

December 8, 2022

In-Lieu-Of Services and Value-Added Benefits

Implications for Managed Care Rate Setting

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Medicaid and CHIP Payment and Access Commission



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Overview

- Background
 - Commission's work to date
 - In-lieu-of services flexibility
 - Role of value-added benefits
 - Emerging 1115 waiver flexibility
- Findings
- Discussion
- Next Steps



The background is a solid teal color. On the left side, there are several overlapping, semi-transparent geometric shapes in various shades of teal, including a large circle, a vertical rectangle, and a smaller circle, creating a layered, abstract effect.

Background

Commission's Work to Date

- September and October public meetings discussed prior MACPAC research into the managed care rate setting process
 - Capitation rate development and risk mitigation mechanisms
 - State directed payment arrangements
 - Accounting for access in rate setting and actuarial soundness
- Commissioners also previewed anticipated rulemaking from CMS
 - Rules will likely address key topics covered in MACPAC's rate setting work
- Commissioners identified in-lieu-of services (ILOS) as a priority area for further discussion
 - Other priority areas (access and directed payments) were discussed in October

In-Lieu-Of Services Flexibility

- ILOS allows states to cover medically appropriate, cost-effective substitutes of state plan services
 - e.g., delivery of medically tailored meals to prevent hospitalization
- Utilization and costs associated with ILOS are considered in capitation rate development and in MLR calculations
- 2016 managed care rule made a significant exception to the ILOS flexibility
 - Permitted coverage of services in an institution for mental disease (IMD) with certain limitations
 - Utilization can be factored into rate development, but IMD costs cannot

Role of Value-Added Benefits

- Managed care also provides states and health plans with the opportunity to provide value-added benefits (VABs)
 - Offered in addition to covered Medicaid state plan services
 - Typically non-medical and can include wellness activities
 - Plans are increasingly using this flexibility to offer services addressing social determinants of health (SDOH)
- VABs are usually funded by health plans' administrative dollars
 - Costs are excluded from capitation rate-setting process
- Some VABs may be counted in the MLR if they are considered activities that improve health care quality

Emerging 1115 Waiver Flexibility

- States and CMS are using 1115 waiver authority to pursue ILOS and other SDOH-related services and supports
 - e.g., California’s CalAIM demonstration
- Recent 1115 waiver approvals support state efforts to pursue SDOH-related services (e.g., nutrition- and housing-related supports)
 - CMS has included notable policy changes that bolster support for these efforts (e.g., minimum payment levels in managed care and fee for service)
- Pursuing 1115 waivers can provide states with pre-approved ILOS that can be delivered through managed care
 - e.g., non-medical ILOS

Findings

Federal and Professional Actuarial Guidance Provide Limited Detail on the Inclusion of ILOS

- CMS's annual rate development guide provides clarity on incorporating cost and utilization of ILOS into rates
 - IMD ILOS exception treated differently
- Actuarial Standards of Practice (ASOPs) describe how actuaries should capture covered services, including ILOS
- No insight is provided into which non-medical services may or may not qualify as an ILOS for the purposes of rate setting
 - Some interviewees noted this can pose challenges for actuaries when developing rates

Limitations in the Definition of ILOS Can Pose Challenges for State Population Health Efforts

- Numerous states have implemented the IMD exception to ILOS flexibility
 - Fewer states have pursued ILOS flexibility for other services (e.g., SDOH)
- MACPAC research found states using other approaches
 - VABs or investment of excess profit to reduce MLR remittances
 - Some states are requiring VABs in managed care contracts; others encourage but do not require VABs
- Interviewees indicated an interest in CMS clarifying what VABs may be considered reasonable substitutes for state plan services

Unclear How Far State Flexibility Under Actuarial Soundness Certification Can Be Applied

- States use flexibilities under managed care and actuarial soundness to pursue program objectives
 - e.g., add benefits, increase provider payment, invest in SDOH
- Federal guidance on managed care flexibilities is clear in some cases and vague in others
 - Unclear the extent to which states can pursue non-medical ILOS through rate-setting instead of waivers
- Interviewees highlighted potential areas where clarity could strengthen the rate setting process
 - e.g., guidance on what can or cannot be included in rate calculations, guidance on types of non-medical ILOS that could be quickly approved

State Discretion in Determining MLRs Have Implications for the Use of ILOS

- States are using different approaches to spur investment in services and supports that balance efficiency, access, and value
 - e.g., higher profit margins with required investments in VABs, MLR remittances
- Stakeholders indicated that states can face challenges encouraging or requiring investments in SDOH-related services
 - Beneficiary churn can affect savings from population health improvements
 - Lower-cost ILOS can reduce capitation rates in the long-term
- States may determine strategies for pursuing ILOS based on these factors

Discussion

Areas for Potential Consideration

- Should CMS consider providing new guidance on what distinguishes a service as ILOS or as a value-added benefit, as well as what types of non-medical ILOS could be quickly approved?
- Are there concerns regarding the widespread availability of ILOS that could be addressed by CMS?
- Should CMS provide more clarity on how non-medical ILOS and other SDOH-related services should be treated in MLR calculations?
- Is more clarity needed regarding the documentation of ILOS in rate certifications?
- Are there ways CMS can help states implement ILOS consistent with how states prefer to operate their Medicaid programs?

Next Steps

Next Steps

- Commissioner discussion
 - Key questions pertaining to the treatment of ILOS
 - Priority areas for potential comment
 - Areas for additional analysis ahead of proposed rule
- Future discussion of potential comment letter

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