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September 12, 2019

Ms. Seema Verma
Administrator
Centers for Medicare & Medicaid Services
7500 Security Blvd
Baltimore, MD 21244

RE: File Code – CMS-2406-P2

Dear Ms. Verma:

On behalf of the American Speech-Language-Hearing Association, I write to offer comments on the "Medicaid Program: Methods for Assuring Access to Covered Medicaid Services-Rescission" proposed rule.

The American Speech-Language-Hearing Association (ASHA) is the national professional, scientific, and credentialing association for 204,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students.

ASHA understands that the Centers for Medicaid & Medicaid Services (CMS) is proposing to rescind last year's rule to provide administrative relief to states regarding compliance with Medicaid access requirements. However, this Notice of Proposed Rulemaking (NPRM) would remove much needed accountability that helps ensure adequate access to medically necessary care.

Last year, when CMS issued proposed changes to the process for ensuring access to care for Medicaid beneficiaries, ASHA and approximately 150 organizations suggested refinements instead of rescinding those rules.[1,2,3] ASHA and other commenters recommended improvements to ensure better access in a streamlined manner.

ASHA opposes finalization of the NPRM based on concerns related to rates and provider participation; data submission; and timeframe and input. Instead, ASHA recommends that CMS engage stakeholders in the development of an alternative plan that reduces the administrative burden on state Medicaid programs while maintaining federal statutory responsibilities for ensuring adequate access to care for Medicaid beneficiaries.[4] One key element of such an approach could be the development of uniform trackable measures (e.g. child-specific data) that can be reported and that help determine meaningful access to care for beneficiaries across various Medicaid programs and populations.

Rates and Provider Participation

If the Rule is rescinded, states would have the ability to change fee-for-service (FFS) provider rates without a mandatory access review that analyzes what effect the rate change would have on beneficiary access to care as determined by provider participation. While the current NPRM would only impact a limited number of individuals in Medicaid's FFS programs, the majority of

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Medicaid *spending* takes place for individuals in those FFS programs.[5] CMS has an obligation to ensure that Medicaid programs use their federal funds in a manner that provides adequate access to medically necessary care.[6]

Additionally, the proposed change would impact a far broader cross-section of Medicaid beneficiaries since many states base their managed care rates on the FFS rate. Changes to the FFS rate -- made without the need to account for network adequacy -- would negatively impact managed care rates as well, potentially limiting access to providers in Medicaid managed care plans.

The NPRM notes that current statute requires states to ensure Medicaid payments rates are sufficient to enlist an adequate number and distribution of providers. However, in many states, insufficient rates have already started to negatively impact beneficiary access, even with the current review process. For example, speech-language pathologists (SLP) have reported that the number of providers who serve Medicaid beneficiaries has significantly decreased because current rates do not cover the costs of providing services. [7, 8] Insufficient rates result in long waiting lists for beneficiaries in need of services and longer travel times when they do find a provider who can accept additional patients. ASHA recommends that CMS engage with stakeholders to develop and implement an improved plan for oversight that reduces the administrative burden, when possible, and increases access to medically necessary care for Medicaid beneficiaries in FFS programs.

Data Submission

Current regulations require state Medicaid agencies to produce an Access Monitoring Review Plan (AMRP) and update it every three years. The plan must analyze beneficiary access in FFS Medicaid across six categories of services using data and specific methodologies. Repeal of current regulations would change state reporting requirements from mandatory to voluntary. Voluntary reporting could undermine CMS's ability to engage in necessary oversight of beneficiary access in FFS Medicaid programs. ASHA recognizes that making data submission plans optional will decrease the administrative burden for state Medicaid agencies but doing so will eliminate the accountability that exists for ensuring Medicaid beneficiaries meaningful access to medically necessary care. A different plan that ensures oversight while minimizing administrative burden must be developed so that the important beneficiary protections of the AMRP requirements aren't undermined. Any new monitoring plan should consider the framework to access and quality proposed by the Medicaid and Children's Health Insurance Program Payment Access Commission (MACPAC) in 2011.[9]

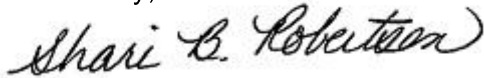
Timeframe and Input

The informational bulletin that accompanied the NPRM notes that CMS wants to work with states and other stakeholders to develop a streamlined comprehensive approach to monitoring access across Medicaid delivery systems.[10] However, CMS offers no timeframe for the development or implementation of a new approach to access monitoring. ASHA recommends that CMS not finalize the NPRM until consultation occurs with states and interested stakeholders, including organizations representing consumers and providers.

In summary, ASHA opposes finalization of the NPRM as written and suggests an alternative path forward that brings together a broad cross-section of stakeholders to develop a plan that ensures Medicaid beneficiaries have continued access to medically necessary care in the least burdensome manner as possible.

Thank you for your consideration of ASHA's comments. If you or your staff have any questions, please contact Laurie Alban Havens, ASHA's director of health policy, Medicaid and private health plans, at lalbanhavens@asha.org.

Sincerely,



Shari B. Robertson, PhD, CCC-SLP
2019 ASHA President

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[1] Federal Register. (2018). *Medicaid Program; Methods for Assuring Access to Covered Medicaid Services-Exemptions for States With High Managed Care Penetration Rate Reduction Threshold.* Retrieved from https://www.federalregister.gov/documents/2018/03/23/2018-05898/medicaid-program-methods-for-assuring-access-to-covered-medicaid-services-exemptions-for-states-with.
[2] ASHA letter submitted to Administrator Verma on May 22, 2018. Retrieved from https://www.asha.org/uploadedFiles/ASHA-Comments-to-CMS-About-Medicaid-Access-Exemptions-Proposed-Rule-05222018.pdf.
[3] Georgetown University Health Policy Institute Center for Children and Families. (2019). *CMS Administrator Verma Proposes to Repeal the Medicaid Access Rule.* Retrieved from https://ccf.georgetown.edu/2019/07/16/cms-administrator-verma-proposes-to-repeal-the-medicaid-access-rule/.
[4] Cornell Law School. *42 U.S. Code § 1396a. State Plans for Medical Assistance.* Retrieved from https://www.law.cornell.edu/uscode/text/42/1396a.
[5] Medicaid and CHIP Payment and Access Commission. (n.d.). *Provider payment and delivery systems*. Retrieved from https://www.macpac.gov/medicaid-101/provider-payment-and-delivery-systems/.
[6] Cornell Law School. *42 U.S. Code § 1396a. State Plans for Medical Assistance.* Retrieved from https://www.law.cornell.edu/uscode/text/42/1396a.
[7] American Speech-Language-Hearing Association. (2013). *2013 SLP health care survey summary report: Number and type of responses*. Available from www.asha.org.
[8] American Speech-Language-Hearing Association. (2015). *2015 SLP health care survey summary report: Number and type of responses*. Available from www.asha.org.
[9] Medicaid and CHIP Payment and Access Commission. (2011). *Examining Access to Care in Medicaid and CHIP.* Retrieved from https://www.macpac.gov/wp-content/uploads/2015/01/Examining_Access_to_Care_in_Medicaid_and_CHIP.pdf.
[10] Department of Health and Human Services: Centers for Medicare & Medicaid Services. (2019). *Comprehensive Strategy for Monitoring Access in Medicaid*. Retrieved from https://www.medicaid.gov/federal-policy-guidance/downloads/cib071119.pdf.