

Memo

TO: THE OFFICE OF MANAGEMENT AND BUDGET

FROM: BLUE CROSS BLUE SHIELD ASSOCIATION

DATE: JANUARY 3, 2016

RE: PRA ON MEDICARE ADVANTAGE NETWORK ADEQUACY REVIEWS

In general, BCBSA supports CMS in this effort. A regular, 3-year network adequacy review process is an appropriate way to allow CMS to assess Medicare Advantage Organizations' (MAOs') networks, while also limiting the burden on plans.

Given industry experience with uploading Health Service Delivery (HSD) tables to the Network Management Module (NMM) within HPMS, BCBSA has no concerns with the way in which CMS will require MAOs to upload the required information. However, BCBSA believes that the timelines associated with the process are of critical importance.

Per the Supporting Statement, it appears that CMS' intent is to issue HSD upload request letters to MAOs at the same time each year, preferably after the application cycle is over (likely in September).

BCBSA strongly urges CMS to give MAOs as much advance notice of their "qualification" for a network review as possible, and to not require completion of the review until after the application season.

In addition, BCBSA urges CMS to extend the submission timeline described in the Supporting Statement. The Agency notes that, after receiving a notification letter, MAOs will have 20 days before the NMM gates open to test their networks and prepare, and then the gates will remain open for 10 days. At a minimum, MAOs should have 60-days' notice to test their networks before the NMM gates open. To successfully comply with this new requirement, plans need sufficient time to ensure that uploaded data is free from error and in CMS' required format. To ensure that this process runs smoothly for CMS and MAOs, we request CMS extend the proposed submission timeline. Furthermore, we ask CMS to provide MAOs with as much detailed submission criteria as possible (e.g., note whether MAOs must spell out the word "suite" in a provider's address, or if an abbreviation will be accepted); editing data for millions of provider records becomes extremely time consuming, so knowing all of CMS' criteria in advance would reduce the likelihood that MAOs would have to correct information later.

BCBSA appreciates CMS' acknowledgement that "the continuously evolving patterns of care in certain service areas may necessitate exceptions to the network adequacy criteria" and that the Agency will allow MAOs to submit Exception Requests to CMS for consideration under the 3-year review process. However, we are concerned by CMS' proposal to require MAOs to resubmit all previously approved Exception Requests.

BCBSA strongly urges CMS to retain previous Exception Requests so that plans do not have to repeatedly submit the same information. Alternatively, BCBSA asks CMS to utilize the same Exception Request format year-over-year, which would greatly streamline the process for plans.

In addition, BCBSA asks that CMS construct the Exception Request to give MAOs the ability to submit provider-specific information.

BCBSA is concerned that CMS' Supporting Statement contains limited information regarding the appeals process and compliance actions for the 3-year network review cycle. We believe that it will be important for CMS to clearly outline how it plans to address situations in which MAOs believe CMS' found deficiencies are incorrect. We note that network exceptions requests that occur during the normal application cycle are often very subjective and frequently based on outdated information. This dynamic underscores the importance of CMS outlining how MAOs may appeal determinations of deficiencies. We also believe that CMS must more clearly define the linkage between deficiencies identified during the 3-year review process and subsequent compliance actions.

As industry noted in comments on CMS' proposed Civil Money Penalty (CMP) methodology in October, we think it is important for CMS to provide additional information regarding the compliance continuum—specifically, the correlation between compliance actions and the resulting enforcement action. We believe it would be helpful for CMS to release more information about how it determines the level of severity of a compliance deficiency with respect to network adequacy, and how that level of severity ties to the compliance action taken. The Supporting Statement is unclear with respect to how CMS will issue CMPs, notices of non-compliance, notices of intent to deny, etc.

Because not all network deficiencies are equal, consideration must be given to the size of the MAO, the market dynamics (i.e., is it a market with a provider-owned plan that the MAO cannot contract with?), and the like before the resulting enforcement action is taken. In addition, we note that because CMS' network review is a snapshot in time, any errors could be remediated within short order, or even before CMS issues its findings. Therefore, we ask CMS to clarify what consideration will be given to providers who are in the process of being contracted or re-contracted to ensure that adequacy is measured accurately, as well as to ensure that enforcement actions are applied fairly and appropriately.

With regards to CMS' burden estimates, the median number of hours for each information collection instrument that CMS included in the Supporting Statement is not representative of what Anthem believes its experience with this requirement will be.

Some of Plan's service areas may be comprised of 80-100+ counties—therefore, we expect it will require much more than 15 hours to submit HSD materials to the NMM for one contract. Given this, we again urge CMS to extend the proposed submission timeline (as noted above). In addition, we ask CMS to consider phasing the 3-year review requirement in for large MAOs that may have more than a certain number of contracts up for review each year (e.g., if more than 10 contracts were targeted in a year, CMS would include any additional contracts in the next rotation of reviews). This approach would ensure that a seasonal pattern whereby large scale submissions need be completed in a given month every three years is not established. Regarding partial counties, BCBSA asks CMS to indicate whether adequacy will be measured at the zip code level, or globally. It is our understanding that the measurement occurs globally, but we would appreciate CMS' confirmation.

Thank you for the opportunity to provide comments. Questions on these comments may be directed to Jane.Galvin@bcbsa.com