



June 30, 2023

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Re: CMS-2439-P: Medicaid Program; Medicaid and Children's Health Insurance Program (CHIP) Managed Care Access, Finance, and Quality

Dear Secretary Becerra and Administrator Brooks-LaSure:

The American Cancer Society Cancer Action Network (ACS CAN) appreciates the opportunity to comment on the notice of proposed rulemaking regarding access, finance and quality of Medicaid and CHIP managed care. ACS CAN makes cancer a top priority for policymakers at every level of government. ACS CAN empowers volunteers across the country to make their voices heard to influence evidence-based public policy change that improves the lives of people with cancer and their families. We believe everyone should have a fair and just opportunity to prevent, find, treat, and survive cancer. Since 2001, as the American Cancer Society's nonprofit, nonpartisan advocacy affiliate, ACS CAN has successfully advocated for billions of dollars in cancer research funding, expanded access to quality affordable health care, and advanced proven tobacco control measures. ACS CAN is more determined than ever to end cancer as we know it, for everyone.

The Medicaid and CHIP programs play a key role in providing access to comprehensive health coverage for many people who cannot otherwise afford it – coverage that increases access to cancer screenings and preventive services, improves early-stage diagnosis rates and timely treatment among cancer patients.¹ One recent study showed that expanding access to Medicaid was associated with increases in overall cancer survival, and the increase was prominent among non-Hispanic Blacks and in rural areas – highlighting the role expanding Medicaid access has in increasing health equity.²

Because a majority of enrollees in these Medicaid and CHIP programs receive coverage through managed care organizations (MCOs), it is critical to establish federal standards for the care provided by these entities. ACS CAN supports a majority of changes proposed in this rule because they will help ensure that the coverage provided to Medicaid enrollees via managed care plans is comprehensive and meets their healthcare needs. This is particularly important for enrollees who are diagnosed with cancer, as cancer treatment requires access to multiple provider types and often specific providers or facilities that treat that person's specific type of cancer. We offer the following specific comments regarding this proposal:

Network Adequacy Standards

Currently, states are required to develop a quantitative network adequacy standard for MCOs, but there is no federal floor for the standard and no federally specified enforcement mechanism. HHS proposes to change this by adding a new requirement that states adopt and enforce standards for appointment waiting times. These standards would require that routine appointments be made within the following timeframes:

- for primary care (pediatric and adult) within 15 business days of request,
- for OB/GYN care, within 15 business days of request,
- for outpatient mental health and substance use disorder (SUD) services (pediatric and adult) within 10 business days of request, and
- for state-selected services (state must choose an additional provider type to track and report), within state-established timeframes.

For people with cancer – whether newly diagnosed or in active treatment – timely access to needed providers is one of the most important components in fighting their disease. Even short delays in accessing services can lead to significant disruptions in care and result in negative health outcomes. Evidence-based protocols for chemotherapy and other cancer treatments often require quick initiation and treatment delivery on a proscribed timeline. Interruptions or delays to this timeline can be detrimental – and even fatal. For example, research shows that delays in the initiation of chemotherapy for breast cancer patients result in adverse health outcomes.³

We support HHS' proposal to apply standards for appointment wait times to assess and ultimately ensure the adequacy of MCO networks. Strictly enforcing federal quantitative network adequacy standards like these will ensure that patients with serious and urgent diagnoses like cancer are able to access treatment as quickly as possible, which in some cases may save their lives.

We note that in 2025 HHS will implement similar standards for Qualified Health Plans (QHPs) in the marketplaces. To further align these requirements and simplify implementation and regulation, we urge HHS to implement the proposed managed care standards at the same time as the QHP standards in 2025.

We urge HHS to add an appointment wait time standard for Specialty Care (Non-Urgent), such as oncology care, to the list of required provider specialty wait time standards. Specialty care is crucial in the treatment of many serious and chronic illnesses, yet it is not represented in the currently proposed appointment time standards. We urge HHS to add specialty services to its list of provider types that is required for all states.

ACS CAN also urges HHS to require states to impose an additional quantitative network adequacy standard – beyond appointment wait times – on MCOs, to further ensure MCOs are providing robust access to needed care. For example, most states already impose time and distance standards on MCOs, so it is not

unreasonable to add this as a federal requirement.

