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## Health Policy Update – July 28, 2020

### The Network Submits Comments on Medicaid Value Based Purchasing Proposed Rule

The Network submitted comments to the Centers for Medicare & Medicaid Services (CMS) regarding the agency’s proposed rule to give state Medicaid programs more flexibility to engage in value-based purchasing (VBP) arrangements with drug manufacturers. The Network applauded the proposal’s intent to modernize Medicaid regulations that have impeded payment innovation and the transition to value-based healthcare for prescription drugs.

The proposed rule was unveiled by CMS last month and would make modifications to Medicaid’s “best price” policy, which requires drug makers to give Medicaid the lowest net price for drugs offered in the U.S. after factoring in all rebates and discounts. Stakeholders have argued Medicaid’s best price policy discourages manufacturers from negotiating VBP arrangements with payers because they would then have to extend the lowest price under such arrangements to Medicaid, which in some cases could be \$0. CMS’ proposed changes would allow drug makers to report multiple “best prices” to Medicaid — freeing them to engage in VBP arrangements with payers and report “bundled sales” prices that would still ensure Medicaid still gets the best price.

The proposed rule also included a change that would require manufacturers to ensure that the full value of sponsored cost sharing assistance accrues to the patient before excluding such discounts from the best price and average manufacturer price (AMP) calculations. This policy is aimed at beneficiaries enrolled in copay accumulator programs established by pharmacy benefit managers (PBMs), under which some manufacturer cost sharing assistance accrues to the benefit of the plan. The Network agreed with CMS that manufacturer cost sharing assistance should accrue solely to the patient rather than their plan, but also expressed concern that the proposal may unintentionally harm patients by jeopardizing access to cost sharing assistance.

To view The Network’s comments, [CLICK HERE](#).

To view the proposed rule, [CLICK HERE](#).

To view a CMS fact sheet on the proposed rule, [CLICK HERE](#).

### Congress Begins Discussions on Latest COVID-19 Relief Package

Last week, both houses of Congress reconvened in Washington and began discussing the next stage of COVID-19 relief. Senate Republicans and the White House have yet to coalesce around a proposal, though Senate Majority Leader Mitch McConnell (R-KY) expects to unveil legislative text this week. There was initial disagreement on how to handle expiring unemployment benefits. The

CARES Act passed in March extended eligible unemployed workers an extra \$600 per week on top of regular benefits.

In statements to the press, Senator McConnell expressed support for another round of direct payments to individuals and families as well as additional funding for the Paycheck Protection Program, school re-opening, and additional COVID-19 testing. The Senate Republican proposal is not expected to include a payroll tax cut — which until recently had been a key demand of President Trump. Senator McConnell also stressed that liability protections for businesses, schools, and other organizations that re-open during the pandemic must be included in any bill that comes to the floor.

The House passed a \$3 trillion package in May — known as the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act — which will serve as the Democrat basis for bipartisan negotiations. While lawmakers expressed early hope that the next COVID-19 relief measure would pass by the end of the month, it now looks unlikely a deal will be reached and passed before August.

## CMS Administrator Verma Discusses Impact of Expanding Medicare Telehealth as Congress Weighs Legislative Action

On July 15, *Health Affairs* published an article written by Seema Verma, Administrator of the Centers for Medicare & Medicaid Services (CMS) on the impact of expanding telehealth in Medicare during the COVID-19 public health emergency. On July 17, *The Hill* published a similar op-ed by Administrator Verma echoing similar points.

According to Administrator Verma, by more than doubling the number of allowable services permitted under telehealth, expanding eligibility requirements, and relaxing restrictions on audio-only technologies, CMS dramatically increased the number of Medicare beneficiaries who can access telehealth services. Approximately 13,000 beneficiaries received telehealth services weekly before the public health emergency – a figure ballooned to nearly 1.7 million by the last week of April. In total, more than 9 million Medicare beneficiaries received telehealth services between mid-March and mid-June, according to CMS data.

Results indicate telehealth has been most frequently used for evaluation and management visits, with approximately 5.8 million beneficiaries receiving an E/M telehealth visit since the public health emergency started. Meanwhile, over three million beneficiaries (or one-third of all beneficiaries who participated in telehealth during this time) received audio-only services over the telephone. While there was no significant variation in telehealth utilization across racial groups, there were slight differences across regions, age groups, and gender.

