



September 13, 2019

Seema Verma
Administrator
Centers for Medicare and Medical Services
Department of Health and Human Services
Baltimore, MD 21244-8016

Re: Medicaid Program; Methods for Assuring Access to Covered Medicaid Services—Rescission

Dear Administrator Verma,

The American College of Physicians (ACP) appreciates the opportunity to comment on the Medicaid Program; Methods for Assuring Access to Covered Medicaid Services—Rescission proposed rule. The American College of Physicians is the largest medical specialty organization in the United States with members in more than 145 countries worldwide. ACP membership includes 159,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

Sec. 1902(a)(30)(A) of the Social Security Act, known as the equal access provision, requires that payment for all Medicaid services be “consistent with efficiency, economy, and quality of care,” and be “sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area”(1). However, Medicaid has historically reimbursed physicians at rates well below Medicare. According to 2016 data, Medicaid payment for all services was 72% of Medicare and primary care services were paid at 66% of Medicare rates (2). Low payment is a major factor that influences physician participation in Medicaid and reductions in Medicaid reimbursement rates are associated with decreased primary care appointment availability (3,4).

In 2015, the Centers for Medicare and Medicaid Services (CMS) released a final rule with comment period to establish a process for evaluating access to care in five categories, including primary care services and physician specialist services, by requiring states to submit and regularly update access monitoring review plans (AMRP) for fee-for-service Medicaid. In supporting the proposal, CMS acknowledged that payment rate changes that do not comply with the Medicaid access requirements “could adversely affect beneficiaries’ abilities to obtain needed, cost-effective preventive care, create stress on safety-net providers, and counteract state delivery reform efforts that seek to reduce cost and increase quality.” After the Supreme Court’s ruling in *Armstrong v. Exceptional Child Center, Inc.*, Medicaid-participating physicians and other health care professionals had limited recourse to force Medicaid programs to address inadequate payment rates. The current access monitoring requirements help to ensure that states employ a data-driven, transparent, and regulated process to demonstrate compliance.

Although most Medicaid programs deliver services through managed care arrangements, fee-for-service remains a substantial part of the program. A 2017 report from the Medicaid and CHIP Payment and Access Commission found that in FY2015 55% of national Medicaid spending was for services provided under fee-for-service (5). Further, fee-for-service Medicaid continues to provide care for the program's most vulnerable populations, including children and adults with disabilities. States with high managed care enrollment provide certain critical services through fee-for-service, such as long-term care services and supports, and behavioral health.

The College believes that the proposal to rescind access monitoring requirements is premature, as states have only had to submit one AMRP since the provision went into effect in 2016. Eliminating the requirement now would represent a missed opportunity to understand whether access trends have changed since the initial round of state reports. For example, the District of Columbia's October 2016 AMRP noted that the report served as a "reasonable baseline from which to assess future trends and conduct future monitoring" but that it lacked important information such as data on private insurer reimbursement rates (6). By requiring states to develop and submit an AMRP, patients and physicians have a clearer understanding, and opportunity to provide input, as to whether the equal access provision is being met and if payment rate changes are sufficient. The reports also provide CMS with information to prevent the adoption of onerous rate reductions that could undermine access.

ACP urges you to withdraw the proposed rule. Coverage does not guarantee access to care. It is the federal government's obligation to enforce the equal access provision. The current access monitoring rules provide an important, standardized, transparent, continually-updated, and data-driven window into whether states are meeting their obligation to ensure beneficiaries have meaningful access to needed care and whether reimbursement rates are sufficient to enlist physicians in the Medicaid program.

Thank you for considering our comments. Please contact Ryan Crowley, Senior Associate for Health Policy, at rcrowley@acponline.org if you have questions.

Sincerely,



Robert M. McLean, MD, FACP
President
American College of Physicians

¹ <https://www.macpac.gov/subtopic/provider-payment/>

² <https://www.kff.org/medicaid/state-indicator/medicaid-to-medicare-fee-index/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

³ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4010445/>

⁴ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5833510/>

⁵ <http://garnerhealth.com/wp-content/uploads/2014/02/March-2017-Report-to-Congress-on-Medicaid-and-CHIP.pdf>

⁶ <https://www.medicaid.gov/medicaid/access-to-care/downloads/review-plans/dc-amrp-2016.pdf>