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State and Federal Tools for Ensuring Accountability of Medicaid Managed Care Organizations

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Overview

- Background
- Federal policy and guidance
  - Managed care procurement
  - State Medicaid agency responsibilities
  - Centers for Medicare & Medicaid Services (CMS) direct oversight authorities
- State scan initial findings
  - Requests for Proposal (RFPs)
  - Contracts
- Next steps

Medicaid Managed Care

- State Medicaid programs pay MCOs to cover a defined benefits package for an enrolled population through fixed periodic payments, also referred to as capitation payments
  - Can provide states with more control and predictability over future costs
  - Can improve efforts to measure, report, and monitor performance, access, and quality
  - Can allow for greater accountability for outcomes
  - Can provide an opportunity for improved care management and care coordination
- 41 states and the District of Columbia contract with comprehensive, risk-based MCOs
  - Almost three-quarters (73%) of beneficiaries enrolled in managed care
  - Managed care is more than half (56 %) of Medicaid benefit spending

MACPAC Managed Care Accountability Work

- Procurement
  - 2022 study found CMS defers to state Medicaid agencies to procure MCOs but opportunities do exist to assist states and MCOs during readiness review
- External Quality Review (EQR)
  - 2022-2024 study included 60 stakeholder interviews and analysis of 2024 managed care final rule
  - Commission evaluating three proposed recommendations to focus EQR activities on meaningful outcomes over process and to improve usability of EQR findings
- Denials and appeals
  - 2023 study examined monitoring, oversight, and beneficiary experience
  - Seven recommendations including requiring external medical review of denials, states conducting clinical audits of denials, and publicly available denials and appeals data

Federal Policy and Guidance

Managed Care Procurement

- Federal government defers to states regarding:
  - Competitive (RFP) or non-competitive (application)
  - Selection criteria
  - Evaluation panel
  - Number of MCOs to receive contracts
  - Frequency of reprocurement
  - MCO contract content beyond required federal provisions
- Office of Management and Budget (OMB) Uniform Guidance does not apply to Medicaid managed care procurements
- Federal guidance to states in two areas:
  - Conflict of interest safeguards
  - Statutory definition of an MCO

State Medicaid Agency Responsibilities

- State must develop and implement a Quality Assessment and Improvement Strategy (QAPI) to guide MCOs
  - Performance measures defined
  - Monitoring procedures outlined
- States must develop actuarially sound capitation payments for their contracted MCOs
  - Adequate to meet MCO contractual requirements
  - May include special contract provisions including incentives, withholds, and risk-sharing mechanisms
- Contracts with MCOs must include intermediate sanctions provisions including reasons why state may impose and type

Intermediate Sanctions Provisions

- Reason for sanctions
  - Fail substantially to provide medically necessary services to enrollee
  - Improperly charge enrollees for services
  - Discriminate against enrollees based on health status or need for services
  - Provide false or misleading information to CMS or the state
  - Provide false or misleading information to enrollees, potential enrollees, providers
  - Fail to comply with physician incentive plan requirements
- Types of intermediate sanctions
  - Civil monetary penalties
  - Appointment of temporary management of an MCO
  - Granting enrollees right to terminate enrollment
  - Suspension of new enrollment
  - Suspension of payment for beneficiaries enrolled after effective date of sanction; until no longer required

CMS Direct Oversight Authorities

- CMS approves states' actual rate certifications with MCOs
- CMS approves state Medicaid agency contracts with MCOs
- CMS has statutory authority to deny federal match on state capitation payments
  - May also deny federal match for new enrollees to an MCO for the same reasons for which the state must establish intermediate sanctions
- 2024 managed care rule expanded CMS oversight requiring states to submit and implement a formal remedy plan when an MCO fails to meet access to care standards (effective in 2028)

State Scan Initial Findings

RFP Past Performance Disclosure Requirements

- Non-renewal or early termination of contracts (17)
- Corrective actions or CAPs (16)
- Monetary penalties (12)
- Enrollment penalties (7)
- Financial concerns or violations (7)
- Failure to meet performance requirements (7)
- Debarment, suspension, litigation, or convictions (6)
- Notices of non-compliance (6)

