



July 10, 2022

Submitted via the Federal Medicaid.gov Portal

The Honorable Xavier Becerra, Secretary
U.S. Department of Health and Human Services
200 Independence Ave, SW
Washington, DC 20201

Re: Texas Healthcare Transformation Quality Improvement Program Amendment Proposal

Dear Secretary Becerra:

The HIV Health Care Access Working Group (HHCAGW) appreciates the opportunity to comment on Texas’s proposed amendment to the Texas Healthcare Transformation and Quality Improvement Program. HHCAGW is a coalition of over 100 national and community-based HIV service organizations representing HIV medical providers, public health professionals, advocates, and people living with HIV who are all committed to ensuring access to critical HIV-related health care and support services.

Medicaid is a critical source of health coverage for people living with HIV. Forty-two percent of adults living with HIV are covered by Medicaid, compared to just thirteen percent of the general population.¹ Ensuring uninterrupted access to effective HIV care and treatment is important to the health of people living with HIV and to public health.² When HIV is effectively managed and individuals stay in treatment and virally suppressed, there is no risk of transmission.³ HHCAGW writes to express support for Texas’s proposal to extend continuous coverage for individuals for six months after “live birth or involuntary miscarriage,” in accordance with Texas House Bill 133 (2021), due to the critical importance of ensuring access to continuous coverage including for people living with HIV who have recently been pregnant. However, we also emphasize that 6-month continuous coverage is still insufficient, and we take this opportunity to strongly

¹ Medicaid and HIV, Kaiser Family Foundation (Oct. 1, 2019), <https://www.kff.org/hivaids/fact-sheet/medicaid-and-hiv/>.

² Guidelines for the use of antiretroviral agents in HIV-1-infected adults and adolescents, Department of Health and Human Services (Aug. 16, 2021), https://clinicalinfo.hiv.gov/sites/default/files/guidelines/archive/AdultandAdolescentGL_2021_08_16.pdf.

³ Eisinger RW, Dieffenbach CW, Fauci AS, HIV Viral Load and Transmissibility of HIV Infection: Undetectable Equals Untransmittable, JAMA (Jan. 10, 2019), <https://pubmed.ncbi.nlm.nih.gov/30629090/>.

encourage CMS to work with Texas moving forward to adopt 12-month postpartum continuous coverage for all people following a pregnancy, in line with best practices and the State Plan Amendment (SPA) option made available by Congress.

I. Extending continuous coverage after pregnancy is essential to improve postpartum health outcomes, including for people living with HIV

The period following pregnancy is a particularly important time to ensure that people living with HIV have access to care. Evidence shows that engagement in HIV primary care and obstetrics following a pregnancy is critical to improving long-term health outcomes for people living with HIV.⁴ However, because of the challenges and competing priorities many people face after pregnancy, many people living with HIV are at significant risk of disengaging from HIV care postpartum.⁵ Continued access to coverage through Medicaid is critical to mitigate these challenges and to provide access to resources such as care coordination that are essential to help people remain engaged in treatment. Texas' Maternal Mortality and Morbidity Review Committee acknowledged the importance of affordable access to care in managing chronic health conditions like HIV, reporting that "lack of access to care or financial resources contributed to inadequate control of chronic disease as well as to delay or failure to seek care and adherence to medical recommendations" among Texans following pregnancy.⁶ Further, the implications of Medicaid access for people living with HIV following pregnancy are particularly important in southern states like Texas. HIV disproportionately burdens the South, which accounts over half of all new HIV diagnoses in the United States.⁷ In 2019, over 95,000 Texans were living with HIV.⁸

Challenges stemming from postpartum retention in HIV care are exacerbated by the overall health risks associated with the postpartum period. Maternal mortality in the United States is higher than in any other developed nation, with 23.8 deaths per 100,000 live births in 2020,⁹ and Texas is consistently recognized as having among the highest rates of maternal mortality in the nation. Seventy-one percent of pregnancy-related deaths in Texas in 2013 occurred after pregnancy,¹⁰ underscoring the importance of in improving access to continuous coverage in order to address these concerning trends. Notably, the risks associated with postpartum morbidity and mortality are borne disproportionately by people of color. Texas's Maternal Mortality and Morbidity Review Committee recently reported that in 2013, although Non-Hispanic Black

⁴ Christina M. Meade, et al., HIV Care Continuum among Postpartum Women Living with HIV in Atlanta, *Infectious Diseases in Obstetrics and Gynecology* (Feb. 14, 2019), <https://www.hindawi.com/journals/idog/2019/8161495/>.

⁵ Jane S. Chen, et al., Postpartum HIV Care Continuum Outcomes in the Southeastern US, *AIDS* (Mar. 15, 2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6503530/>.

⁶ Texas Maternal Mortality and Morbidity Review Committee and Department of State Health Services Joint Biennial Report, Texas Health and Human Service (Feb. 2022), <https://www.dshs.texas.gov/legislative/2020-Reports/DSHS-MMMRC-2020.pdf>

⁷ HIV in the United States by Region, U.S. Centers for Disease Control and Prevention (Sep. 9, 2019) <https://www.cdc.gov/hiv/statistics/overview/geographicdistribution.html> (finding that in 2017, "[t]he South made up 52% (19,968) of all new HIV diagnoses in the US").

⁸ Local Data: Texas, AIDSvu, <https://aidsvu.org/local-data/united-states/south/texas/>.

⁹ Maternal Mortality Rates in the United States, 2020, U.S. Centers for Disease Control and Prevention, <https://www.cdc.gov/nchs/data/hestat/maternal-mortality/2020/maternal-mortality-rates-2020.htm>.

¹⁰ *Supra* n. 6.

