Alliance of Specialty Medicine

Sound Policy. Quality Care.

July 28, 2021

Chiquita Brooks-LaSure, JD
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9906-P
P.O. Box 8016
Baltimore, MD 21244-8016

RE: Patient Protection and Affordable Care Act; Updating Payment Parameters, Section 1332 Waiver Implementing Regulations, and Improving Health Insurance Markets for 2022 and Beyond Proposed Rule

Dear Ms. Brooks-LaSure,

The Alliance of Specialty Medicine (the "Alliance") represents more than 100,000 specialty physicians across 14 specialty and subspecialty societies. The Alliance is deeply committed to improving access to specialty medical care through the advancement of sound health policy. On behalf of the undersigned members, we write in response to the request for input regarding how the federal government should approach network adequacy reviews in Marketplace plans.

Network Adequacy Challenges in Specialty Medicine

For several years now, the Alliance has expressed concerns about network adequacy and the growth in narrow provider networks across Marketplace plans, as well as Medicare Advantage (MA). When plans narrow their provider networks, access to medically necessary care and treatment — *especially when that care is provided by specialty or subspecialty physicians* — is severely hindered.

Consumer Challenges

Often, consumers do not realize the limitations of their Marketplace plan's provider network until they are faced with a critical need for specialty medical services and the providers who deliver them. Only then do the barriers to specialists and subspecialists become apparent. As a result, many patients forego critical, medically necessary specialty care because the obstacles to acquiring treatment are too significant. In fact, we've heard from practices where patients attempt to "negotiate" cash payment for services because an in-network provider is more than 100 miles away, and they do not have out-of-network benefits. In such cases, the patient's insurance is useless: it pays nothing, nor does it provide the benefit of an insurer-negotiated rate. Furthermore, the patient's out-of-pocket cost does not count toward their deductible or maximum out-of-pocket.

Specialist Challenges

Specialty and subspecialty physicians report that plans frequently exclude them from participation in their networks. This is often due to the application of inappropriate performance metrics — and the resulting performance scores — that hold specialists and subspecialists accountable for care and treatment outside their control. Moreover, plans are not capturing all specialists — *and rarely any*

subspecialists — in their network adequacy calculations, which are reported on CMS' QHP Application (see below graphic). As a result, consumers do not have access to the full range of necessary medical specialty and subspecialty providers.

Screenshot of "Specialty Type" identified in CMS' QHP Application/Network Adequacy Template

Instructions for populating the Specialty/Facility Types without using the drop-down menu	
The lists below show the specialty/facility & pharmacy types that can be entered in the ECP/Network Adequacy template. Column C shows the Individual Provider (MD/DO) Specialty Types. Column D shows the Facility, Pharmacy, and Other Non-MD/DO Specialty Types. Both sets of Specialty Types are allowed to be entered for a provider. If you would like to enter more than 1 specialty/facility type for a record, please comma separate each type. For example, if you would like to assign 001 General Practice and 002 Family Medicine specialty types to a provider, please enter the types as "001 General Practice, 002 Family Medicine". Entering multiple specialty/facility types using any other convention will result in a validation error. The same comma separation technique can be used to assign multiple Network IDs to the same provider. For example, an issuer in Virginia with 3 Network IDs could assign network 1 and network 3 to the same provider by entering "VAN001, VAN003".	
Individual Provider (MD/DO) Specialty Types	**Facility, Pharmacy, and Other Non-MD/DO Specialty Types**
001 General Practice	Pharmacy
002 Family Medicine	040 General Acute Care Hospital
003 Internal Medicine	041 Cardiac Surgery Program
004 Geriatrics	042 Cardiac Catheterization Services
005 Primary Care - Physician Assistant	043 Critical Care Services - Intensive Care Units (ICU)
006 Primary Care - Nurse Practitioner	044 Outpatient Dialysis
007 Allergy and Immunology	045 Surgical Services (Ambulatory Surgical Centers and Outpatient Hospital)
008 Cardiovascular Disease	046 Skilled Nursing Facilities
010 Chiropracty	047 Diagnostic Radiology (free-standing; hospital outpatient; ambulatory health facilities with Dx Radiology)
011 Dermatology	048 Mammography
012 Endocrinology	049 Physical Therapy (individual physical therapists providing care in Free-standing; hospital outpatient and ambulatory health care facilities)
013 ENT/Otolaryngology	050 Occupational Therapist
014 Gastroenterology	051 Speech Therapy
015 General Surgery	052 Inpatient Psychiatry (Free-standing inpatient psychiatric facility and psychiatric beds within an Acute Care Hospital)
016 Gynecology (OB/GYN)	054 Orthotics and Prosthetics
017 Infectious Diseases	055 Home Health
018 Nephrology	056 Durable Medical Equipment
019 Neurology	057 Ambulatory Health Care Facilities - Infusion Therapy/Oncology/Radiology
020 Neurological Surgery	061 Heart Transplant Program
021 Medical Oncology & Surgical Oncology	062 Heart/Lung Transplant Program
022 Radiation Oncology	064 Kidney Transplant Program
023 Ophthalmology	065 Liver Transplant Program
025 Orthopedic Surgery	066 Lung Transplant Program
026 Physical Medicine & Rehabilitation	067 Pancreas Transplant Program
027 Plastic Surgery	000 OTHER
028 Podiatry	
029 Psychiatry	
030 Pulmonology	
031 Rheumatology	
033 Urology	
034 Vascular Surgery	
035 Cardiothoracic Surgery	
101 Pediatrics - Routine/Primary Care	
102 Licensed Clinical Social Workers	
103 Psychology	
000 OTHER	
Dental - General	
Dental - Orthodontist	
Dental - Periodontist	
Dental - Endodontist	

