TO: Centers for Medicare and Medicaid Services
Submitted electronically via: https://www.reginfo.gov/public/do/PRAMain

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DATE: November 5, 2020

RE: Triennial Network Adequacy Review for Medicare Advantage Organizations and 1876 Cost Plans

Attached are UnitedHealthcare's comments regarding Triennial Network Adequacy Review for Medicare Advantage Organizations and 1876 Cost Plans.

Triennial Network Adequacy Review for Medicare Advantage Organizations and 1876 Cost Plans

Comments Submitted by
UnitedHealthcare
11/5/2020

UnitedHealthcare (UHC) appreciates this opportunity to provide input to the Centers for Medicare and Medicaid Services (CMS) regarding Triennial Network Adequacy Review for Medicare Advantage Organizations and 1876 Cost Plans.

Earlier Release of Updated Reference Files, Sample Beneficiary Files, and Templates for Network Adequacy

We appreciate that in its response to industry comments received as part of the 60-day comment opportunity (comment deadline 6/8/2020), CMS "agrees that the reference file and supply file should be made available to plans earlier." While CMS has indicated it "will release the updated reference files, supply files and Sample Beneficiary Files to plans as soon as they are updated," UHC reiterates our previous recommendation that CMS release the annual updated Reference Files and the Sample Beneficiary Files in early October.

CMS's release of the updated Reference Files and the Sample Beneficiary Files currently occurs in January. This release date can create a situation where all the counties and specialties in a service area may be meeting the health service delivery (HSD) criteria throughout the year leading up to the January release date, but then the updates by CMS lead to new network variations (HSD failures) due to changes in maximum time and distance criteria and shifts among the beneficiary sample being assessed. We recognize the need for and value of updating these files, but an earlier release date of October would allow Medicare Advantage (MA) plans more time to contract with providers and facilities needed for both a Service Area Expansion (SAE) or Network Adequacy Review (NAR) and ultimately to comply with CMS network rules and regulations. For instance, plans are determining whether to apply for an SAE before January and the adequacy of the network being proposed for the expansion is part of that decision. A delay in releasing the updated files until January impacts that decision making, whereas an earlier release of October will eliminate an unnecessary administrative burden when plans are considering expansion.

We recognize and appreciate that CMS has shared as part of this 30-day comment period the updated templates consistent with current CMS guidance. As stated in our previous comment letter, UHC proposes that any modifications to the templates MA plans use to submit data to CMS should be shared with plans with enough advance notice to adapt to the new template. MA plans need sufficient time to change their internal systems when CMS modifies the format of the templates that plans must populate with data and upload to the Health Plan Management System (HPMS) or otherwise submit to CMS. To reduce unnecessary administrative burdens, UHC recommends template changes occur with notice to plans preferably no later than early in the year's first quarter/January but no later than mid-April, so that plans are prepared for the June submissions to CMS. We also recommend no further changes be made to the templates once released for that calendar year's submission.

Communication Process and Timing Related to Informal Network Review and Consultation Process

Since the introduction of the Triennial Network Adequacy Review, CMS has offered an Informal Network Review process in which MA organizations are encouraged to participate. The Informal Network Review provides an opportunity to submit HSD Tables via the Network Management Module (NMM), receive Automated Criteria Check (ACC) reports from CMS, and then submit network exception requests to CMS for feedback prior to the

Formal Network Review submissions in June. Because the Informal Network Review process has been incorporated into the Triennial Network Review process by CMS, we recommend CMS include explicit reference to this process in the Triennial Network Review Supporting Statement.

In addition, we reiterate two recommendations that we submitted in our comment letter in response to CMS-6082-NC, Reducing Administrative Burden to Put Patients over Paperwork. These relatively easy-to-implement recommendations will reduce the administrative burden associated with the informal network review and consultation process that CMS currently offers MA plans. The informal review process itself is a highly useful tool for CMS and MA plans to have a more meaningful dialogue and help achieve the mutual goal of improving network adequacy outcomes. However, certain minor but critical enhancements to the current communication process will further support that goal.

First, UHC recommends CMS communicate to MA plans sufficient advance notice of the specific timing for the plans' submissions of HSD tables and exception requests, specifically a notice with timeline in early January for the February informal review and consultation process. During the 2020 submission process, CMS notified the MA plans selected for triennial network reviews on February 12, 2020 that they could begin uploading HSD tables the next day. This notice timeframe can create challenges for MA plans to fully utilize the process. By providing earlier notice to plans of upcoming submission windows, both CMS and MA plans will benefit from improved network-related submissions during the informal review and consultation process. We request CMS publish this timing guidance in early January in advance of submissions being due.

Second, UHC recommends CMS provide written feedback and then schedule consultation discussions with MA plans no later than the first half of April. We particularly appreciated the written feedback in 2019, as it was helpful to review CMS's specific details regarding noted variances followed by a consultation call with CMS. The feedback and discussions are the MA plan's opportunity to obtain crucial feedback from CMS on their informal network adequacy submissions before plans perform their formal submissions in June. An earlier—that is, no later than the first half of April—consultation discussion gives MA plans the necessary time to address any issues identified by CMS (e.g., if additional provider contracting is needed) before the formal submission deadline.

CMS has indicated in the CMS-10636 Form Revisions Crosswalk (last modified on 10/6/2020) that within the Supporting Statement, CMS has "additional language added to the supporting statement to clarify what the consultation period entails". However, the "short paragraph referencing 'consultation'" appears to be related to the estimation of the hour burden rather our specific recommendations related to the Informal Network Review process.

Justification Section of Supporting Statement

Information Users (Compliance Actions)

Within this section of the Supporting Statement, CMS states:

> Once CMS staff reviews the ACC reports and any Exception Requests and/or Partial County Justifications, CMS then makes its final determination on whether the organization is operating in compliance with current CMS network adequacy criteria. If the organization passes its network review for a given contract, then CMS will take no further action. If the organization fails its network review for a given contract, then CMS will take appropriate compliance actions. CMS has developed a compliance methodology for network adequacy reviews that will ensure a consistent approach across all organizations.

If CMS determines an MA organization is not in compliance with the current CMS network adequacy criteria, an opportunity should be available for the MA organization to have a dialogue with CMS regarding the specific and detailed reasons why CMS determined the MA organization is not in compliance. In the current process, CMS is using many different sources of data to make these determinations, and currently no accurate source of data is available. Unless CMS provides the MA organization with detailed information, including the specific data that CMS used to make the deficiency determination, the MA organization has great difficulty in attempting to cure the deficiency. Providing the basis for non-compliance will ultimately improve network adequacy for MA plans and their members.