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Congress of the United States
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COMMISSION ON SECURITY AND COOPERATION
IN EUROPE (U.S. HELSINKI COMMISSION)

December 16, 2022

The Honorable Bill Lee
Governor of the State of Tennessee
600 Dr. Martin L. King, Jr. Boulevard
Nashville, TN 37243

Dear Governor Lee:

I write on behalf of the families in Memphis and West Tennessee whose children require specialized health care that is only locally available at Le Bonheur Children’s Hospital. I respectfully request your assistance to resolve a contract dispute that threatens their access to essential medical care.

As you know, TennCare provides health coverage for half of Tennessee’s children, and an even higher percentage of children with special health care needs. Under the Medicaid Act and regulations, these children are entitled to receive early and periodic screening, diagnosis and treatment (EPSDT). This ensures children’s comprehensive access to necessary services that are coverable under federal law, regardless of whether they are covered for adults. States must provide services to the full extent required to achieve “the maximum reduction of [a child’s] physical or mental disability and restoration of an individual to the best possible functional level.”

The state contracts with BlueCross BlueShield of Tennessee as one of three managed care organizations that administer the TennCare program. In that capacity, BlueCross enrolls TennCare children in either of two plans that it administers. One plan, called BlueCare, is a standard TennCare MCO. The other plan, called TennCare Select, covers children who are in foster care, have intellectual or developmental disabilities, or who qualify for SSI because of serious disabilities. There are TennCare children with special health care needs enrolled in both of these BlueCross plans.

BlueCross has a contract with Methodist Le Bonheur Healthcare, the largest TennCare provider in the state. The contract covers services provided to the plans' children by Le Bonheur Children's Hospital, part of the Methodist Le Bonheur system. Le Bonheur is the only comprehensive pediatric hospital in the region that provides certain specialized services. According to local reports, the BlueCross contract with Methodist Le Bonheur will expire at the end of this month and the parties have not reached an agreement on a new contract. BlueCross has notified TennCare recipients that they will lose access to the Methodist Le Bonheur system and will have to obtain care at other facilities in BlueCross's TennCare network.

The apparent impasse between BlueCross and Methodist Le Bonheur poses a serious risk to all TennCare recipients but especially for the children whose needs can only be met at Le Bonheur. Surgeries are being cancelled, and parents are terrified that their children will no longer be able to receive the specialized care that Le Bonheur has provided throughout their children's lives. The situation is completely unacceptable.

The legal and moral responsibility for meeting TennCare children's medical needs ultimately rests with state government. Tennessee must not allow thousands of its most vulnerable children to be held hostage to a dispute between state contractors. Under the TennCare Waiver, the state is responsible for ensuring that its managed contractors maintain provider networks that afford children timely access to EPSDT services that meet the high standards demanded by federal law. As federal guidance makes clear, if a child needs care that is not otherwise available, "the *state* would need to develop a payment methodology for the service, supply or equipment, including the possibility that payment may need to be made using a single-service agreement with an in-state provider or an out-of-state provider who will accept Medicaid payment [emphasis added]."

I request you to do all that you can to bring together BlueCross and Methodist Le Bonheur—both of which receive hundreds of millions of dollars from the state—to settle their dispute so that my constituents and neighbors will retain access to the care they need. If a timely resolution is not achieved, I ask you to direct the Division of TennCare to expeditiously make such special arrangements as are necessary for TennCare children to continue receiving specialized care at Le Bonheur that is not otherwise available in the region. I also urge you to reassure anxious families that the state will step in to ensure that their children will have uninterrupted access to the care they need.

As always, I remain,

Most sincerely,



Steve Cohen

Member of Congress

CC: Hon. Xavier Becerra, Secretary of Health and Human Services;
Mr. Stephen Smith, Deputy Commissioner and Director of TennCare