Approach to Network Adequacy Reviews

CMS explains that the United States District Court for the District of Maryland decided the *City of Columbus, et al. v. Cochran* and vacated key portions of the 2019 Notice of Benefit and Payment Parameters ("Payment Notice"), including the elimination of the federal government's reviews of the network adequacy of Qualified Health Plans (QHPs), or Marketplace plans. As a result, CMS intends to propose specific steps to address federal network adequacy reviews in future rulemaking and requests comments and input regarding how the federal government should approach network adequacy reviews.

As we've shared in previous comments, we do not believe the states are prepared to ensure network adequacy. To date, only a limited number of states have adopted the NAIC Network Access and Adequacy Model Act,[1] but its adoption alone is not a guarantee that consumers will have access to the full range of "specialists" (which includes subspecialists) as defined in the model law.

Further, we do not believe accreditation organizations are the appropriate arbiter of network adequacy. While valuable, accreditors have no legal authority, no enforcement capability, and are not accountable

[1] See https://content.naic.org/sites/default/files/ST074.pdf

to the public. As a result, they cannot hold insurers liable if consumers cannot access the specialty medical care they require.

A federal standard for network adequacy in Marketplace (and MA) plans is critical. We recognize that CMS intends to address network *accuracy* in the context of its No Surprises Act implementation and believe efforts to ensure network adequacy will improve those efforts.

For these reasons, **we urge CMS to consider the following recommendations to inform forthcoming policies that would ensure consumers have full access to in-network specialty medical care:**

- **Return to quantitative network adequacy standards for Marketplace (and MA) plans, including specific standards for specialties and subspecialties;**
- **Ensure that implementation of provisions in the No Surprises Act that plans maintain accurate, real-time provider directories apply to plans in the Marketplace (and MA);**
- **Require Marketplace (and MA) plans to provide reasonable notice regarding termination of a provider's in-network status, detailed information on the cause for termination, and options for re-entering the network;**
- **Require Marketplace (and MA) plans to account for all specialty and subspecialty designation taxonomy codes to meet network adequacy requirements; and**
- **Develop QHP QRS measures (and MA Star Rating measures) that tie network adequacy ratings to health plan quality scores (and MA incentive payments).**

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We appreciate the opportunity to comment on these crucial issues. The Alliance would welcome the opportunity to meet with you to discuss these issues in more detail. Should you have any questions or wish to schedule a meeting, please contact us at info@specialtydocs.org.

Sincerely,

American Association of Neurological Surgeons
American College of Osteopathic Surgeons
American College of Mohs Surgery
American Gastroenterological Association
American Society for Dermatologic Surgery Association
American Society of Cataract and Refractive Surgery
American Society of Plastic Surgeons
American Society of Retina Specialists
American Urological Association
Coalition of State Rheumatology Organizations
Congress of Neurological Surgeons
North American Spine Society