



**MACPAC**  
Medicaid and CHIP Payment and Access Commission



# Managed Care Update

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# Overview

During this session, we will:

- review prior MACPAC work on Medicaid managed care;
- summarize current federal rules and potential areas where changes may be made; and
- identify key policy questions for future discussion.

# Prior Commission Work

- The June 2011 report focused on managed care.
- Subsequent work has addressed subpopulations and specific services.
- We have examined the rate-setting process, the collection and use of encounter data, and state and federal oversight of Medicaid managed care.
- Panels have discussed managed care enrollment policies, market alignment between Medicaid and QHPs, and standards for access to care.

# New Comprehensive Federal Regulation Anticipated in Early 2015

- Medicaid managed care programs are regulated by 42 CFR Part 438, first proposed in 1998 and finalized in 2001.
- There have been many changes to Medicaid landscape since then.
  - Managed care has shifted from an alternative to the primary delivery system for the majority of enrollees.
  - More vulnerable beneficiaries and more complex services are now included in capitated programs.
- The managed care market has also changed significantly over the past decade.

# 42 CFR 438 Includes Nine Subparts

General Provisions

State Responsibilities

Enrollee Rights and  
Responsibilities

Quality

- Quality Assessment and Performance Improvement
- Access Standards
- Structure and Operation Standards
- Measurement and Improvement Standards

External Quality Review

Grievance System

Certifications and Program  
Integrity

Sanctions

Conditions for Federal  
Financial Participation

# Rate Setting

- The current regulation requires states to use actuarially sound capitation rates.
- Oversight agencies, health plans, and states have raised concerns about standards and processes.
  - GAO has questioned CMS oversight of the rate setting process and the quality of the data used to set rates.
  - Health plans and trade associations have asked for greater transparency, more rigor in risk adjustment.
  - NAMD has suggested that new rules should account for innovations in rate setting and program maturity.

# Access Standards

- The current rule describes standards for the adequacy of a contracted provider network and the process for assuring capacity.
- Many stakeholders have raised concerns about access standards and federal oversight.
  - OIG has raised concerns about variations in underlying standards, state oversight and monitoring, and state response to violations.
  - NAMD recommends a model that allows state-specific standards.

# Encounter Data

- MCOs are required by regulation to “have adequate health information systems” that can produce detailed encounter data.
- CMS and other policymakers have raised concerns about the quality and timeliness of encounter data.
  - CMS has provided technical assistance to improve the quality and timeliness of state data submissions.
  - The ACA provided authority for CMS to impose penalties for failure to submit complete and accurate data.



# Program Integrity

- The current rule specifies certification, program integrity, and prohibited affiliation requirements applicable to MCOs.
- It also describes required elements of MCO program integrity plans.
- CMS, GAO, MACPAC, and NAMD have all noted that there are gaps in state and federal efforts to ensure Medicaid managed care program integrity, especially compared to FFS.

# Beneficiary Protections

- The current rule enumerates enrollee rights and requires plans to have grievance and appeals processes.
- CMS has indicated that the new rule may:
  - include greater beneficiary protections;
  - address stakeholder engagement; and
  - align Medicaid rules and processes with other standards, including Medicare Advantage and QHP rules.

# Future Policy Issues

- All state Medicaid managed care programs must comply with 42 CFR 438 but oversight mechanisms vary by authority.
  - States operating under 1932 state plan authority must make assurances that they are in compliance.
  - States operating under 1115 or 1915(b) authority are generally required to more extensively document and demonstrate compliance, periodically report.
- MACPAC will continue to examine issues relating to oversight, data, and payment.

# Next Steps

- A notice of proposed rulemaking should be published in the Federal Register in early 2015.
- We will present a summary of proposed changes and potential effects to inform consideration of potential comments.