappear completely.

3. Changing the HTW income eligibility requirement from 200% of the federal poverty level, to 204.2% (§382.7).

TWHC supports this amendment, as it will allow more Texas women to qualify for the HTW program and give more women access to preventative care.

Texas has a significant number of women who fall into a healthcare coverage gap where their incomes are too high for them to be eligible for Medicaid, but too low to afford to buy a plan on the exchange. Because of these strict guidelines, as many as 730,000 coverage gap adults live in Texas alone - and they are forced to rely on programs like HTW to obtain services they otherwise would have no coverage for.^{xi}

However, even programs like HTW can only be useful to this population if they can still meet its income requirements. This is why amending the HTW income eligibility requirement from 200% of the federal poverty level to 204.2% is so exciting.

Expanding the range of incomes accepted into HTW considers recent nationwide concerns over rising inflation yet stagnant wages,^{xii} and could save women's lives. Between 2014 and 2017, an additional 15,600 preventable deaths attributable to difficulty in accessing adequate medical care were reported among adults ages fifty-five to sixty-four in non-Medicaid-expansion states. In contrast, the same period saw 19,200 lives in the same demographic saved due to increased access in Medicaid expansion states.^{xiii}

4. Specifying that clients in Medicaid or CHIP will automatically be tested for HTW eligibility if they are not eligible for another Medicaid or CHIP program (§382.7).

TWHC supports this amendment, as we believe this determination could streamline and expedite the transition many Texas women have to make from Medicaid for Pregnant Women to HTW - reducing the administrative burdens on women, clinic staff, and state eligibility workers and ensuring that there are less gaps in coverage. However, we strongly **encourage the HHSC to enroll eligible women in HTW, and not simply test them for enrollment when their Medicaid coverage ends.**

As many HHSC staff will remember - to increase HTW enrollment, HHSC implemented auto-enrollment from Pregnant Women's Medicaid into HTW when rolling out the new iteration of the women's health program in July 2016. As stated in an HHSC report, the implementation of auto-enrollment increased coordination among women's health services promoted continuity of care and enabled some women to stay with the same doctor as they transitioned from Medicaid for Pregnant Women to HTW, resulting in positive health outcomes for Texas women.^{xiv} This policy was very popular and helped boost client enrollment in HTW over the years - in 2019, for example, over 80,000 new mothers were auto-enrolled into HTW.^{xv}

Yet in March of 2021, Texas ended this auto-enrollment policy for HTW. As a result, we have seen a drastic decrease in client enrollment into HTW and, therefore, limited access to women's preventive care across Texas. According to the most recent HHSC End of Continuous Medicaid Coverage Report, only 51,125 clients have been able to transition from Medicaid for Pregnant Women to HTW between April 1, 2023 and January 1, 2024. Similarly, only 41,486 clients have been able to transition from traditional Medicaid to HTW in that same time frame (14).^{xvi} Since eliminating the auto-enrollment policy for HTW, Texas has replaced it with its administrative renewal process. This process forces Texas women to submit extensive eligibility documentation to the state on a tight timeline. It requires a substantial amount of time and resources for clients to complete, for providers and patient navigators to assist with, and for HHSC staff to process.

By automatically testing **and enrolling** women if they are not eligible for another Medicaid or CHIP program, HHSC could spare them and their local providers from navigating the administrative renewal process. This could save time and money for the state and get Texas women timely access to the care they need.

Thank you again to HHSC staff for their strong partnership and support. We appreciate your time and attention on these matters and are happy to answer any questions you may have.

Sincerely,

A handwritten signature in black ink that reads "Evelyn Delgado". The signature is written in a cursive style with a large, looped initial "E".

Evelyn Delgado
Chair, Texas Women's Healthcare Coalition

References

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- ⁱ Salganicoff, Alina, et al. "Contraception in the United States: A Closer Look at Experiences, Preferences, and Coverage." KFF, 3 Nov. 2022, www.kff.org/womens-health-policy/report/contraception-in-the-united-states-a-closer-look-at-experiences-preferences-and-coverage/.
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- ⁱⁱⁱ "2022 Emergency Contraception Access Report." American Society for Emergency Contraception, Feb. 2023, www.americansocietyforec.org/reports-and-factsheets.
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- ^v Kaye, K, Gootman, J.A., Ng, A. S., & Finley, C. The Benefits of Birth Control in America: Getting the Facts Straight. Washington, DC: The National Campaign to Prevent Teen and Unplanned Pregnancy. 2014. <https://powertodecide.org/sites/default/files/resources/primary-download/benefits-of-birth-control-in-america.pdf>.
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- ^x "Untreated Maternal Mental Health Conditions in Texas: Costs to Society and to Medicaid." Mathematica, 5 Mar. 2021, <https://www.mathematica.org/publications/untreated-maternal-mental-health-conditions-in-texas-costs-to-society-and-to-medicaid#:~:text=The%20total%20societal%20cost%20of,couered%20births%20was%20%24962%20million>.
- ^{xi} Who Are the Uninsured in Texas? - Dec. 2023, Texas 2036, 21 Dec. 2023, texas2036.org/uninsured/.

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^{xiii} Nies, Ashley. Texas's Persistent Problem, Think Global Health, 10 Aug. 2023, www.thinkglobalhealth.org/article/texass-persistent-problem.

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^{xv} Texas Health and Human Services. Women's Health Programs Report Fiscal Year 2019 . May 2020.

^{xvi} End of Continuous Medicaid Coverage Dashboard - Jan. 2024, Texas Health and Human Services, Jan. 2024, www.hhs.texas.gov/sites/default/files/documents/jan-2024-end-continuous-medicaid-dashboard.pdf.