



January 30, 2023

The Honorable Chiquita Brooks-LaSure, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Submitted via www.regulations.gov

RE: Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2024 (CMS-9899-P).

Dear Administrator Brooks-LaSure:

The Alliance of Community Health Plans (ACHP) appreciates the opportunity to submit recommendations in response to the proposed HHS Notice of Benefit and Payment Parameters (NBPP) for 2024 to support enhanced consumer experience and greater competition and efficiency in the marketplace.

ACHP is the only national organization promoting relationships between innovative health plans and providers that deliver affordable, high-quality coverage and care. ACHP member companies are non-profit community-based, provider-aligned health plans that provide coverage in all lines of business for tens of millions of Americans across 37 states and the District of Columbia. Our member health plans are leading the industry in practical, proven reforms around primary care delivery, value-based payment and data driven systems improvement.

ACHP is committed to a highly functioning and stable individual and small group market, expanding consumer access to high-quality, affordable coverage and care. Consumers deserve a robust market with fierce competition and broad choices. We strongly support proposals to enhance consumer choice and provide individuals with enhanced opportunities to enroll in coverage as state Medicaid agencies prepare to resume normal operations and begin eligibility redeterminations, leaving millions facing the specter of coverage loss.

ACHP offers recommendations and comments on the following priority areas in the NBPP for 2024.

Standardized Plan Options

ACHP does not support CMS' proposals to limit the number of non-standardized plan options health issuers can offer on the Marketplace. We strongly support CMS' proposals to introduce a "meaningful difference" standard as an alternative to limiting non-standardized plan options.



In the interest of assuaging consumers who may feel overwhelmed by the plethora of options, the 2023 final rule required all issuers to add standardized options to their offerings, at every metal level and rating area, and within every network design. The added provision introduced in the 2024 proposed rule of limiting non-standardized plan options, contrary to its intent, would cause disruption and increase consumer confusion. If health plans are required to reduce their product offerings, many consumers will be relegated to enrollment in plans they did not choose because they will need to be cross walked to new plans.

Furthermore, without refinement, the proposed notice would impose a significant burden on issuers as they recalibrate their plan offerings and will force issuers to choose between their network of providers operating in the same service area. This would have significant implications for member retention, as consumers rely on the pricing relief offered by defined networks.

Meaningful Difference Standard

Establishing a meaningful difference standard would achieve CMS' intent to enhance the consumer plan selection experience by affording individuals with the ability to make better, informed choices. To better support this proposal, we recommend a difference that is lower than the proposed \$1,000 difference, as a more feasible strategy.

Generic Drug Tiering

ACHP does not support CMS' proposals to require issuers of standardized plans to place all covered generic drugs in the generic drug cost-sharing tier. We appreciate the proposal to provide consumers with a more intuitive pricing structure for generic prescription drugs. However, "generic" does not always equate to the lowest cost drug. Not all generic drugs are cost-effective and uniformly moving them to the generic cost-sharing tier would increase costs for beneficiaries overall through premiums. This will be further exacerbated if proposals to limit the number of non-standardized plans are finalized, causing significant disruption.

Network Adequacy

ACHP recommends that CMS consider the implications of implementing appointment wait time proposals in rural geographic settings. Additionally, we recommend CMS revise or delay proposals to implement categorical thresholds for Essential Community Providers (ECPs). We urge CMS to revise health insurer attestation requirements on provider wait times, which is information that insurers do not control. Appointment wait times are subject to change daily and it is difficult to obtain accurate times from providers. Issuer monitoring and enforcement of contracted provider accuracy presents significant operational challenges, especially as the Public Health Emergency (PHE) nears its end and the nation grapples with a workforce shortage.

We request CMS grant leniency regarding appointment wait time provisions that are poised for implementation in 2024 until a national solution is introduced.



Essential Community Providers (ECP)

ACHP recommends CMS consider the implications the proposal to include two new ECP categories would have on access and availability for insurers in rural service areas. We support CMS efforts to increase consumer access to providers to advance health equity through the inclusion of the Mental Health Facilities and Substance Use Disorder Treatment Centers categories. However, establishing categorical thresholds may lead to inflexibility and do not account for regional variation.

We are concerned that tight timeframes of when provider lists are released make it difficult for issuers to stay abreast of which facilities are considered ECPs in these categories. **ACHP recommends CMS work with issuers to obtain additional perspectives on network adequacy and the unique issues carriers face with respect to provider availability.**

Data Collection

ACHP does not support proposals requiring the collection and extraction of Qualified Small Employer Health Reimbursement Arrangement (QSEHRA) indicator. Proposals requiring the collection and extraction of Qualified Small Employer Health Reimbursement Arrangement (QSEHRA) indicator will present significant complications. We recommend the proposed rule not finalize this provision for 2024 and instead engage in discussion with carriers and employers on the best way to capture this information. Additionally, we request more details on what system the QSEHRA indicator would be extracted from for submission to CMS.

Re-Enrollment Hierarchies

ACHP recommends CMS revise or delay proposals for automated processes for re-enrollment of coverage. We acknowledge the need to help consumers find the most cost-effective plan choice, but caution against overriding consumer choice. Health insurers typically rollout robust communication plans to assist consumers to opt into the most apt coverage for their needs. Automated processes may lead to unintended consequences. We request CMS reconsider all the reasons enrollees may have for choosing a particular plan, such as costs related to monthly premiums and annual deductibles. Overriding an enrollee's chosen plan may cause member confusion and affect overall retention.

Special Rule for Loss of Medicaid or Children's Health Insurance Program (CHIP) Coverage

ACHP strongly supports CMS' proposals to introduce a special rule to provide consumers facing loss of Medicaid and CHIP coverage as states prepare to resume normal operations. ACHP member plans have creatively worked to circumvent limitations posed by the Telephone Consumer Protection Act with respect to consumer outreach in anticipation of eligibility redeterminations. We strongly support facilitating smoother transitions to coverage for individuals at risk of losing Medicaid or CHIP coverage. However, we have concerns related to this process and the annual rate renewal notice requirements. We request additional clarification from CMS regarding when issuers could expect to receive updated re-enrollment data from CMS to incorporate into rate renewal letters.



Conclusion

ACHP appreciates the opportunity to comment and provide recommendations on these important policies for consumers and issuers for the plan year 2024. ACHP welcomes additional opportunities to engage with the Administration to ensure a robust and competitive individual market that provides coverage options for all, especially as we near the PHE unwinding. Please contact Nissa Shaffi, Associate Director of Public Policy, at nshaffi@achp.org with any questions or to discuss these recommendations further.

Sincerely,

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Alliance of Community Health Plans