HHS proposes that compliance with these standards would be a rate of appointment availability of at least 90 percent, as determined by “secret shopper” surveys. States would be required to conduct “secret shopper” surveys on an annual basis, using entities that are independent of the state Medicaid agency and the MCOs. The “secret shopper” surveys would also be required to test the accuracy of the MCO provider directories with respect to primary care, OB/GYN, and outpatient mental health and SUD providers. State Medicaid agencies would be required to report the results of the “secret shopper” surveys to CMS and post the results on their websites.

ACS CAN strongly supports this proposal to enforce the new standards as well as accuracy standards for provider directories. We urge HHS to consider adding other enforcement mechanisms for these new requirements, including guidance to states on how to bring individual MCOs into compliance.

Managed Care Quality Rating System (QRS)

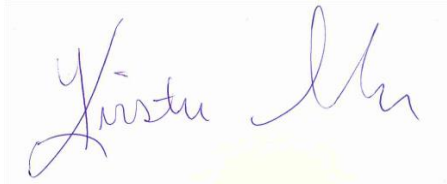
CMS proposes to adopt a national “framework” for managed care quality rating systems, including (1) the use of mandatory measures specified by CMS; (2) a quality rating methodology that produces ratings specific to each MCO; and (3) a requirement for a website display format that enables beneficiaries to compare the quality of the MCOs available to them. No earlier than two years after implementation, states would be required to add to the website an interactive tool that enables users to view quality ratings stratified by sex, age, race and ethnicity, disability, language, and other factors.

ACS CAN strongly supports the proposed CMS framework, which will ultimately allow Medicaid agencies and CMS to ensure the MCOs are offering quality coverage to Medicaid enrollees; as well as providing enrollees with actionable information when they are choosing which MCO to enroll in. We particularly applaud the requirement that the data on the public websites be sorted by factors that are meaningful to the enrollee in their decision-making process, including being able to stratify quality information by race/ethnicity, age, costs and coverage. At the appropriate time in implementation, we urge HHS to conduct – or require states to conduct – robust user testing of these websites and find other ways to gather meaningful feedback from Medicaid enrollees who are using the websites. We note that the timelines indicated in the proposal will result in Medicaid enrollees not seeing these changes for several years – and we urge HHS to accelerate the implementation timeline on this proposal if possible.

Conclusion

We appreciate the opportunity to provide comments on this proposal. We support this proposed rule and encourage HHS to finalize and implement its provisions as quickly as possible. Medicaid and CHIP coverage – including through managed care organizations – is a matter of life and survivorship for thousands of low-income cancer patients and survivors, and we look forward to working with HHS and CMS to ensure that all people are positioned to win the fight against cancer. If you have any questions, please feel free to contact Jennifer Hoque at jennifer.hoque@cancer.org.

Sincerely,

A handwritten signature in blue ink that reads "Kirsten Sloan". The signature is written in a cursive style and is positioned above a yellow rectangular highlight.

Kirsten Sloan
Managing Director, Public Policy
American Cancer Society Cancer Action Network

¹ Building on the Evidence Base: Studies on the Effects of Medicaid Expansion, February 2020 to March 2021. Published May 6, 2021. <https://www.kff.org/report-section/building-on-the-evidence-base-studies-on-the-effects-of-medicaid-expansion-february-2020-to-march-2021-report/>

² Han X, Zhao J, Yabroff KR, Johnson CJ, Jemal A. Association Between Medicaid Expansion Under the Affordable Care Act and Survival Among Newly Diagnosed Cancer Patients. *J Natl Cancer Inst.* 2022 Aug 8;114(8):1176-1185. doi: 10.1093/jnci/djac077. PMID: 35583373; PMCID: PMC9360456.

³ Chavez-MacGregor M, Clarke CA, Lichtensztajn DY, Giordano SH. Delayed Initiation of Adjuvant Chemotherapy Among Patients With Breast Cancer. *JAMA Oncol.* 2016;2(3):322-329. doi:10.1001/jamaoncol.2015.3856.