Other RFP Review Key Findings

- Lookback periods for which bidders must disclose issues
  - 21 states with lookback periods ranging from two to 11 years
  - More than 50 percent required two to five years; seven states required between six and 10 years
  - One state required bidding MCOs to disclose 11 years of past performance issues
  - Two states did not define a look-back period
- States vary in using past performance to award contracts
  - Past performance used as tie breaker between similarly scored proposals
  - Refuse to consider any proposal from bidder with past contract provision violations
  - Focus on voluntarily termination, service area withdrawal, enrollment reduction
  - Require prospective strategies to avoid non-compliance even if no issues
  - Specifically mentioned protected health information breaches as concern in not awarding a contract to an MCO

Review of Contract Accountability Tools

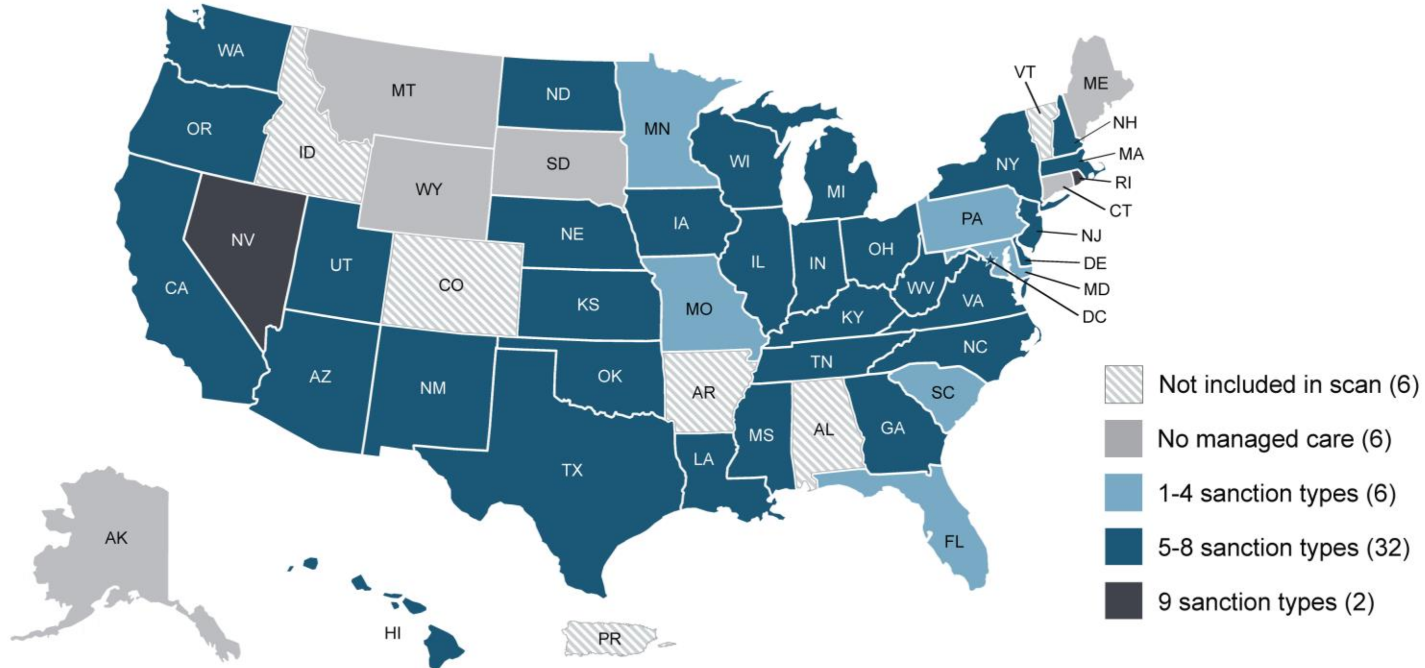
Sanctions

- Administrative, corrective actions
- Enhanced monitoring and oversight
- Corrective action plans (CAPS)
- Enrollment penalties
- Capitation payment penalties
- Monetary penalties
- Temporary management of a contractor
- Contract termination
- Refusal to review the contract
- Referral for investigation
- Public reporting

