March 10, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Ave., SW
Washington, D.C. 20001

Dear Administrator Verma,

As Members of the Texas Congressional delegation, we write to share our thoughts regarding the proposed 2019 Medicaid Fiscal Accountability Regulation (MFAR). We share your commitment to ensure the fiscal integrity of the Medicaid program, and appreciate the sections of the regulation intended to increase transparency and accountability within the program. The Government Accountability Office, Department of Health and Human Services Office of the Inspector General, and Medicaid and CHIP Payment and Access Commission have noted the lack of data and have recommended increased oversight of Medicaid supplemental payments. While we are supportive of improved data collection and transparency, we do have concerns regarding changes to the supplemental payment financing mechanisms and the impact they may have on Texans who depend upon the state's Medicaid program.

Texas has worked with the Centers for Medicare and Medicaid Services to implement regional financing mechanisms to fund the state's share of the program and operates under years of precedent and approval. We are concerned that the new conditions proposed by CMS would prohibit the existing approved methods of finance and create ambiguity for the Texas Medicaid program in the future. While supplemental payments should be appropriately derived, the changes to require intergovernmental transfers be derived exclusively from state or local tax revenues would have a negative effect on Texas and other states. The feedback provided to our offices indicates that state and local governments would need to increase taxes to replace the billions of dollars lost and would result in a reduction of the state's capacity to provide essential health care services.

We are particularly concerned about the vague nature of some of the new standards and tests, including the use of "totality of the circumstances," "net effect," and "reasonable expectation." We respectfully request you consider the impact that the use of these terms may have in limiting legitimate public-private partnerships that have allowed Texas hospitals to expand access to care, particularly for underserved communities and indigent patients.

Texas has worked closely with CMS over the years to improve transparency and accountability, and we support finalization of the transparency portion of this proposed rule. We understand you are in the middle of the comment review period, and ask that you continue to engage with stakeholders, state

leadership, and Members of Congress who share your goals of simplifying and bringing greater transparency to the Medicaid program.

Your attention to this matter is greatly appreciated, and we look forward to continuing to partner with you to achieve better data collection and transparency in Medicaid.

Sincerely,

Michael C. Burgess, M.D.
Member of Congress

Marc Veasey
Member of Congress
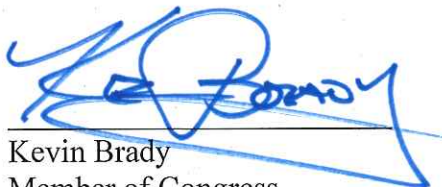
Pete Olson
Member of Congress

Lizzie Fletcher
Member of Congress

Ron Wright
Member of Congress

Vicente Gonzalez
Member of Congress
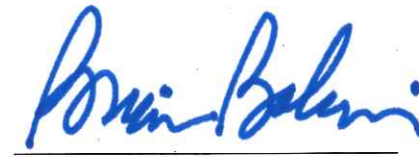
Kevin Brady
Member of Congress

Michael T. McCaul
Member of Congress
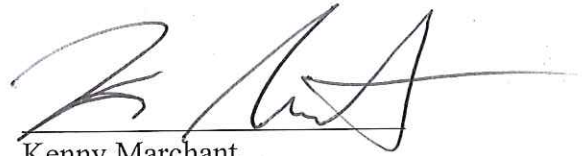
Lloyd Doggett
Member of Congress

Brian Babin, D.D.S.
Member of Congress
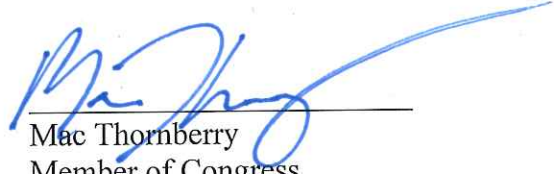
Louie Gohmert
Member of Congress

Kenny Marchant
Member of Congress

Al Green
Member of Congress

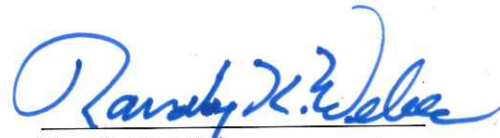Mac Thornberry
Member of Congress

Sheila Jackson Lee
Member of Congress

Eddie Bernice Johnson
Member of Congress

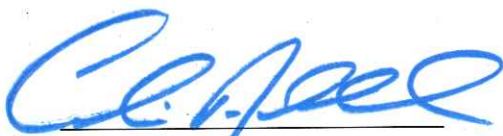K. Michael Conaway
Member of Congress
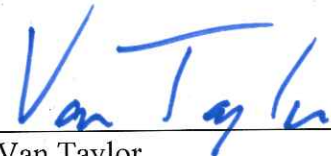
Randy K. Weber
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Joaquin Castro
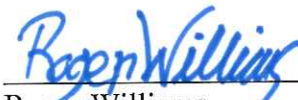Member of Congress

Jodey Arrington
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Van Taylor
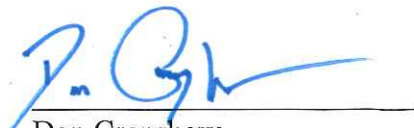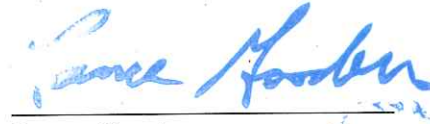Member of Congress

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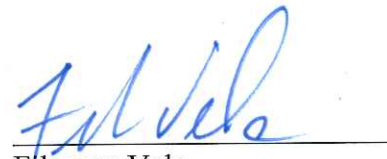Member of Congress

Roger Williams
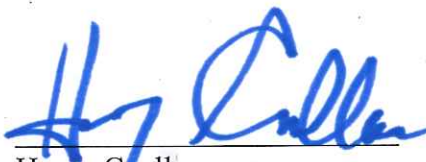Member of Congress

Dan Crenshaw
Member of Congress

Kay Granger
Member of Congress

John Carter
Member of Congress

Lance Gooden
Member of Congress

John Ratcliffe
Member of Congress

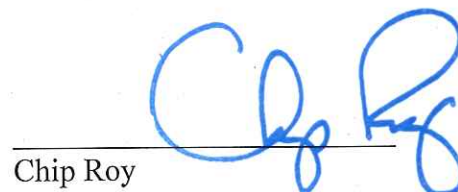Filemon Vela
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Veronica Escobar
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