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CMS SEEKS TO MODERNIZE MEDICAID MANAGED CARE

Background

Historically, states have used traditional fee-for-service arrangements to reimburse providers of Medicaid services. Today, however, states are increasingly utilizing Medicaid managed care programs (MMCP). Under MMCP, "beneficiaries receive part or all of their Medicaid services from healthcare providers who are paid by an organization that is under contract with the state; the organization receives a monthly capitated payment for a specified benefit package."[1]

With the Affordable Care Act (ACA) expanding Medicaid coverage to millions of low-income Americans, necessary improvements to MMCP have been identified. In order "to improve healthcare outcomes and the beneficiary experience while effectively managing costs", CMS has proposed new regulations (the "Proposed Rule") to modernize the MMCP.[2] CMS' goals under the Proposed Rule are, generally, to create more standardized practices across states, and to align the MMCP with other major sources of coverage including those offered by the private sector.

Provisions of Proposed Regulations

Alignment with Other Health Coverage Programs

In order to strengthen the ability of states to use the MMCP, the Proposed Rule relaxes regulations governing the marketing of the MMCP. It effectively limits the definition of "marketing" to exclude "communications from a [qualified health plan (QHP)] to Medicaid beneficiaries even if the issuer of the QHP is also the entity providing" the MMCP.[3]

The Proposed Rule also seeks to streamline appeals and grievances for the MMCP.

While some states currently require a MMCP to adhere to a minimum medical-loss ratio (MLR) or similar calculation, the Proposed Rule seeks to standardize the fiscal stewardship of the MMCP by implementing calculation methods for MLR and require reporting of the MLR. The Proposed Rule, however, allows states some discretion in implementation, but a MMCP would be required to report the MLR and use the MLR in calculation of capitation rates. If, however, a state requires the MMCP to repay remittances to that state for not meeting the minimum MLR, the Proposed Rule also requires a MMCP to reimburse CMS for the "federal share of remittances."

Setting Actuarially Sound Capitation and Rates

Capitation rates must be set on an actuarially sound basis for non-MMCP plans. Under the Proposed Rule, CMS is proposing several updates to establish more uniformity of the MMCP by incorporating standard provisions regarding actuarially sound capitation rates.

Other Reimbursement and Accountability Improvements

Recent statistics of the MMCP to do not comport with HHS' recently announced value based payment initiatives. On last estimate, 58 percent of all Medicaid Beneficiaries received all or part of their care through the MMCP, which only accounted for 24 percent of all Medicaid spending.[4] Accordingly, the Proposed Rule allows states discretion to require a MMCP to adhere to HHS' 30/50 and 85/90 value based payment initiative.[5]

Beneficiary Protection

Currently, federal regulations governing beneficiary enrollment into the MMCP do not exist. The Proposed Rule attempts to fill this void by setting new levels of beneficiary protections and consistency across programs. Disenrollment standards will remain substantively similar with minor revisions. Moreover, the Proposed Rule requires plans to offer "personalized additional assistance" with enrollment (e.g., having a representative explain marketing materials).

CMS also notes the high number of pediatric Medicaid enrollees and calls for states and plans to specifically include pediatric primary, specialty, and dental providers in their network. The intention is to prevent critical provider shortages and decrease the need for out-of-network authorizations and coordination.

In addition, the Proposed Rule includes new guidance on long-term care. This would be in response to the growing trend of states continuing to expand the use of managed care, "not only to new geographic areas but to more complex populations, including seniors, persons with disabilities, and those who need long-term services and supports."

Adequate Access to Provider Networks

A study by a government agency revealed significant variations in the MMCP network evaluation methods and frequency used by states.[6] The Proposed Rule seeks to create standards that would ensure beneficiaries can access adequate provider networks. Minimum standards are established in this area (e.g., network adequacy and availability standards). CMS also proposes that states adopt distance and time standards that plan applicants must meet. This concept largely parallels the Medicare Advantage (MA) program that requires MA plans to limit how far patients have to travel and how long they have to wait for a primary care visit.

The Proposed Rule seeks to strengthen the quality of care by measuring and managing quality as well as improving coordination of care by creating a quality rating system for publication of standardized, reliable, and meaningful quality information for each of the MMCP.

Conclusion

In sum, the Proposed Rule is broad in scope as it relates to networks, price transparency, and long-term care, among other concerns. CMS is currently accepting comments on the Proposed Rule's provisions. **Comments must be received no later than 5 p.m. on July 27, 2015.**

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[1] Medicaid Managed Care, 80 Fed. Reg. 31,098, 31,099 (June 01, 2015) (to be codified at 42 C.F.R. pt. 431, *et seq., available at* https://federalregister.gov/a/2015-1296.
[2] *Id.* at 31,09.
[3] *Id.* at 31,102.
[4] MACPAC, REPORT TO CONGRESS ON MEDICAID AND CHIP106-120 (June 2014), available at https://www.macpac.gov/wp-content/uploads/2015/01/2014-06-13_MACPAC_Report.pdf.
[5] See, e.g., Burwell, Sylvia M., *Setting Value-Based Payment Goals—HHS Efforts to Improve U.S. Health Care*, 372 N. Engl. J. Med. 897 (Mar. 5, 2015), *available at* http://www.nejm.org/doi/full/10.1056/NEJMp1500445.
[6] Department of Health an d Human Services, Office of Inspector General, *State Standards for Access to Care in Medicaid Managed Care*, Sep. 2014, *available at* http://oig.hhs.gov/oei/reports/oei-02-11-00320.pdf.