

January 9th, 2019

Seema Verma
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244
Submitted electronically to <http://www.regulations.gov>

Re: CMS-2408-P - Medicaid Program; Medicaid and Children's Health Insurance Plan (CHIP) Managed Care

Dear Administrator Verma:

Nemours Children's Health System (Nemours) appreciates the opportunity to provide comments on the Centers for Medicare and Medicaid Services ("CMS") proposed rule entitled Medicaid and CHIP Managed Care Proposed Rule ("Proposed Rule"). We respectfully submit the following comments for your consideration as the final rule is developed.

Nemours is an internationally recognized children's health system that owns and operates the Nemours/Alfred I. duPont Hospital for Children in Wilmington, Del., and Nemours Children's Hospital in Orlando, Fla., along with outpatient facilities in six states, delivering pediatric primary, specialty, and urgent care to children from all 50 states. Established as The Nemours Foundation through the legacy and philanthropy of Alfred I. duPont, Nemours provides pediatric clinical care, research, education, advocacy, and prevention programs to families in the communities we serve.

In 2018, Nemours provided care to more than 400,000 children, and over the last two years, Nemours has served children from more than 50 countries. Nemours also powers the world's most-visited website for information on the health of children and teens, KidsHealth.org, offers on-demand online, urgent care video patient visits with pediatricians and offers scheduled telemedicine appointments in most specialties through our comprehensive telehealth program, Nemours CareConnect. Moreover, we are committed to leveraging our experience on the ground to inform policies and practices nationally to benefit all children, not just those in the regions we serve. Our mission is to help all children grow up healthy and have the best chance for success in life.

Below, please find a brief summary of our key recommendations followed by a more detailed discussion of specific considerations and recommended actions for CMS as the proposed rule is revised and finalized.

Summary

As an organization that provides care exclusively for children, we understand the unique health care needs of the pediatric population. One of the most important elements of pediatric care is access to providers who are specifically trained and certified to treat children, which is often very different from treating adults. Lack of access to pediatric providers can result in sub-optimal or sometimes inappropriate care.

Therefore, Nemours recommends that CMS make the following changes in the Proposed Rule to address the needs of children:

Nemours. Children's Health System

- **We urge CMS to require specific pediatric network adequacy standards in Medicaid and CHIP that specifically include timely access to children's hospitals along with a full range of pediatric primary, specialty and subspecialty providers.** Time and distance standards should be preserved as a key required component, but should not be the only standard for access to pediatric primary and specialty providers; other standards, such as the quantitative standards suggested by CMS, should also be required.
- **We are supportive of inclusion of comprehensive quality strategies for Medicaid and CHIP and urge specific inclusion of a pediatric quality strategy and plan rating system that is appropriate for all sub-populations of children, including children with medical complexity.**

Recommendations

Access to Pediatric Providers

Network Adequacy Standards (§438.68)

We appreciate CMS' recognition that network adequacy is a foundational component of a health plan's ability and capacity to provide covered services, as well as the inclusion of proposed minimum standards for network adequacy. In the 2016 final rule, we were pleased that CMS required states to ensure that enrollees have access to all covered services in a manner that meets state accessibility and affordability standards. We were also pleased that CMS recognized the importance of states taking an active role in overseeing plan's compliance with timely access and network adequacy standards. In the 2018 proposed rule, we are pleased to see consideration of additional quantitative network adequacy requirements, many of which Nemours advocated for in the previous rule making process.

However, we are concerned that the 2018 proposed rule weakens federal requirements for network adequacy standards by removing the requirement for time and distance standards and removing federal requirements for specialty provider standards.

Retain Time and Distance Standards

We believe that the federal framework requirements should not be weakened, but rather strengthened to ensure that children enrolled in Medicaid managed care plans have timely access to all covered services (from primary to tertiary and quaternary care) for which they are eligible and need. More specifically, time and distance standards should be preserved to ensure that plans make every effort to ensure access to pediatric primary care, specialty and subspecialty providers when they are available in the state or region in which an enrollee resides. Though technology has the potential to significantly expand a plan's network and increase access to care for certain conditions, not every encounter, diagnosis, or patient is appropriate for technology-enabled care. There will always be a need for in-person care, and preserving access to in-person care should remain a priority when assessing the adequacy of a plan's network. If time and distance standards are removed, underserved children could be at a great risk of limited or no access to the appropriate care, which could have a negative impact on health outcomes.

At the same time, Nemours recognizes that time and distance requirements alone do not currently account for other important elements of robust network adequacy standards, such as provider availability. Although a managed care plan may have certain provider types included in its network, there may be a high patient to provider ratio which can result in scheduling backlogs and, ultimately, lack of access. Further, there may be occasions when a distant or out of state provider can appropriately provide specialty care via telehealth or other virtual technology, and additional quantitative standards may help encourage plans to include such providers in their network.