Incentives

- Capitation payment bonuses to meet or exceed performance standards or targets
- Auto-assignment of enrollees
- Public reporting of MCO performance

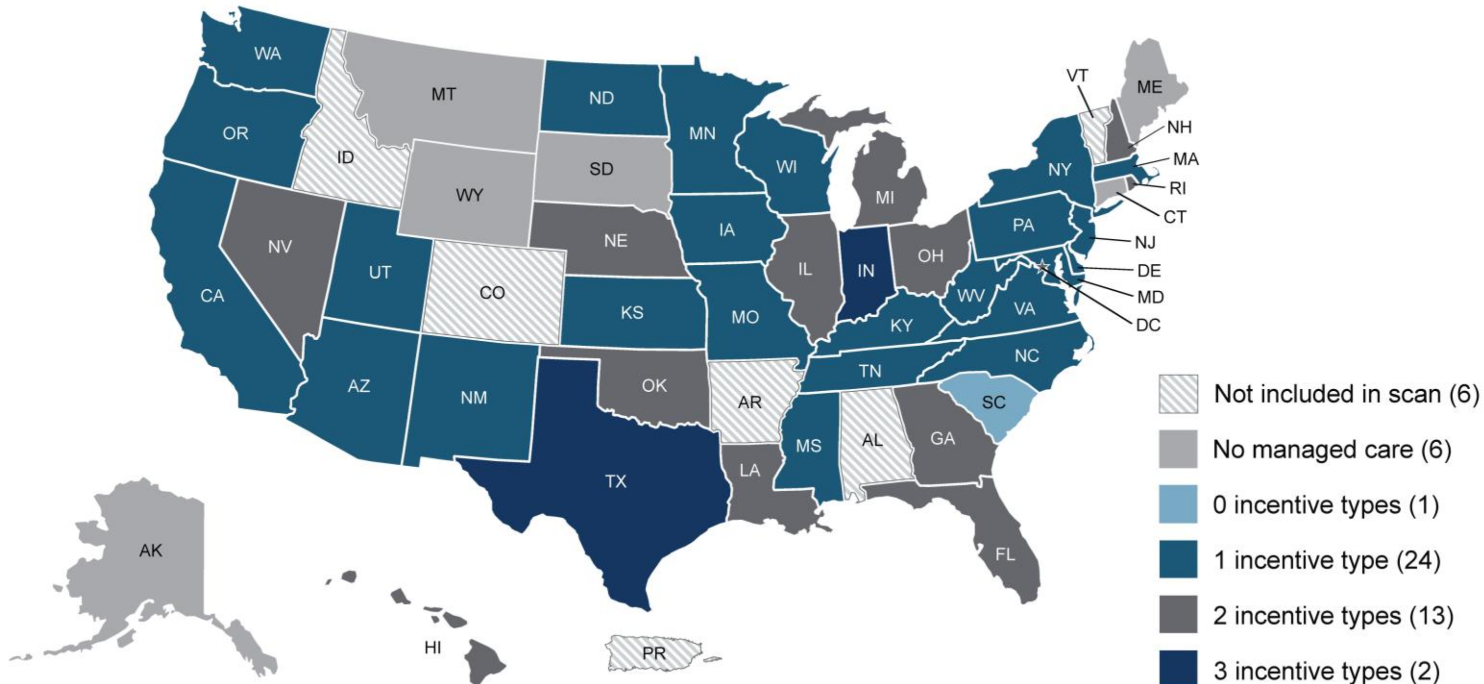
Number of Sanctions in MCO Contracts



Most Common Contract Sanction Tools

- Monetary penalties (40)
- CAPs and contract termination (38)
- Administrative/corrective actions (32)
- Enrollment penalties (24)
- Capitation payment penalties (21)

Number of Incentives in MCO Contracts



Contract Incentive Tools

- Capitation payment bonuses to meet or exceed performance standards or targets (36)
- Auto assignment of enrollees (17)
- Public reporting of MCO performance (3)

Next Steps

- Commissioner feedback on findings from federal policy review and environmental scan
- Next phase of work
  - Stakeholder interviews
  - Analysis of sanction information from MCPARs

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