Commissioner Weaver,

I am writing about the Medicaid Enhancement Tax (MET) Disproportionate Share Hospital (DSH) payment program and the settlement agreement that is set to expire at the conclusion of this fiscal year. This pending deadline necessitates that the Department of Health and Human Services define and implement a method and manner of making provider payments to support the host of Medicaid services and programs administered by the Department.

Over the last several months, the State of New Hampshire has gone above and beyond in an attempt to negotiate an agreement with the hospitals balancing their desires alongside the state’s interests in:

1. Providing fair value to the hospitals in terms of a return of MET payments;
2. Ensuring adequate funding for Community Mental Health Centers, Federally Qualified Health Centers, Substance Use Disorder Providers, and other vulnerable Medicaid service providers and programs;
3. Better aligning our State Plan with federal compliance requirements through reducing unsustainable allotments of DSH payments; and
4. Increasing State general fund savings through utilizing alternative methods of payment

In aims of reaching a compromise, I offered that the hospitals receive a return of 91% of MET, thereby reserving no less than 9% of MET to support the non-hospital providers listed above. It is important to note that 91% is the same as what they currently receive in aggregate under the expiring agreement. This offer is reflective of an overly generous understanding of what constitutes “uncompensated care” and was offered through legislation as a compromise in the hopes of putting forth a saleable agreement.

Unmoved, the hospitals have remained insistent upon an arrangement which crowds out other providers and greatly diminishes general fund savings. Consider that their latest proposal, in addition to the guarantee of 91%, required a directed payment from state general funds. To be clear I am fundamentally opposed to utilizing general funds for purposes of subsidizing an already generous deal in the form of a directed payment. As a result, it appears likely that the pending legislation providing a platform for a statutorily defined payment schedule going forward is likely to fail.
In the absence of legislation, and considering the Department’s obligation to develop a model of payments going forward, I am instructing you to please proceed with the following actions:

1. Provide CMS with formal notice of an amendment to the New Hampshire State Plan for the Medicaid Program setting forth a reduced DSH distribution. DSH payments should be reduced to such an amount that when taken in tandem with any rate adjustments or directed payments the hospitals, in aggregate, receive 80% of MET.

2. Ensure that any rate adjustments undertaken in consideration of the above are implemented through pending/prospective MCO contracts.

3. Ensure that, having reduced the hospitals to a guarantee of 80% of MET that no less than 20% of MET is allocated to support the non-hospital providers and programs referenced above.

4. Provide a mix of payments (inclusive of DSH, rates and directed payments) which maximizes federal match to enhance general fund savings.

While 80% of MET represents a reduction, it remains higher than the allotment(s) set forth prior to the 2018 settlement. Additionally moving forward, this funding model will provide more opportunity and stability to non-hospital providers and programs that are equally crucial in the ever-expanding continuum of care. I appreciate your efforts and attention to this matter; please confirm when each of the tasks noted above have been completed.

Sincerely,

Christopher T. Sununu
Governor