

May 22, 2018

PUBLIC COMMENT LETTER

Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W., Room 445-G
Washington, DC 20201

RE: CMS–2406–P, Medicaid Program: Methods for Assuring Access to Covered Medicaid Services – Exemptions for State with High Managed Care Penetration Rates and Rate Reduction Threshold; Proposed Rule (Vol. 83, No. 57), March 23, 2018.

Dear Ms. Verma:

On behalf of our more than 450 member hospitals and health systems, including rural, urban, children's, teaching and specialty hospitals, the Texas Hospital Association appreciates the opportunity to provide comments on the above-referenced proposed rule to reduce the requirements on states to assess their Medicaid fee-for-service provider payments to determine if they are sufficient to ensure beneficiary access to covered services. Texas hospitals are a key part of the state's Medicaid delivery system and are committed to providing timely and accessible care. Federal law requires states to ensure that Medicaid provider payments are sufficient to enroll enough Medicaid providers to offer Medicaid services at the same level as for the general population in a particular area. Under current CMS rules, prior to obtaining CMS approval for reducing or restricting rates, states must develop an access monitoring review plan with a data-driven analysis demonstrating that access would not be adversely affected. In addition, at least every three years, states are required to review and report to the U.S. Department of Health & Human Services certain core services and identified services with a large volume of access complaints.

In the proposed rule, CMS would exempt states with more than 85 percent of Medicaid recipients enrolled in managed care or states making "nominal" payment reductions (less than four percent in one year or six percent over two years) from the requirement to review FFS provider payments to ensure that the covered services are accessible. CMS is substituting the existing access requirements with an inadequate "alternate information and analysis, as determined by the state" that beneficiary access will not be affected by changes or restrictions to rates.

Although the majority of Texas Medicaid beneficiaries are enrolled in managed care, protecting access for patients who receive services through the FFS model remains important, particularly as

these populations are often medically vulnerable. In FY 2016, in Texas, 715,971 children received care through FFS Medicaid – 161,519 of whom were disabled. In addition, Medicaid managed care payment rates often are based on FFS rates; a reduction in FFS rates would likely result in a reduction in managed care payment rates and reduced access to care.

Adequate provider rates are a crucial aspect of making the covered services available. THA encourages CMS to withdraw its proposed exemption to the access and monitoring requirements and leave the current rules in place.

Thank you for your consideration of these comments. Please feel free to contact me by telephone at 512/465-1539 or email at cduncan@tha.org with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "C. Duncan", with a stylized flourish at the end.

Cameron Duncan
Assistant General Counsel
Texas Hospital Association