



# Proposed Rule on Exemptions to Monitoring Access in Fee for Service

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Medicaid and CHIP Payment and Access Commission

Martha Heberlein

# Overview

- The role of monitoring access
- Current rules in fee for service (FFS)
- Proposed rule changes
- Potential areas for comment

# The Role of Monitoring Access

- States and the federal government have an obligation to ensure that Medicaid beneficiaries have sufficient access to services
- The ability to monitor access also provides transparency and accountability for program spending
- Populations that remain in FFS Medicaid are often the most vulnerable, such as individuals with disabilities

# Monitoring Access in Fee for Service

- Equal access provision requires payments be sufficient to ensure access comparable to the general public
- U.S. Supreme Court ruling in *Armstrong v. Exceptional Child Center* ended private right of action to enforce equal access
- November 2015 rule from Centers for Medicare & Medicaid Services (CMS) established new requirements for states to monitor and report on access to care in FFS Medicaid

# Access Monitoring Review Plans

- Final rule required states to submit an access monitoring review plan by October 1, 2016
- Access monitoring review plan applies to five categories of services
- Must include the measures, data sources, methods, and thresholds used to analyze access
- When access issues are identified, states must submit a corrective action plan
- MACPAC reviewed plans in March 2017 chapter

# Proposed Rule

- On March 23, 2018, CMS issued a proposed rule that:
  - establishes exemptions for states with high managed care enrollment
  - establishes exemptions for states making payment rate changes below a threshold
  - modifies the requirements for the submission of state plan amendments (SPA) for payment rate changes
- Comment period closes May 22, 2018

# Potential Areas for Comment

## Proposed rule exempts states with total managed care enrollment above 85 percent

- CMS is seeking comment on the appropriateness of the threshold
- Implication: threshold obscures that some vulnerable populations which remain in FFS would not have access to services monitored

# Potential Areas for Comment

## Proposed rule exempts nominal payment rate changes (4-6 percent)

- CMS has requested comments on the specific payment threshold
- Implication: threshold would have different effects depending on a state's current payment levels



# Potential Areas for Comment

## States meeting the exemptions would submit alternative data and analysis

- CMS is seeking comments on the types of alternative data and analysis states should submit
- Implication: may diminish role for beneficiaries and providers in assessing rate changes

# Potential Areas for Comment

## Other potential areas for comment

- Changes to SPA submission process
- Exceptions noted in guidance
- Development and adoption of access measures

# Potential Areas for Comment

- Managed care threshold exemption
- Payment rate change exemption
- Alternative data and analysis
- Changes to SPA submission
- Exceptions noted in guidance
- Development and adoption of access measures



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