

# JOHN ZERWAS, M.D.

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COMMITTEES:  
CHAIR, HIGHER EDUCATION  
PUBLIC HEALTH

## District 28 TEXAS HOUSE OF REPRESENTATIVES

June 28, 2016

Charles Smith  
Executive Commissioner  
Texas Health and Human Services Commission  
Brown-Heatly Building  
4900 North Lamar  
Austin, Texas 78751

Dear Commissioner Smith:

In light of the recent ruling by the 3rd Court of Appeals in *Traylor v. Diana D. et al* regarding reductions in Medicaid payment rates for Physical Therapy, Occupational Therapy and Speech-Language Pathology services that were authorized under Rider 50, we are writing to express our continued concerns regarding access to care in light of 1) HHSC's announcement of their intention to submit a state plan amendment to the Centers for Medicare and Medicaid Services (CMS) that would implement significant reductions in therapy rates effective July 15, 2016; and 2) actions taken recently by Medicaid managed care organizations to significantly reduce payment rates for therapy services. We believe that the actions by managed care plans are being taken partly because HHSC reduced premiums effective September 1, 2015.

We urge HHSC to do the following in order to ensure that rate reductions do not compromise access to care and ensure that HHSC has the proper safeguards in place to ensure access to care is maintained.

1) Ensure that there are specific, measurable and public standards by which the HHSC evaluates adequate Medicaid beneficiary access to therapy services both in fee for service and managed care, particularly in rural areas of the state. These standards should evaluate access to therapy services in different settings and should also ensure that Medicaid beneficiaries are able to be evaluated for the medical appropriateness of therapy services, as well as receive therapy services, in a timely manner.



It is our understanding that HHSC currently requires Medicaid managed care organizations to submit reports quarterly regarding the number of providers for various services, including therapy. However, it is not clear what ongoing monitoring HHSC does of access to services provided through fee for service. We would like to know what specific plans HHSC has in place to monitor access to therapy services in both managed care and fee for service, and what specific steps HHSC will take to intervene if Medicaid clients are unable to access therapy services after rate reductions are implemented.

2) Review cost analyses performed by contracted Medicaid managed care organizations used to justify rate reductions to therapy providers for actuarial soundness, and monitor the impact of rate reductions implemented by Medicaid managed care organizations that may further compound the impact of fee for service rate reductions being implemented by HHSC. Some managed care organizations have existing contracts with providers under the current rates that are discounted 20-30%. If the proposed state plan amendment is approved by CMS and managed care organizations do not amend their provider contracts prior to July 15, 2016, then the cumulative rate impact to therapy providers could be much greater.

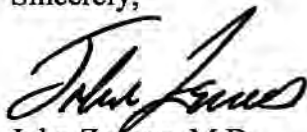
3) Perform a more thorough cost analysis of therapy services using a cost report methodology similar to that used by HHSC in 2005 when new rates were set following the settlement of the Alberto N lawsuit. The use of an 11-state proprietary database where the states and the methodology used to collect the data are not known to the public is not an open and transparent way to set Medicaid rates.

We would also like to see an analysis from HHSC of the projected savings from the policy changes that were implemented on May 1, 2016 and authorized under Section (c) of the rider.

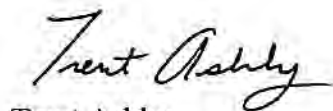
We believe that these actions will balance the intent of the rider while also ensure timely access to appropriate therapy services.

Thank you for your consideration of this matter. If you have any questions regarding our request, please contact our offices.

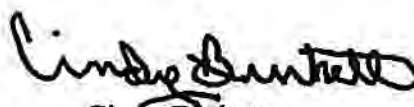
Sincerely,



John Zerwas, M.D.  
House District 28



Trent Ashby  
House District 57



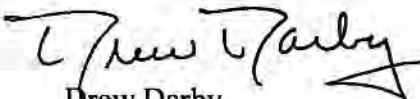
Cindy Burkett  
House District 113



Tom Craddick  
House District 82



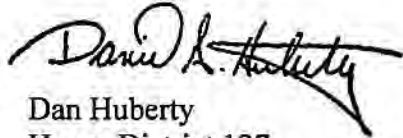
Myra Crownover  
House District 64



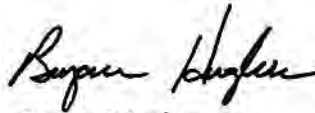
Drew Darby  
House District 72



Sarah Davis  
House District 134



Dan Huberty  
House District 127



Bryan Hughes  
House District 5



Stephanie Klick  
House District 91



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