Health System Reform INSIGHT

AMA AMERICAN MEDICAL ASSOCIATION

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Given the many changes under way in the nation's health system, the AMA has developed *Health System Reform Insight* to help you understand what this new direction means to you and your patients.

CMS proposes rule for Medicaid's "equal access" requirement

The Affordable Care Act (ACA) relies on Medicaid to expand coverage for low-income Americans. Beginning on Jan. 1, 2014, the ACA will provide Medicaid coverage to all individuals under age 65 with incomes up to 133 percent of the federal poverty level ($14,484 for an individual or $29,726 for a family of four in 2011). This change in Medicaid eligibility is estimated to expand coverage to an additional 16 million individuals. It also is a controversial element of the new law because of the significant impact it is expected to have on how states provide Medicaid coverage, how physicians practice medicine, and how patients access care.

Various health sector analyses have raised concerns about the impact of the combined workforce shortage and looming surge of Medicaid beneficiaries on access to care, both for Medicaid beneficiaries and privately insured individuals. They also question whether physician payment levels, which already are so low in many states that they fail to cover anything close to the reasonable cost of providing care, will be sufficient to sustain physician participation in Medicaid. Expanded coverage under Medicaid will have little meaning without timely access to physicians and other providers. The ACA increases Medicaid payments to primary care physicians for certain services to 100 percent of the Medicare payment rate for two years starting in 2013, as an incentive to increase access and provider participation. However, many

FORWARD TO A FRIEND

KEYDATES

July 16
A seminar in Durham, N.C., will highlight the AMA's strategy for achieving physician payment improvements in Medicare, Medicaid and the private sector as well as new federal ACO regulations. Register today.

July 28
A webinar at 7 p.m., Eastern time, will discuss the AMA's advocacy efforts with Congress and the administration around the physician payment issue, and offer physicians information on payment resources from the AMA. Register today.

IMPORTANT LINKS

AMA comments on proposed rules covering accountable care organizations

AMA letter on developing pathway toward reforming the Medicare physician payment system

Letter in support of HEALTH Act to repair nation's medical liability system

states and physicians are concerned that the increased payments will not be enough and that they will not be continued beyond the authorized two-year period.

The increasing visibility of this issue and increased pressure by the nation's governors to allow flexibility in their Medicaid programs led the Centers for Medicare and Medicaid Services (CMS) to issue a proposed regulation in May to guide states on Medicaid provider payment rates and how to assess and ensure patient access to care. The proposed rule directly addresses the provision known as the "equal access requirement," which specifies that a state plan must "assure that payments are consistent with efficiency, economy, and quality of care and are 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."

CMS' proposed rule is the first comprehensive federal rulemaking or guidance on this subject, which has been frequently litigated in the federal courts. During its next term, which begins in October, the U.S. Supreme Court will hear an appeal from a 9th Circuit case on whether private parties can sue states to prevent arbitrary cuts in Medicaid funding in a suit that seeks to restore Medicaid funding in California. The AMA Litigation Center is involved in submitting an amicus brief on behalf of the plaintiffs in this case, *Douglas v. Independent Living Center of Southern California, Inc.*

The proposed CMS rule adopts the recommendations developed by the nonpartisan Medicaid and CHIP Payment and Access Commission, and outlines a three-part framework for analyzing access to care, including: 1) enrollee needs; 2) the availability of care and providers; and 3) utilization of services. The proposed rule does not set a national standard or mandate any particular payment level, but rather proposes a standardized, transparent process that states must follow before reducing or adjusting the methodology for determining provider rates. The proposed rule seeks to clarify that beneficiary access must be considered in setting and adjusting rates for Medicaid, and would require that states follow certain procedures when cutting rates or

Advocating for improvements to the Affordable Care Act

AMA comments on ACA implementation regulations

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changing payment methodologies.

While the AMA supports CMS' effort to create a standardized and transparent process for states to comply with the equal access provision, the AMA is concerned that the proposal does not go far enough, especially with regard to providing sufficiently clear criteria for measuring access. In a comment letter being circulated for sign-on by Federation groups, the AMA urges CMS to require the following data elements in state access reviews:

- Cost studies;
- The number of physicians accepting new Medicaid patients;
- Emergency room utilization among Medicaid beneficiaries; and
- The patient/physician ratio in Medicaid versus private health plans.

The AMA also feels that enforcement and oversight should be strengthened, and that the rule should apply to managed care plans, since approximately 70 percent of Medicaid beneficiaries receive some or all of their services through a Medicaid managed care plan.