Women accounted for 11 percent of live births in the state, they also accounted for 31 percent of all maternal deaths.¹¹

Access to comprehensive health care is critically important to improving health outcomes for people living with HIV following pregnancy. Texas' proposal to extend continuous coverage for six months following pregnancy, for people who have given birth or miscarried, falls short of clinical best practices which recommend continuous coverage for all people following pregnancy for a full twelve months.¹² However, the proposal offers the opportunity to meaningfully extend postpartum coverage and improve access to care, including for people living with HIV. For these reasons, HHCAWG supports the proposed amendment.

II. Additional action must be taken to ensure appropriate access to care for at least one year postpartum

HHCAWG strongly encourages CMS and the Texas Health and Human Services Commission to work together to adopt a more robust approach to postpartum continuous coverage for at least twelve months following pregnancy. Offering a full year of postpartum health coverage is in line with recommendations from clinical experts, including associations such as the American College of Obstetricians and Gynecologists, the American Medical Association, and the American Public Health Association.¹³ Further, such a policy is in line with recommendations from the Texas's own Maternal Mortality and Morbidity Review Committee. Indeed, in the Committee's most recent report, they specifically recommend "increase[ing] access to comprehensive health services during pregnancy, **the year after pregnancy**, and throughout the preconception and interpregnancy periods to facilitate continuity of care, enable effective care transitions, promote safe birthing spacing, and improve lifelong health of women." Such recommendations are directly responsive to the need. The same Committee found that 31% of all maternal deaths in Texas occurred more between 43 days and 1 year following pregnancy.¹⁴ The need for postpartum care clearly extends beyond both 60 days and six months. Extending continuous coverage for twelve months will promote the wellbeing of both parent and child by reducing postpartum morbidity and mortality, including for people living with HIV.

The continuous coverage provisions of the Families First Coronavirus Response Act during the pandemic have offered proof of concept for a full year of postpartum coverage. Since this Act was passed, Medicaid beneficiaries have had access to continuous coverage without threat of disenrollment. Although the continuous coverage period will end with the end of the current Public Health Emergency, researchers have identified clear benefits to this policy during the postpartum period. A study among Medicaid beneficiaries in Texas found a doubling of

¹¹ *Id.*

¹² Extend Postpartum Medicaid Coverage, American College of Obstetricians and Gynecologists, <https://www.acog.org/advocacy/policy-priorities/extend-postpartum-medicaid-coverage>; Expanding Medicaid Coverage for Birthing People to One Year Postpartum, American Public Health Association (Oct. 2021), <https://www.apha.org/Policies-and-Advocacy/Public-Health-Policy-Statements/Policy-Database/2022/01/07/Expanding-Medicaid-Coverage-for-Birthing-People-to-One-Year-Postpartum>; AMA adopts new policies at 2019 Annual Meeting, American Medical Association (Jun. 12, 2019), <https://www.ama-assn.org/press-center/press-releases/ama-adopts-new-policies-2019-annual-meeting>.

¹³ *Id.*

¹⁴ *Supra* n. 6.

utilization of postpartum services during this time, including a nearly 10-percentage point increase in the proportion of individuals accessing services between six and twelve months postpartum.¹⁵

Congress has created a clear pathway to help states adopt such policies. The American Rescue Plan Act provides an opportunity for states to receive federal matching for providing continuous coverage for twelve months postpartum, through a State Plan Amendment (SPA).¹⁶ More than half of states have already taken advantage of this opportunity or are planning to do so.¹⁷ On the other hand, Texas is one of only two states identified as seeking to extend postpartum coverage for less than one year.¹⁸ The interests of Texas Medicaid beneficiaries are clearly aligned with the opportunity offered by the SPA option. **For these reasons, HHCAWG strongly encourages CMS and the Texas Health and Human Services Commission to work together to offer Medicaid coverage for all beneficiaries for twelve months postpartum, though the SPA option.**

We have included citations to supporting research, including direct links. We direct CMS to each of the materials we have cited, and we request that the full text of each of the studies and articles cited, along with the full text of our comment, be considered part of the formal administrative record for purposes of the Administrative Procedure Act.

HHCAWG thanks you for the opportunity to provide comment. For all of the reasons discussed above, we strongly urge HHS to rescind this waiver. If you have further questions, please contact HHCAWG Co-Chairs Maryanne Tomazic with the Center for Health Law and Policy Innovation at mtomazic@law.harvard.edu or Rachel Klein with The AIDS Institute at rklein@tmail.org with any questions or concerns.

Respectfully submitted by the undersigned organizations:

AHF
AIDS Alabama
AIDS Alliance for Women, Infants, Children, Youth & Families
AIDS Foundation Chicago
American Academy of HIV Medicine
APLA Health
Center for Health Law and Policy Innovation
Community Access National Network - CANN
Community Research Initiative, Inc. (CRI)

¹⁵ Xiao Wang, et al., Extending Postpartum Medicaid Beyond 60 Days Improves Care Access and Uncovers Unmet Needs in a Texas Medicaid Health Maintenance Organization, *Frontiers in Public Health* (2022), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9110670/>.

¹⁶ H.R.1319, American Rescue Plan Act of 2021 (Mar. 11, 2021).

¹⁷ Medicaid Postpartum Coverage Extension Tracker, Kaiser Family Foundation (Jun. 17, 2022), <https://www.kff.org/medicaid/issue-brief/medicaid-postpartum-coverage-extension-tracker/>.

¹⁸ *Id.*

Equality California
HealthHIV
HIV Dental Alliance
HIV Medicine Association
iHealth
International Association of Providers of AIDS Care
NASTAD
National Coalition of STD Directors
Positive Women's Network-USA
Prevention Access Campaign
San Francisco AIDS Foundation
The AIDS Institute
Vivent Health