In Congress, on July 16, Congresswoman Doris Matsui (D-CA-06), along with Reps. Mike Thompson (D-CA-05), Peter Welch (D-VT-AL), Bill Johnson (R-OH-06), and David Schweikert (R-AZ-06), introduced the Protecting Access to Post-COVID-19 Telehealth Act. The bipartisan bill would continue the expanded use of telehealth beyond the COVID-19 pandemic by eliminating restrictions on the use in Medicare, providing a bridge for patients currently accessing telehealth services, and requiring a study on the use of telehealth during COVID-19.

Meanwhile, Republicans on the House Ways and Means Committee, led by Health Subcommittee GOP Leader Devin Nunes (R-CA), released a discussion draft on July 20 that described a plan to further promote telehealth for patients. The provisions similarly outlined ways Congress can permanently increase access to telehealth services.

To read Administrator Verma's article, "Early Impact of CMS Expansion of Medicare Telehealth During COVID-19," in *Health Affairs*, [CLICK HERE](#).

To read Administrator Verma's op-ed in *The Hill*, [CLICK HERE](#).

To view the Protecting Access to Post-COVID-19 Telehealth Act, [CLICK HERE](#).

To read the proposal from the House Ways and Means Committee Republicans, [CLICK HERE](#).

## HHS Secretary Signs 90-Day Public Health Emergency Extension

On July 23, two days before expiration, HHS Secretary Alex Azar signed a 90-day extension of the COVID-19 public health emergency (PHE) declaration. The PHE grants HHS with the temporary authority to waive various Medicare, Medicaid, and HIPAA requirements, which have been used to expand telehealth services, and to access additional federal funding in response to COVID-19, among other things. Governors and several health care organizations strongly encouraged HHS to extend the PHE. Extensions last 90 days, which puts the expiration of the current PHE at the end of October.

To read the extension of the PHE, [CLICK HERE](#).

## The Network Joins Coalition in Urging Top HHS Officials to Lift Prior Authorization Restrictions for Part B Drugs in Medicare Advantage Plans

On July 20, the Part B Access for Seniors and Physicians (ASP) Coalition – which includes The Network and dozens of other physicians and provider groups — sent a letter to HHS Secretary Alex Azar and CMS Administrator Seema Verma urging them to restore unfettered access to Medicare Part B covered drugs for beneficiaries enrolled in Medicare Advantage Plans.

"MA plans have been using prior authorization restrictions as a barrier to timely delivery of essential Medicare Part B covered drugs to beneficiaries, putting the health of these patients at risk," the groups write. "Delays or inappropriate changes in treatment from burdensome utilization management requirements could have serious, negative consequences for patients who rely on the access and coverage provided by the Medicare Part B program. Disruptions in care could also lead to higher overall health care costs in the future, as once managed or treatable conditions accelerate without proper treatment."

The letter cites a 2018 report from the HHS Office of Inspector General that found MA plans overturned 75 percent of their denials between 2014-2016 and that independent reviewers subsequently overturned additional denials in favor of beneficiaries and providers.

To read the ASP Coalition's letter, [CLICK HERE](#).

## New Research Estimates Impact of Delayed Cancer Screenings

On July 17, the Epic Health Research Network (EHRN) published research that found cancer screenings are still significantly below pre-COVID-19 levels despite return to care trends. Specifically, volumes for the week of June 16 remained 29 percent, 36 percent, and 35 percent lower for breast, colon, and cervical cancer screenings, respectively. Compared to the expected level of screenings based on previous trends, approximately 285,000 (breast), 95,000 (colon), and 40,000 (cervical) exams were missed between March 15 and June 16. This represents deficits of 63 percent, 64 percent, and 67 percent respectively compared to the number of screenings that researchers expected based on the historical average.

The ongoing COVID-19 pandemic has caused thousands of Americans to forego or delay routine cancer screenings. Though officials have now called for cancer screenings to resume, patient volume is still well below historical averages, potentially increasing patients' metastasis risks and reducing positive outcomes in the long-term.

The potential future effects of the delays in care were echoed previously by Ned Sharpless, director of the National Cancer Institute. Sharpless highlighted data models that suggest at least an additional 10,000 breast and colon cancer deaths in the U.S. due to the pandemic.

To read the research in EHRN, [CLICK HERE](#).

To read more about the deficit in cancer screenings, [CLICK HERE](#) and [HERE](#).

To read the warning by NCI Director Sharpless, [CLICK HERE](#).