



Methods for Assuring Access to Covered Medicaid Services

Jeff Horton

Utilization Committee Chair, DMA

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Notice of Proposed Rulemaking (NPRM)



- **NPRM was published on May 6, 2011**
- **Impetus for NPRM:**
 - **State procedures for ensuring access were inconsistent and unreliable.**
 - **Ongoing litigation by providers asserting potential access issues, and the lack of a clear administrative processes to rebut those assertions.**
 - **There was no clear national data set or standards.**
 - **Some states and providers requested that CMS provide guidance on compliance with the access to care requirements. CMS's oversight and enforcement actions were inadequate.**
 - **NPRM proposed to adopt a transparent and data-driven process for states to use when evaluating access to care.**

Comments on the NPRM



- **Advocacy groups were generally supportive of the rule, but requested that CMS at least mandate a process for states to engage beneficiaries and providers regarding access.**
- **Providers were concerned the rule did not go far enough in mandating payment thresholds and restricting states' ability to reduce rates without considering access.**
- **States were extremely concerned about the administrative burden associated with the proposed requirements and limitations on states' abilities to balance budgets through Medicaid rate reductions during revenue shortfalls.**

Final Rule with Comment Period



- Published in the Federal Register on Monday, November 2, 2015, see: <http://www.gpo.gov/fdsys/pkg/FR-2015-11-02/pdf/201527697.pdf>
- Creates a standardized, transparent process for states to document whether Medicaid payments are sufficient to enlist providers to assure beneficiary access to covered care and services.
- CMS provided additional opportunity to comment on:
 - The access review requirements, including the service categories to be included, elements of the review and the timeframe for submission; and
 - Whether CMS should allow exemptions based on state program characteristics (e.g. high managed care) and the provisions that could be exempted or streamlined.
- Effective date of the rule was January 4, 2016.

Final Rule Provisions



- **42 CFR § 447.203(b)** – Access monitoring review plan and associated data and requirements
- **42 CFR § 447.204** – Provider participation and public process
- **42 CFR § 447.205** – Public notice requirements

Access Monitoring Review Plan



§ 447.203(b)

- In consultation with the medical care advisory committee, states must develop an access monitoring review plan and update it according to the timeframe
- The plan must be published and made available for public review and comment for no less than 30 days prior to it being finalized
- The plan must be submitted to CMS for review

Access Monitoring Review Plan (cont.)



§ 447.203(b)(1) – Data requirements

- **Must include an access monitoring analysis:**
 - **Data sources**
 - **Methodologies**
 - **Baselines**
 - **Assumptions**
 - **Trends and factors**
 - **Thresholds**
- **Must specify data elements that will support the state’s analysis of whether beneficiaries have sufficient access to care**

Access Monitoring Review Plan (cont.)



§ 447.203(b)(1) – Data requirements (cont.)

- Plan and monitoring analysis must consider:
 - Extent to which beneficiary needs are fully met;
 - Availability of care through enrolled providers in each geographic area, by provider type and site of service;
 - Changes in beneficiary utilization of covered services in each geographic area
 - Characteristics of the beneficiary population
 - Actual or estimated levels of provider payments available from other payers, including public and private payers, by provider type and site of service

Access Monitoring Review Plan (cont.)



§ 447.203(b)(2) – beneficiary and provider input

- **Must consider relevant provider and beneficiary information, including information obtained through:**
 - **Public rate-setting processes**
 - **Medical advisory committees established under § 413.12**
 - **Provider and beneficiary feedback mechanisms**
 - **Other mechanisms (e.g., letters to state or federal officials)**

Access Monitoring Review Plan (cont.)



§ 447.203(b)(3) – comparative payment rate review

- **Plan must include an analysis of the percentage comparison of Medicaid payment rates to other public (including Medicaid managed care) and private payment rates within geographic areas**
- **For each service reviewed, by provider type and site of service**

Access Monitoring Review Plan (cont.)



§ 447.203(b)(4) – standards and methodologies

- **Must include, at a minimum**
 - **Specific measures the state uses to analyze access to care (e.g., time and distance, participating providers, service utilization patterns, etc)**
 - **How the measures relate to the access monitoring review plan**
 - **Baseline and updated data associated with the measures**
 - **Any access issues that are discovered**
 - **Recommendations on the sufficiency of access to care based on the review**

Access Monitoring Review Plan (cont.)



§ 447.203(b)(5) – timeframe

- Beginning October 1, 2016, states must develop its access monitoring review plan by October 1 and update the plan by July 1 of each subsequent review period
- Updated data and analysis must be incorporated into the review plan every 3 years

Access Monitoring Review Plan (cont.)



§ 447.203(b)(5)(ii) – must include a separate data analysis for each provider type and site of service furnishing the following services:

- Primary care services
- Physician specialist services
- Behavioral health services
- Pre- and post-natal obstetric services, including labor and delivery
- Home health services
- Additional services for which the state or CMS has received a significantly higher volume of access complaints
- Additional types of services selected by the state

Access Monitoring Review Plan (cont.)



§ 447.203(b)(6) – special provisions for proposed provider rate reductions or restructuring

- State must submit an access review with any SPA that reduces or restructures provider rates**
- Access review must demonstrate sufficient access for services impacted by the rate reduction**
- State must establish procedures to monitor access after implementation of the rate reduction**
- Must include period review and have defined measures, baseline data and thresholds**
- Monitoring procedures must be in place for at least 3 years following the effective date of the SPA**

Access Monitoring Review Plan (cont.)



§ 477.203(b)(7) – Mechanism for ongoing beneficiary and provider input

- **States must have ongoing mechanisms for provider input**
 - **Hotlines, surveys,**
 - **Ombudsman**
 - **Review of grievance and appeals**
- **Must respond to input with appropriate investigation, analysis and response**
- **Must maintain a record of input and the nature of the state’s response**

Access Monitoring Review Plan (cont.)



§ 447.203(b)(8) – Addressing questions and remediation of inadequate access

- **States must submit a corrective action plan within 90 days of identifying access issues**
- **Must include specific steps and timelines to address the issues**
- **Remediation of the deficiencies should be within 12 months**

Public Process to Inform Access to Care



§ 447.204(a) – States must consider, prior to the submission of any SPA to reduce or restructure Medicaid payment rates:

- **Data collection and analysis performed as part of the access monitoring review plan**
- **Input from beneficiaries, providers and other stakeholders on access to the affected services and impact of the rate reduction on continued access**
- **State must maintain a record of the volume of input and the nature of the feedback received**

Public Process to Inform Access to Care (cont.)

§ 447.204(b) – With any proposed SPA that affects payment rates, states must submit the following to CMS:

- The most recent access review monitoring plan for the affected services
- An analysis of the effect of the change in payment rates on access
- A specific analysis of the information and concerns expressed by affected stakeholders

§ 447.204(c) – CMS may disapprove a SPA that does not include this documentation

§ 447.204(d) – CMS may also take compliance action to remedy an access deficiency.

Public Notice



§ 447.205 – States may meet the public notice requirements by publishing notice on a Website developed and maintained by the single State agency provided that:

- The site is clearly titled and can be easily reached from hyperlink included on sites that provide general information to beneficiaries and providers;
- Is updated for bulletins on a regular and known basis, and the public notice is issued as part of the regular update;
- Includes the actual date it was released to the public on the Web site;
- Complies with national standards to ensure access to individuals with disabilities;
- Includes protections to ensure the content of the issued notice is not modified after the initial publication;
- Is maintained on the Web site for no less than a 3-year period

Questions?