February 28, 2017

VIA ELECTRONIC SUBMISSION

Jennifer Kent, Director
Department of Health Care Services
1501 Capital Ave
Sacramento, CA 95814

Re: Comments of the California Medical Association on Department of Health Care Services' "Medicaid Managed Care Final Rule: Network Adequacy Policy Proposal"

Dear Director Kent:

On behalf of more than 43,000 physician members and medical students of the California Medical Association (CMA), we would like to thank you for considering stakeholder input on the Department of Health Care Services' (DHCS) "Medicaid Managed Care Final Rule: Network Adequacy Policy Proposal". The federal Centers for Medicare & Medicaid Services (CMS) requires states to develop network adequacy standards in order to better ensure states are providing adequate care to Medicaid beneficiaries. We believe that careful crafting of network adequacy standards will ensure a high quality Medicaid delivery system in Medi-Cal managed care and we look forward to being active partners through this endeavor. Respectfully, we submit the following comments.

Current Medi-Cal Managed Care Access Assessment Committee Should Inform Network Adequacy Standards

We encourage the state to use the existing access assessment committee—formed as part of the most recent 1115 Waiver—to research and propose time and distance standards for use in the Medi-Cal Managed Care program. We understand the current structure of the committee's assessment will only investigate whether plans are adhering to the Knox Keene Act of 1975 (KKA) requirements for network adequacy. However, given the committees expert stakeholder panel, it would be wise to use this group to determine what could be improved to ensure timely access. Further, while the directive from CMS was for the state to determine if there was adequate access for beneficiaries, they did not limit the definition of access to only the current definition. In fact, CMA would note that it is vitally important that we do not only look at how access is currently defined but that we also research and develop additional standards to perfect our understanding of the appropriate measures to be used when determining if access is sufficient—even if those metrics fall outside of current law and practice.

We strongly urge the state to expand the charge of the current access assessment committee to include additional research that can inform the network adequacy proposal.

Proposed Methodology Will Not Result in Robust Standards

The methodology for determining network adequacy standards is briefly described on page 17 of the proposal as follows:

> "Based on geo-access mapping of these areas and a survey of available providers within the core specialist group, DHCS proposes the following standards…"

While CMA recognizes the benefits of using the Medicare Advantage network adequacy framework to build on county demographics and projected beneficiary populations to arrive at an evidence-based time and distance standards, we believe relying on geo-access mapping alone will not provide an accurate assessment of access. Rather, geo-access demographics alone will result in the new standards that reflect existing—and often inadequate—levels of beneficiary access. CMA believes that CMS' intent in requiring network adequacy proposals was to gather new data on the beneficiaries and providers to determine if current networks are appropriately serving beneficiaries.

CMA recommends that in addition to geo-access mapping, additional measures like the number of managed care organization (MCO) reported instances in which time and distance standards cannot be met due to inadequate physician supply and the extent to which available physicians are unable to enter into contracts with a MCO be collected and used to better understand access. We recognize that some of these measures may not currently be required under DHCS' existing contracts with MCOs. However, if this data would be useful for developing meaningful network adequacy standards, we urge DHCS to consider taking steps to collect this information.

Data on Exemptions from Adequacy Standards Should be Captured and Publicly Reported

DHCS' proposed standards allow MCOs to request an exemption from access adequacy standards if they exhaust all options for contracting with an adequate number of physicians. As such, if there is a shortage of primary care physicians in a rural area, an MCO could file for an exemption and be excused from meeting those requirements. This has the effect of masking the full extent of network inadequacy in a given area and under the proposal; the exemptions would not be captured or publicly reported. When plans are allowed to request exemptions with little transparency, MCOs are able to have limited networks; this is particularly concerning in rural areas, where arguably, the standards need to be in place in order to ensure adequate care is being provided. Instead of creating metrics that 1) only look at the current availability of providers and 2) allowing for MCOs to file for exemptions, DHCS should take aggressive action in partnership with the plans to ensure Medi-Cal patients have access to care. There are examples throughout the state, particularly in the Inland Empire, of plans that have found solutions to attracting physicians to rural and underserved areas. Where exemptions from standards are granted due to inadequate physician supply, these exemptions should be considered evidence of network inadequacy and made public.

CMA Requests Detail on DMHC's Input on Proposal

CMA requests additional information on the role the Department of Managed Health Care (DMHC) played in the creation of these standards. While DHCS has publicly stated that DMHC was involved, the extent of that involvement is vague. Given that DMHC's Office of Plan Licensing routinely reviews plan submissions to ensure the adequacy of networks, they are uniquely equipped to provide detailed review of networks, exemptions granted to MCOs and insight on standard metrics. DHCS should ensure that DMHC is not merely a second reviewer of the standards but an active participant in its creation.

Monitoring of MCOs Needs Improvement

In addition to self reported data submitted annually by participating MCOs, DHCS has relied heavily on beneficiary reporting in order to monitor access. Stakeholders have long contended this method was inadequate. However, this proposal does not tighten the monitoring of MCOs by DHCS. While the proposal is clear that DHCS is "responsible for monitoring health plans to determine compliance with the standards," (p. 25), the monitoring description in the proposal document is vague and seems to rest too heavily on data provided directly by health plans. Also, the proposal does not provide detail on how DHCS will utilize the External Quality Review Organization (EQRO) to "validate" health plan networks in the context of the "network certification" requirements DHCS must submit to CMS annually. We request that DHCS to provide more detail on network adequacy monitoring activities, including: the specific network adequacy measures and data sources that might be included in future Managed Care Performance Dashboards; how the corrective action plan process will be amended to account for compliance with the numerous standards required under this rule; when the provider network data improvement project will be completed; the penalty for plans if not in compliance; and whether the full functionality will allow for sufficient monitoring and oversight of compliance with these standards.

Clarification on Telemedicine Needed

The CMS Final Rule states that the use of telemedicine should be considered as a factor when the state is setting time and distance standards. CMA is seeking clarification on how access to telemedicine services was measured and the conditions under which the use of telemedicine would impact the granting of an exception to the standards. CMA supports the use of telemedicine and wants to ensure it is used responsibly and in accordance within the qualifications and scope established by state law.

Conclusion

Thank you for your consideration. If you have questions, please contact Lishaun Francis, Associate Director at the California Medical Association at lfrancis@cmanet.org or (916) 551-2554.

Sincerely,

Lishaun Francis, Associate Director
California Medical Association

Cc: Diana Dooley, Secretary
California Health and Human Services

Shelley Rouillard, Director
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