



**TEXAS HEALTH AND HUMAN SERVICES COMMISSION**

**MEDICAID HOSPITAL SUPPLEMENTAL PAYMENT PROGRAM**

***CERTIFICATION OF GOVERNMENTAL ENTITY PARTICIPATION***

On behalf of \_\_\_\_\_, a \_\_\_\_\_ organized  
under the laws of the State of Texas (hereinafter referred to as “the Governmental  
Entity”), I, \_\_\_\_\_, affirm and certify the following:

***1. Legal Authorization.***

- a. The Governmental Entity is legally authorized to levy and collect ad valorem taxes, generate public revenue, or receive and expend appropriated public funds (“Public Funds”);
- b. The Governmental Entity is legally authorized to enter into and has entered into Affiliation Agreements with one or more private hospitals (“the Affiliated Hospitals”) for, among other purposes, providing indigent care in the community served by the Governmental Entity.

***2. Public Adoption and Access.***

- a. The governing body of the Governmental Entity adopted the conditions described in this certification by recorded vote taken in a public meeting held in compliance with the Texas Open Meetings Act, Chapter 551, Government Code;
- b. Copies of all Affiliation Agreements will be made available as provided under the Texas Public Information Act, Chapter 552, Government Code, and will be provided to HHSC on request.

**3. *Funding of Intergovernmental Transfers and Supplemental Payments.***

- a. The Governmental Entity has or has agreed to transfer Public Funds to the Health and Human Services Commission (“HHSC”) via intergovernmental transfer (“IGT”) for use as the non-federal share of supplemental Medicaid payments (the “Supplemental Payments”) to the Affiliated Hospitals in accordance with Section (z) of Attachment 4.19-A and Section (8) of Attachment 4.19-B of the Texas Medicaid State Plan (“the Supplemental Payment Program”);
- b. All transfers of Public Funds by the Governmental Entity to HHSC to support the Supplemental Payments to the Affiliated Hospitals under the Supplemental Payment Program comply with:
  - i. The applicable regulations that govern provider-related donations codified at section 1903(w) of the Social Security Act (42 U.S.C. §1396b(w)), and Title 42, Code of Federal Regulations, Part 433, subpart B, sections 433.52 and 433.54;
  - ii. The conditions approved by the federal Centers for Medicare and Medicaid Services (“CMS”) for governmental entities’ and private hospitals’ participation in the Supplemental Payment Program; and
  - iii. HHSC administrative rules codified at Title 1, Texas Administrative Code, chapter 355, Subchapter J, Division 4, section 355.8070;

**4. *Assurances and Representations.***

- a. The Governmental Entity does not and will not at any time receive any part of the supplemental Medicaid payments that are made by HHSC to the Affiliated Hospitals under the Supplemental Payment Program;
- b. The Governmental Entity has not entered into a contingent fee arrangement related to the Governmental Entity’s participation in the Supplemental Payment Program;
- c. The Governmental Entity has not entered and will not enter into any agreement to condition either the amount of the Public Funds transferred by the Governmental Entity or the amount of Medicaid supplemental payments an Affiliated Hospital receives on the amount of indigent care the Affiliated Hospital has provided or will provide;
- d. The Governmental Entity has not entered and will not enter into any agreement to condition the amount of any Affiliated Hospital’s indigent care obligation on either the amount of Public Funds transferred by the Governmental Entity to HHSC or the amount of Supplemental Payment an Affiliated Hospital may be eligible to receive;

- e. With regard to any escrow, trust or other financial mechanism (an “Account”) utilized in connection with an indigent care Affiliation Agreement or an IGT issued for a payment period that occurs after the effective date of this Certification, the following representations are true and correct:
  - i. The amount of any Account is not conditioned or contingent on the amount of indigent care services that an Affiliated Hospital provided or will provide;
  - ii. The Governmental Entity has disclosed the existence of any Account to HHSC; and
  - iii. Any such Account will not be used to effect a quid pro quo for the provision of indigent care services by or on behalf of the Affiliated Hospitals;
- f. The Governmental Entity has not received and will not receive refunds of payments the Governmental Entity made or makes to an Affiliated Hospital for any purpose in consideration for an IGT of Public Funds by the Governmental Entity to HHSC to support the Supplemental Payments;
- g. The Governmental Entity has not received and will not receive any cash or in-kind transfers from an Affiliated Hospital or any other entity acting on behalf of an Affiliated Hospital or group of Affiliated Hospitals other than transfers and transactions that:
  - i. Following the date this Certification was executed, are unrelated to the administration of the Supplemental Payment Program or the delivery of indigent care services under an Affiliation Agreement;
  - ii. Constitute fair market value for goods or services rendered or provided by the Governmental Entity to an Affiliated Hospital; and
  - iii. Represent independent, bona fide transactions negotiated at arms-length and in the ordinary course of business between the Affiliated Hospital and the Governmental Entity;
- h. The Governmental Entity has not:
  - i. Following the date this Certification was executed, assigned or agreed to assign a contractual or statutory obligation of the Governmental Entity to an Affiliated Hospital or any other entity acting on behalf of an Affiliated Hospital or group of Affiliated Hospitals; or
  - ii. Authorized or consented to the assumption of a statutory or contractual obligation of the Governmental Entity by an Affiliated Hospital or any other entity acting on behalf of an Affiliated Hospital or group of Affiliated Hospitals.

**5. Evaluation.**

- a. Consistent with its constitutional, statutory, and fiduciary obligations, the Governmental Entity may evaluate a private hospital’s historical experience in providing indigent care in the community or performance under an Affiliation Agreement including the impact and amount of indigent care provided by the hospital, for the following purposes:
  - i. To determine whether the Governmental Entity will enter into an Affiliation Agreement with a private hospital;
  - ii. To determine whether and to what degree the Governmental Entity will supply an IGT, provided such decision does not include consideration of matters prohibited under paragraph 4 of this Certification;
  - iii. To determine whether an Affiliated Hospital’s participation benefited the community and whether its continued participation in the indigent care program is likely to continue to benefit the community; and/or
  - iv. To provide accountability to local taxpayers;
  
- b. The Governmental Entity’s evaluation under this paragraph 5 may:
  - i. Occur on a schedule determined by the Governmental Entity, but not more often than once each calendar quarter;
  - ii. Be documented in a manner sufficient to confirm achievement of the Governmental Entity’s mission and provide an appropriate and constitutional basis on which to transfer the Public Funds to HHSC; and
  - iii. Not include consideration of matters prohibited under paragraph 4 of this Certification.

On behalf of the Governmental Entity, I hereby certify that I have read and understood the above statements; that the statements are true, correct, and complete; and that I am authorized to bind the Governmental Entity and to certify to the above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title

Official Seal  
(If applicable)