MACPAC

# Review of Proposed Revisions to Medicaid and CHIP Managed Care Rule

**Medicaid and CHIP Payment and Access Commission**

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# Overview

- Background
- Proposed changes
- Possible areas for comment

# Background

- Federal rules for managed care oversight are codified in Part 438 of Section 42 of the Code of Federal Regulations (42 CFR Part 438)
- The Centers for Medicare & Medicaid Services (CMS) finalized a comprehensive update of these rules in June 2016, although some provisions did not go into effect until 2017/2018
- On November 14, 2018 CMS published a notice of proposed rulemaking (NPRM) to amend rules
- Comments due January 14, 2019

# Proposed changes

- Rate-setting
  - Allows states to use rate ranges in some instances
  - Prohibits retroactive changes to risk sharing
  - Provides more guidance on rates with different match
- Directed payments
  - Clarifies allowable types of directed payments
  - Changes CMS review requirements
- Pass-through payments
  - Allows states to make new pass-through payments for 3 years when transitioning to managed care

# Proposed changes, continued

- Payment for IMDs in-lieu of services
  - Does not propose any changes to 2016 rule
  - Asks for comment on additional data sources
- Network adequacy standards
  - Eliminates requirement for time-and-distance standard; allows any quantitative standard
  - Allows states to define specialist types
- Quality rating system (QRS)
  - Requires states to use core set of measures
  - Removes CMS pre-approval for state-specific QRS

# Proposed changes, continued

- Beneficiary information requirements
  - Several small changes to language, format, and timing requirements
- Grievances and appeals
  - Small changes to simplify and clarify requirements
- CHIP
  - Primarily technical changes to explicitly exclude provisions of rule that are not applicable to CHIP

# Possible areas for comment: directed payments

- 2016 rule allowed states to direct a portion of capitation to providers to further state goals
- NPRM clarifies types of allowable payments, removed CMS review if state plan rates are used
- Three areas for consideration:
  - make provider-level data publicly available
  - clarify whether the upper payment limit (UPL) applies for directed payments and how it will be enforced
  - improve reporting and monitoring of quality strategies and evaluation plans required for directed payments

# Possible areas for comment: pass-through payments

- Current rule require states making pass-through payments to phase them out by 2027
- NPRM would allow states transitioning to managed care to make new payments for 3 years
- Three areas for consideration:
  - extend the ability to make pass-through payments to states beyond those grandfathered in by the 2016 rule
  - establish a specific schedule for the phase-out (e.g., 33 percentage points a year)
  - make provider-level data publicly available

# Possible areas for comment: network adequacy

- 2016 rule requires states to implement time and distance standards for specific provider types
- NPRM would require states to adopt a quantitative standard of their choosing
- Two areas for consideration:
  - Review of state documents found they could meet current requirements with the flexibility allowed under existing rules; all use time and distance now
  - Using a national standard allows stakeholders to compare across states; a mix of standards would make it harder to compare state benchmarks

# Possible areas for comment: in-lieu of payments for IMDs

- CMS requested public comment on additional data sources that it could use to evaluate the 15-day limit
- MACPAC has identified information that could be helpful to CMS
  - 21st Century Cures Act requires HHS to study the effects of the 15-day in-lieu of provision and issue a report in December 2019
  - 18 states have approved Section 1115 substance use disorder demonstrations to pay for treatment in IMD settings and report performance measures to CMS

# Possible areas for Commission comment

- Directed payments
- Pass-through payments
- Network adequacy
- In-lieu of payments for IMDs