August 6, 2018

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
200 Independence Avenue, S.W.
Washington, DC 20201

RE: Forthcoming Medicaid Managed Care Proposed Rule

Dear Administrator Verma:

We are writing to share recommendations for inclusion in the Medicaid managed care proposed rule that is in development at the agency. The recommendations are focused on rate setting, actuarial soundness, and the minimum medical loss ratio (MLR). As CMS is preparing the Medicaid managed care proposed rule, we would appreciate consideration of these recommendations.

1. **Standardize Medicaid Rate Review Process and Timeline**
   States face a variety of challenges in developing and submitting Medicaid rates to CMS for review on a fixed timeframe, sometimes approving rates after the start of a rating period. As a result, we believe the Medicaid program as a whole would benefit from a sustained emphasis and steady progress toward prospective review and approval of rates in advance of the payment year, culminating in a far more standardized process (e.g., similar to Medicare Advantage).

   We are appreciative of states' efforts to submit rate information to CMS for review on a timely basis. We also recognize that CMS is moving towards accountability and transparency by releasing a Medicaid Scorecard with information on states' managed care rate submissions. While this is a good first step towards accountability and transparency, we are eager to see continued improvement in this area. For example, the Scorecard indicates that only 38% of base rate certifications were submitted before contracts began. Timeliness and process improvements are pivotal to ensure access to care for Medicaid beneficiaries and stability of state Medicaid managed care programs. Further, timeliness and process improvements support CMS' shift to focus on outcomes.

   We welcome discussions around standardizing the rate review process and timeframe for Medicaid and look forward to your continued effort to promote state and federal accountability and transparency in the CMS rate review process.

2. **Create Real-Time Rate Review Dashboard to Promote State Accountability and Transparency**
   As mentioned above, the Medicaid scorecard is a good first step towards accountability and transparency. We believe these would be further strengthened if information is made available in real time and on a state-by-state basis. We recommend that CMS create a webpage that lists the following information:
   - The date CMS received each specific state's contract and/or rates for review;
   - The date CMS began review of each state's contract and/or rates;
   - A status indicator that defines stages of rate review and identifies which stage of the process the rate review is in; and

- The date on which CMS rate review is concluded.

This would be a welcome next step towards greater transparency in the CMS rate review process. If there are concerns about sharing this information publicly, the information could be made available on a portal that Medicaid MCOs with contracts in the state can access.

3. **Develop Best Practice Toolkit on Rate Development Transparency**
As another resource to encourage the quality of state rate submissions, CMS might consider producing a best practice toolkit for states on rate development transparency. For example, the toolkit could highlight state practices that encourage the provision of historical costs, trends, and assumptions to Medicaid MCOs. The document could resemble "Promoting Access in Medicaid and CHIP Managed Care: A Toolkit for Ensuring Provider Network Adequacy and Service Availability," the network adequacy best practice toolkit released by CMS in April 2017. The toolkit could be released as a stand-alone document or as an appendix to the CMS Medicaid Managed Care Rate Development Guide.

4. Eliminate Mandatory MLR to Promote State Flexibility
CMS should replace the federal mandatory minimum MLR outlined in the 2016 Medicaid Managed Care Final Rule (CMS-2390-F) in favor of increased state flexibility to maintain their own MLRs (see 42 CFR 438.4).

Many states already have set their own MLRs and, due to the varied nature of state Medicaid programs, the parameters of the MLR should be left to the states. CMS can use state MLR information when assessing actuarial soundness of rates.

However, if the federal minimum MLR remains in place, we recommend that CMS:

- Allow states to set the MLR requirement no higher than 85%, which is the minimum level in the current regulation;
- Change the regulation to allow states, at their own option, to set an MLR threshold below 85% for children in Medicaid and the Children's Health Insurance Program (CHIP);
- Revise the MLR requirement so that health plans calculate and report the MLR over a rolling three-year period, based on expenses across all populations covered under the Medicaid plan's contract (carving out children, as described in the second bullet, if states choose);
- Exempt Medicare-Medicaid Plans (MMPs) from the minimum MCO MLR;
- Allow inclusion of expenses relating to fraud reduction activities in the numerator of the MLR calculation, similar to the change recently implemented for Medicare Advantage.

5. **Encourage State Adoption of Risk Mitigation Strategies**
CMS should encourage states to use risk mitigation strategies (e.g., risk adjustment, risk corridors) for new populations and new markets for which there is not enough experience or credible data to set rates with confidence. This would also minimize the need for retroactive rate adjustments.

6. **Maintain 2016 Medicaid Managed Care Final Rule Transparency Requirements**
Finally, we ask that the requirement in the 2016 Medicaid Managed Care Final Rule (CMS-2390-F) for increased transparency, related to specific data, assumptions, and

methodologies underlying contracted rates and rate cells be maintained, including processes states should follow to set rates in a transparent and timely manner.

In closing, we would like to thank you for the opportunity to share our recommendations for the Medicaid Managed Care proposed rule with you. We would welcome further conversation on these recommendations and others that we have. We look forward to working with you and your staff on these issues.

Sincerely,

America's Health Insurance Plans (AHIP)

Association for Community Affiliated Plans (ACAP)

Blue Cross and Blue Shield Association (BCBSA)

Medicaid Health Plans of America (MHPA)