American College of Physicians
Leading Internal Medicine, Improving Lives

January 4, 2015

Honorable Andy Slavitt
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attn: CMS-2328-FC

RE: Medicaid Program; Methods for Assuring Access to Covered Medicaid Services and Request for Information

Dear Acting Administrator Slavitt:

The American College of Physicians (ACP) very much appreciates this opportunity to comment on the Final Rule with comment period: Medicaid Program; Methods for Assuring Access to Covered Medicaid Services and Request for Information. The American College of Physicians is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 143,000 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.

We respectfully submit the following comments:

General Comments

ACP appreciates the Centers for Medicare and Medicaid Services' (CMS) efforts to establish a transparent and data-driven process for evaluating access to covered Medicaid care and services as states seek to reduce payment rates for physicians and other health care professionals. ACP is a strong supporter of Medicaid expansion and as more states elect to expand eligibility as permitted by the Affordable Care Act (ACA) it is imperative that states and CMS provide ongoing oversight to ensure that payment rates are sufficient so that beneficiaries can access covered services, especially primary care. The importance of stringent federal oversight and enforcement is underscored in the wake of the United States Supreme Court decision in Armstrong v. Exceptional Child Center, Inc., 135S. Ct. 1378 (2015) which prevents

physicians and other health care providers from legally contesting state-initiated payment cuts when they fail to achieve the level of participation necessary to reflect the equal access provision in 1902(a)(30)(A) of the Social Security Act.

Well-established research has cited low Medicaid payment as a major reason physicians are reluctant to participate in the program.[1,2] Those that do treat Medicaid patients often incur a financial loss because the reimbursement rates are well below the actual cost of providing care. The final rule with comment period acknowledges 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." The College strongly supports section 1202 of the ACA, which provided a temporary increase in payment for certain primary care evaluation and management services. Evidence shows that the payment increase had a positive effect on beneficiary access to primary care, including a substantial increase in the availability of new-patient appointments among participating primary care physician offices following implementation of Medicaid-Medicare pay parity.[3]

While the final rule establishes a useful framework for ensuring states properly document and report on access to care in a transparent manner and provide an opportunity for physicians and other health care professionals and beneficiaries to offer ongoing input, we believe that improvements to the access monitoring review plan can be made. We are pleased that the access monitoring review plan analysis will consider the availability of care through enrolled providers to beneficiaries in each geographic area by provider type and site of services; actual and estimated levels of provider payment available from other payers, including other public and private payers, by provider type and site of service; and other elements. We also support the inclusion of 447.203(b)(3) which requires the access monitoring review plan to include an analysis of the percentage comparison of Medicaid payment rates to other public and private health insurer payment rates within geographic areas of the state. The latter analysis is particularly important since Medicaid reimbursement is typically far below Medicare and private health insurer payment rates.

Despite these positive provisions, we believe the process should be strengthened to ensure that our patients have sufficient access to care. We are concerned that states may implement a payment rate reduction prior to CMS' final approval of the State Plan Amendment to reduce or restructure provider payment rates. Should CMS identify an access problem, states are then required to correct any access deficiency after the fact; however, states are not obligated to increase payment rates to remediate the access deficiency. Under 447.203(b)(8)(i), we urge CMS to emphasize the importance and effectiveness of stable and sufficient reimbursement rates in attracting and maintaining physician participation when working with states to correct

access problems. Further, we urge CMS to use the 2014 Medicaid primary care payment level as a baseline when reviewing states' access monitoring review plans and payment rate reduction or restructuring proposals. This will ensure that any rate changes are compared to Medicaid-Medicare pay parity levels and thus reflect a high standard of beneficiary access and provider participation in the program.

Access to Care Measures

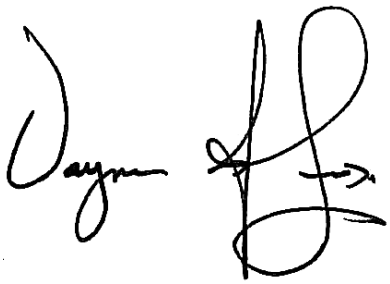
ACP recommends that states should be required to provide data on additional access to care measures, specifically:

- Appointment wait times,
- emergency room utilization among Medicaid beneficiaries, and
- patient/physician ratio in Medicaid versus Medicare and private health plans, and
- percentage of individuals with a usual source of primary care.

These standards should be included in a national core set of access to care measures. A national set of core measures will provide standardization across state programs and reduce administrative burden and confusion.

Thank you for the opportunity to provide comments on this important effort.

Sincerely,



Wayne J. Riley, M.D., MPH, MBA, MACP
President
American College of Physicians

[1] Decker SL. In 2011 Nearly One-Third of Physicians Said They Would Not Accept New Medicaid Patients, But Raising Fees May Help. Health Aff. 2012;31(8);1673-1679. Accessed at http://content.healthaffairs.org/content/31/8/1673.abstract

[2] Shen Y and Zuckerman S: The Effect of Medicaid Payment Generosity on Access and Use among Beneficiaries. Health Services Research. 40(3):723-744. Accessed at http://onlinelibrary.wiley.com/doi/10.1111/j.1475-6773.2005.00382.x/abstract

[3] Polsky D, Richards M, Basseyn S, Wissoker D, Kenney GM, Zuckerman S, Rhodes KV. Appointment Availability after Increases in Medicaid Payments for Primary Care. *N Engl J Med.* 2015;372:537-545. Accessed at http://www.nejm.org/doi/full/10.1056/NEJMsa1413299#t=articleBackground