Since no individual measurement is likely to ensure access, and in fact, if used alone, may provide an incomplete assessment of network adequacy, **we urge CMS to require states to specifically demonstrate that time and distance standards along with multiple quantitative measures that, together, reliably and appropriately assess network adequacy, have been incorporated into their standards.**

Require Pediatric Specialty Provider Standards

Across our health system, Nemours cares for medically complex children with specialized health care needs. CMS has previously noted that existing rules are generally not tailored to pediatric needs. We agree with this assessment and would highlight that, in Nemours' experience, specialists are often not further defined as being a pediatric specialist (e.g. cardiologist vs. pediatric cardiologist). Without strong federal requirements that pediatric specialty providers be included in a plan's network, Medicaid Managed Care Organizations (MCOs) may be able to satisfy network adequacy requirements so long as a cardiologist is available, even though an adult cardiologist would not provide optimal care to a pediatric patient. **Therefore, in order to ensure that children have access to the full range of pediatric specialists, we recommend CMS require states to include network adequacy standards specifically ensuring access to pediatric providers. Nemours suggests the following specific provisions:**

- Require states to develop criteria to implement two important provisions in 42 U.S.C. § 139u-2(c): (a) reasonable timeframes for service provision and (b) continuity of care for complex services. 42 U.S.C. § 139u-2(c) requires states to establish “[s]tandards for access to care so that covered services are available within reasonable timeframes and in a manner that ensures continuity of care and adequate primary care and specialized services capacity.” More specificity regarding timeframe and continuity of care considerations would obligate states to monitor and ameliorate systemic access problems that may not be a function of travel time or distance. Nemours has documented instances of this type of access barrier and regulations that spell out how states must implement these provisions would be an aid to rectifying the problems. In addition, the network should also be measured by the availability of in-network providers for new and existing patient appointments. To ensure a reasonable timeframe for service provision, plans should be required to include providers that can accommodate new or existing patient appointments within a predetermined timeframe (e.g. within two weeks).
- Align Medicaid access requirements with requirements for qualified health plans (QHPs). Currently, Medicaid rules require access to specialists within a 60 mile radius, while rules governing QHP's on the insurance exchange require specialists to be located within 45 miles of enrollees. Considering known transportation challenges for Medicaid populations, the current disparity presents additional access challenges.
- Develop a provision that requires MCOs to make a good faith effort to contract with available pediatric providers in a given geography, with an outer limit of distance or drive time defined by each state. For example, if a pediatric-specific provider is available in a state, the MCO should not be permitted to exclude them in favor of a non-pediatric specialist of the same category (i.e. pediatric ophthalmologist vs. general ophthalmologist).
- Require plans to demonstrate good-faith efforts to include free-standing children's hospitals in their networks, if one exists in their state.
- Develop and require competency measures to ensure quality in cases where a pediatric specialist is not available and the only alternative is an adult specialist. When an adult specialist is the only available provider, the plan must demonstrate that an in-network adult specialist selected to care for pediatric patients can provide equivalent services and quality of care.
- Require transparency and inclusion as key drivers of compliance. Therefore, any changes to state regulations governing network adequacy should include an opportunity for public input and open dialogue with regulators.

Further, we recommend that CMS complete an assessment of access issues for certain provider types across all state Medicaid and CHIP programs to aid in more fully understanding the degree of variability in specialty provider access and identify common challenges. Such an assessment could help state and federal authorities prioritize network adequacy requirements in future rulemaking.

CHIP—Network Adequacy Standards (§457.1218)

Nemours supports the alignment of network adequacy standards between Medicaid and CHIP and recommends that CMS include additional standards for pediatric providers in CHIP as well. As stated in previous sections of this letter, access to pediatric specialists is imperative for child health, including for at-risk populations served by Medicaid and CHIP. Standards that prevent the exclusion of pediatric primary care and specialty care providers serve the best interest of children and their families.

Include Pediatric Measures in CHIP and Medicaid

Nemours continues its longtime commitment to providing quality care to children and supports efforts within this Proposed Rule to ensure that Medicaid and CHIP enrollees have access to high quality care. Our hospital executives serve on various quality committees and roundtables of the nation's leading national and pediatric quality organizations. In that capacity, we offer our comments related to the proposed quality provisions.

Medicaid Managed Care Quality Rating System (QRS) (§438.334)

Nemours is pleased that CMS continues to develop a QRS framework and proposes to identify a set of mandatory performance measures, which would be required for inclusion in a the CMS-developed QRS as well as any state alternative QRS. We also support the alignment between the CMS Medicaid and CHIP managed care QRS framework and CMS' Scorecard Initiative, and agree that measures across these two initiatives should be coordinated. However, as noted in the proposed rule, Medicaid and CHIP serve a significantly higher proportion of children. With this in mind, **Nemours recommends that CMS ensure pediatric specific ratings are available that use underlying measures important and relevant to children and their caregivers, such as those developed and endorsed by nationally recognized organizations.**

Using Medicaid Quality Requirements in CHIP

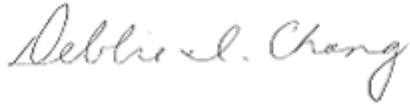
Generally, Nemours favorably views the alignment between quality programs and expresses support for this specific proposed alignment between Medicaid and CHIP. We qualify our statement of support by requesting that measures be utilized according to a process that clearly outlines the link between a measure and its intended outcome. More clarity in this process would aid in the assessment of measure validity, reliability, usability, feasibility and impact on health outcomes and cost.

As the largest payer for children, Medicaid provides a unique opportunity for thoughtful analyses on the impacts of each measure because of the vast amounts of comparable data available, particularly for high risk populations. Such analyses might include an actuarial impact that would help predict the short and long-term improvements in cost and quality and to whom cost savings would be channeled. **We would support collaborative efforts to complete white paper assessments to study these impacts, particularly since this is new territory in pediatric care.**

Conclusion

Once again, Nemours appreciates the opportunity to comment on the Proposed Rule, especially regarding the need for more pediatric focused standards. Please continue to keep us in mind if we can be of further assistance as this work moves forward, and feel free to contact Katie Boyer, Manager of Advocacy at katie.boyer@nemours.org or (202) 649-4415 at any time.

Sincerely,

A handwritten signature in cursive script that reads "Deborah I. Chang".

Deborah I. Chang, MPH
Senior Vice President for Child Health Policy & Prevention
Nemours Children's Health System