



January 8, 2024

Xavier Becerra
Secretary
United States Department of Health and Human Services
200 Independence Ave., SW
Washington, DC 20201

Re: Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2025

Dear Secretary Becerra,

The American College of Physicians (ACP) appreciates the opportunity to comment on the Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2025 proposed rule. The College is the largest medical specialty organization and the second largest physician membership society in the United States. ACP members include 161,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge, clinical expertise, and compassion to the preventive, diagnostic, and therapeutic care of adults across the spectrum from health to complex illness. Internal medicine specialists treat many of the patients at greatest risk from COVID-19, including the elderly and patients with pre-existing conditions such as diabetes, heart disease and asthma.

Establishment of Exchange Network Adequacy Standards (§ 155.1050)

We strongly support the proposal to require State Exchanges and State-Based Exchanges-Federal Platform (SBE-FP) to apply quantitative time and distance qualified health plan (QHP) network adequacy standards that are at least as stringent as the Federally Facilitated Exchange's time and distance standards established for QHPs under § 156.230. We also support requiring State Exchange and SBE-FPs to administer quantitative network adequacy reviews before certifying any plan as QHP.

Evidence shows narrow networks, which are common among QHPs offered on Health Insurance Exchanges, are associated with undesirable outcomes for “provider” availability (i). Most narrow network plans are restrictive closed-network models such as health maintenance organizations that bar enrollees from seeking nonemergent out-of-network care (ii). ACP has

long supported the use of quantitative network adequacy standards, such as time and distance, appointment wait time, and “provider”-to-enrollee measures, to gauge network robustness. However, states use a wide variety of methods to regulate network adequacy, and many do not use quantitative standards (iii). Federal standards should serve as a “strong floor” to provide consistency and ensure that patients in all states have sufficient, timely access to their preferred physician. We also recommend that CMS carry out enforcement of appointment wait time standards for all FFE-based QHPs starting in Plan Year 2025, and ultimately require such standards for State Exchanges and SBE-FPs as well.

ACP strongly believes that all patients should have access to a personal physician. Therefore, exceptions to network adequacy requirements should be strictly limited. Issuers unable to meet network adequacy requirements must undergo a thorough justification process in which they clearly articulate why they cannot meet network adequacy requirements. If an exception is sought due to a shortage of available physicians in an area, an issuer should be required to submit data to support the veracity of the claim, such as shortage designation information from the Health Resources and Services Administration. Issuers should describe what actions they’ve already taken to contract with area physician by, for example, increasing reimbursement rates, reducing administrative burdens and onerous utilization management processes, and making investments in primary care (iv). We also encourage regulators to regularly track and fix network deficiencies and “provider” directory errors as they occur through the Essential Community Providers and Network Adequacy Post-Certification Compliance Monitoring program or other processes (v).

Thank you for considering our comments. Please contact Ryan Crowley, Senior Associate for Health Policy, at rcrowley@acponline.org for additional information.

Sincerely,

A handwritten signature in black ink that reads "Omar Atiq". The signature is written in a cursive, slightly slanted style.

Omar Atiq, MD, MACP
President
American College of Physicians

ⁱ Mazurenko O, Taylor HL, Menachemi N. The Impact of Narrow and Tiered Networks on Costs, Access, Quality, and Patient Steering: A Systematic Review. *Med Care Res Rev.* 2022;79(5):607-617. Accessed at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9817087/>

ⁱⁱ Alwardt S, Sloan C, Carpenter E. 2020 Exchange Plan Networks Are the Most Restrictive Since 2014. Avalere. December 11, 2019. Accessed at <https://avalere.com/press-releases/2020-exchange-plan-networks-are-the-most-restrictive-since-2014>

ⁱⁱⁱ Corlette S, Schneider A, Kona M, Corcoran A, Schwab R, Houston M. Access to Services in Medicaid and the Marketplaces: Comparing Network Adequacy Rules. Georgetown Center on Health Insurance Reforms. March 2022. Accessed at <https://www.rwjf.org/en/insights/our-research/2022/03/assessing-federal-and-state-network-adequacy-standards-for-medicaid-and-the-marketplace.html>

^{iv} U.S. Government Accountability Office. Private Health Insurance: State and Federal Oversight of Provider Network Varies. December 2022. Accessed at <https://www.gao.gov/assets/gao-23-105642.pdf>

^v Centers for Medicare & Medicaid Services. 2021 Plan Year Federally-Facilitated Exchange Issuer Compliance Review Summary Report. April 5, 2023. Accessed at <https://www.cms.gov/files/document/2021-compliance-review-summary.pdf>