

Senator John Cornyn
Senate Finance Committee
Follow-up Questions for the Record
Nomination Hearing of Andrea Palm and Chiquita Brooks-LaSure

Brooks-LaSure

Recently, CMS announced it was withdrawing the 10-year renewal of Texas' 1115 Medicaid waiver. The state negotiated intensively and in good faith with CMS to achieve approval of the renewal.

- If confirmed, how will you advise CMS to view the previous agreement reached on the budget neutrality calculation which impacts the amount of federal Medicaid funding the state can expect to receive?

Answer: Based on my experience working with many state officials throughout my career, I appreciate what is required for states to develop and submit waiver applications to CMS for consideration and approval. Additionally, I understand the challenges many states face in formulating waiver requests given their distinct budgetary processes and legislative calendars. With this in mind, if I am fortunate enough to be confirmed, I will make sure that CMS provides clear guidance and works closely with each state, including Texas, on its ideas to innovate in the Medicaid program.

The waiver recession would prevent billions of dollars from flowing to Texans in need and would threaten numerous aspects of Texas's health care system, given Texas's reliance for months on the extension approval. This could begin having dramatic impacts on Texas as soon as September.

- If confirmed, will you work with Texas to ensure that the state can continue to provide safety-net programs notwithstanding the unique challenges that the state faces?

Answer: If I am fortunate enough to be confirmed, I will be happy to work with you and state officials in Texas on this issue.

The decision to rescind the extension comes at a time when the Biden-Harris Administration continues to urge that COVID-19 is a public health emergency.

- How do you reconcile an action undermining the health care of many needy Texans with the urgency of COVID-19, and if confirmed, what steps would you take to provide Texans facing potential funding losses with the care needed in light of COVID-19?

Answer: While I am not an official at CMS, it is my understanding that this extension was rescinded because the agency determined that the appropriate notice and public comment

requirements were not met. I appreciate Congress's leadership in making sure that patients suffering from COVID-19 have been able to get the care they need during the public health emergency, and if I am fortunate enough to be confirmed, I would look forward to working with you on this issue.

The letter purporting to rescind the extension would effectively overturn a discretionary decision by the former Secretary, on which Texas relied for months in planning and implementing health care programs. This causes serious concern for Texas and other states considering whether they can rely on these types of discretionary decisions.

- If confirmed, what steps will you take to restore trust with states that are relying on such decisions in structuring their health care systems?

Answer: I have worked closely with states throughout my career, and I understand the relationship with CMS as states' federal partner is crucial. If confirmed, I will keep in mind what I have learned working on behalf of states to make sure waiver requests are appropriately evaluated while giving the states clear guidance.

It has been [reported](#) that waivers like Texas' that support uncompensated care pools are viewed as a roadblock to Medicaid expansion, and that they run counter to the Biden Administration push for states to expand.

- Do you believe Medicaid expansion is the only way for states to provide care for uninsured individuals?
 - If not, what other options are being considered by the Administration?

Answer: I support state innovation and the ability of states to test different models that meet the objectives of the Medicaid program. No two Medicaid programs are exactly alike, just like no two states are alike. If I am so fortunate as to be confirmed, I look forward to engaging with any state that seeks to meet their population's unique needs, including those of the most vulnerable.

It has also been [reported](#) that the decision to rescind the waiver was done to push state officials to accept Medicaid expansion.¹

¹ "The decision was characterized as an effort to push state officials toward accepting the Affordable Care Act's Medicaid expansion, which would cover more low-income residents, said two federal health officials, who spoke on the condition of anonymity to discuss private conversations."
<https://www.washingtonpost.com/health/2021/04/16/biden-rejects-texas-medicaid-plan/>

- Do you believe the 1115 waiver extension was rescinded in order to force Texas to expand their Medicaid program?

Answer: It is my understanding that this extension was rescinded because CMS determined that the appropriate notice and public comment requirements were not met. If I am fortunate enough to be confirmed, I look forward to working with you and state officials in Texas if the state decides to resubmit a section 1115 demonstration extension application.