AMERICAN LUNG ASSOCIATION.

Harold P. Wimmer
National President and
CEO

January 14, 2019

The Honorable Seema Verma
Administrator
Center for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Verma:

The American Lung Association appreciates the opportunity to submit comments on the proposed rule "Medicaid Program; Medicaid and Children's Health Insurance Plan (CHIP) Managed Care."

The American Lung Association is the oldest voluntary public health organization in the United States, representing the 33 million Americans living with lung disease, including asthma, lung cancer and COPD. The Medicaid program plays a vital role for patients with lung disease. Almost one-quarter of people with COPD are enrolled in Medicaid or qualify as dual eligible[1] and more than half of all children with asthma receive their healthcare coverage through Medicaid and CHIP.[2] As noted in the proposed rule, over 68 percent of Medicaid enrollees received their care through a comprehensive managed care organization (MCO) in 2016, making it critical for lung disease patients to be able to access the treatments and services they need through Medicaid managed care arrangements.

In March 2017, the Lung Association committed to a set of healthcare principles.[3] The principles state that any changes to the healthcare system must achieve healthcare that is affordable, accessible and adequate for patients. This includes any changes to the Medicaid program.

The Lung Association is pleased that the proposed rule maintains many of the important provisions from the 2016 final rule on "Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability" related to enrollee rights and protections as well as program integrity. Unfortunately, changes in the proposed rule involving network adequacy standards and information requirements could jeopardize lung disease patients' access to adequate care through the Medicaid program. The Lung Association therefore urges the Center for Medicare & Medicaid Services (CMS) to revise the proposed rule in the following areas:

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Network Adequacy

Under the 2016 final rule, states were required to develop and enforce time and distance standards to ensure that Medicaid managed care enrollees have adequate access to healthcare providers. These standards are essential for lung disease patients. Individuals living with asthma, COPD and lung cancer need primary care providers and specialists to help them find the best treatments and manage their conditions. The low-income populations served by the Medicaid program often have limited transportation options, work multiple jobs and/or have limited or no childcare, making long and far trips to see their providers an even greater challenge. Some Medicaid enrollees with asthma, COPD or lung cancer are disabled or have other conditions that limit their mobility, especially lung disease patients who rely on oxygen that limits their ability to travel far from home. If patients are unable to access the care that they need, their conditions may worsen and require more complex and costly care, such as emergency department visits and hospitalizations.

Under the proposed rule, states would no longer have to set time and distance standards to measure network adequacy and could instead develop a different quantitative minimum access standard. This change is unnecessary and could have a disproportionate burden on enrollees living in rural areas. The current requirements already provide flexibility for states to set the magnitude of the time and distance standard (for example, taking into account differences between urban and rural areas). State also have the flexibility to develop additional quantitative metrics to measure network adequacy if they so choose.

This change is also premature. The requirement to set time and distance standards went into effect for managed care plans on July 1, 2018, providing inadequate time and experience to make thoughtful and evidence-based improvements to measuring access to providers within Medicaid managed care programs. Additionally, a recent review by the Medicaid and CHIP Payment and Access Commission (MACPAC) looked at documentation of network adequacy requirements in 20 states. MACPAC was only able to find documentation in 14 of those states, and very few states provided information on performance metrics and oversight, again showing that more – not less – oversight is needed of the current time and distance standards.[4] The Lung Association therefore urges CMS to leave the current requirement for time and distance standards in place to protect lung disease patients' access to their healthcare providers.

The proposed rule also notes that states can set their own definitions for specialists as part of their network adequacy standards. The Lung Association is concerned that this could allow states to exempt certain specialists from network adequacy standards entirely. Lung disease patients may need a range of specialists – including pulmonologists, allergists, oncologists and other providers – for their treatment, and it is critical that MCOs be required to demonstrate that patients have adequate access to all of these providers.

Information Requirements

The proposed rule makes a number of changes regarding how and when MCOs communicate information to Medicaid enrollees that could have harmful implications for lung disease patients.

First, the proposed rule would allow plans to update paper provider directories quarterly instead of monthly if they offer a mobile-enabled, electronic directory. As described above, it is critical for lung disease patients to have access to up-to-date information about the providers in their network so that they have access to the primary care physicians and specialists that they need to manage their conditions. The proposed rule cites research that 64 percent of adults in households with incomes less than $30,000 per year own smartphones. However, that still leaves a large percentage of low-income adults who may qualify for Medicaid who do not have access to mobile devices, and in non-expansion states, the Medicaid eligibility threshold may be much lower than $30,000 per year and access to mobile devices may be even less common. The experience in Arkansas implementing a work requirement through an entirely online reporting system – where nearly 17,000 individuals have lost their Medicaid coverage thus far – further highlights the need of the Medicaid population to have access to both up-to-date paper and electronic information about their Medicaid coverage.[5]

The proposed rule also changes the requirement for managed care plans to include taglines in large print and prevalent non-English languages in all written materials to potential and current Medicaid enrollees so that only written materials that are "critical to obtaining services" would need these taglines. This change is vague and could create confusion among Medicaid enrollees with visual impairments and limited English and potentially lead them to miss important information about their coverage and access to care.

Finally, the proposed rule changes the timeframe for Medicaid managed care plans to communicate that a provider has left the plan's network to Medicaid enrollees from within 15 days of receipt or issuance of the provider's termination notice to the later of 30 days prior to the effective date of termination or 15 calendar days after the receipt or issuance of the termination notice. This change will reduce the time that lung disease patients have to find another provider or change their Medicaid MCO to another plan with a different provider network, which could therefore lead to delays in needed care.

Conclusion

The American Lung Association urges CMS not to finalize these changes to network adequacy standards and information requirements as part of a final rule. Thank you for the opportunity to provide comments.

Sincerely,

Harold P. Wimmer
National President and CEO

[1] 2016 NHIS
[2] Centers for Disease Control and Prevention, "Health Care Coverage among Children," Nov. 2016. Accessed at: https://www.cdc.gov/asthma/asthma_stats/Health_Care_Coverage_among_Children.htm.
[3] American Lung Association, "Consensus Healthcare Reform Principles." Accessed at: https://www.lung.org/assets/documents/advocacy-archive/consensus-healthcare-reform.pdf.
[4] Medicaid and CHIP Payment and Access Commission (MACPAC), "Network Adequacy in Managed Care," December 2018. Accessed at: https://www.macpac.gov/publication/network-adequacy-in-managed-care/.
[5] Robin Rudowitz, MaryBeth Musumeci, and Cornelia Hall, "A Look at November State Data for Medicaid Work Requirements in Arkansas," Kaiser Family Foundation, December 2018. Accessed at: https://www.kff.org/medicaid/issue-brief/a-look-at-november-state-data-for-medicaid-work-requirements-in-arkansas/.