

State shall submit with any State plan amendment that proposes to reduce provider payment rates or restructure provider payments in circumstances when the changes could result in diminished access, an access review, in accordance with the access monitoring review plan, for each service affected by the State plan amendments as described under paragraph (b)(1) of this section completed within the prior 12 months. That access review must demonstrate sufficient access for any service for which the state agency proposes to reduce payment rates or restructure provider payments to demonstrate compliance with the access requirements at section 1902(a)(30)(A) of the Act.

(ii) *Monitoring procedures.* In addition to the analysis conducted through paragraphs (b)(1) through (4) of this section that demonstrates access to care is sufficient as of the effective date of the State plan amendment, a state must establish procedures in its access monitoring review plan to monitor continued access to care after implementation of state plan service rate reduction or payment restructuring. The frequency of monitoring should be informed by the public review described in paragraph (b) of this section and should be conducted no less frequently than annually.

(A) The procedures must provide for a periodic review of state determined and clearly defined measures, baseline data, and thresholds that will serve to demonstrate continued sustained service access, consistent with efficiency, economy, and quality of care.

(B) The monitoring procedures must be in place for a period of at least 3 years after the effective date of the state plan amendment that authorizes the payment reductions or restructuring.

(7) *Mechanisms for ongoing beneficiary and provider input.* (i) States must have ongoing mechanisms for beneficiary and provider input on access to care (through hotlines, surveys, ombudsman, review of grievance and appeals data, or another equivalent mechanisms), consistent with the access requirements and public process described in § 447.204.

(ii) States should promptly respond to public input through these mechanisms citing specific access problems, with an appropriate investigation, analysis, and response.

(iii) States must maintain a record of data on public input and how the state responded to this input. This record will be made available to CMS upon request.

(8) *Addressing access questions and remediation of inadequate access to care.* When access deficiencies are identified, the state must, within 90 days after discovery, submit a corrective action plan with specific steps and timelines to address those issues. While the corrective action plan may include longer-term objectives, remediation of the access deficiency should take place within 12 months.

(i) The state's corrective actions may address the access deficiencies through a variety of approaches, including, but not limited to: Increasing payment rates, improving outreach to providers, reducing barriers to provider enrollment, providing additional transportation to services, providing for telemedicine delivery and telehealth, or improving care coordination.

(ii) The resulting improvements in access must be measured and sustainable.

[43 FR 45253, Sept. 29, 1978, as amended at 80 FR 67611, Nov. 2, 2015; 81 FR 21480, Apr. 12, 2016]

§ 447.204 Medicaid provider participation and public process to inform access to care.

(a) The agency's payments must be consistent with efficiency, economy, and quality of care and sufficient to enlist enough providers so that services under the plan are available to beneficiaries at least to the extent that those services are available to the general population. In reviewing payment sufficiency, states are required to consider, prior to the submission of any state plan amendment that proposes to reduce or restructure Medicaid service payment rates:

(1) The data collected, and the analysis performed, under § 447.203.

(2) Input from beneficiaries, providers and other affected stakeholders on beneficiary access to the affected

services and the impact that the proposed rate change will have, if any, on continued service access. The state should maintain a record of the public input and how it responded to such input.

(b) The state must submit to CMS with any such proposed state plan amendment affecting payment rates:

(1) Its most recent access monitoring review plan performed under § 447.203(b)(6) for the services at issue;

(2) An analysis of the effect of the change in payment rates on access; and

(3) A specific analysis of the information and concerns expressed in input from affected stakeholders.

(c) CMS may disapprove a proposed state plan amendment affecting payment rates if the state does not include in its submission the supporting documentation described in paragraph (b) of this section, for failure to document compliance with statutory access requirements. Any such disapproval would follow the procedures described at part 430 Subpart B of this title.

(d) To remedy an access deficiency, CMS may take a compliance action using the procedures described at § 430.35 of this chapter.

[80 FR 67612, Nov. 2, 2015]

§ 447.205 Public notice of changes in Statewide methods and standards for setting payment rates.

(a) *When notice is required.* Except as specified in paragraph (b) of this section, the agency must provide public notice of any significant proposed change in its methods and standards for setting payment rates for services.

(b) *When notice is not required.* Notice is not required if—

(1) The change is being made to conform to Medicare methods or levels of reimbursement;

(2) The change is required by court order; or

(3) The change is based on changes in wholesalers' or manufacturers' prices of drugs or materials, if the agency's reimbursement system is based on material cost plus a professional fee.

(c) *Content of notice.* The notice must—

(1) Describe the proposed change in methods and standards;

(2) Give an estimate of any expected increase or decrease in annual aggregate expenditures;

(3) Explain why the agency is changing its methods and standards;

(4) Identify a local agency in each county (such as the social services agency or health department) where copies of the proposed changes are available for public review;

(5) Give an address where written comments may be sent and reviewed by the public; and

(6) If there are public hearings, give the location, date and time for hearings or tell how this information may be obtained.

(d) *Publication of notice.* The notice must—

(1) Be published before the proposed effective date of the change; and

(2) Appear as a public announcement in one of the following publications:

(i) A State register similar to the FEDERAL REGISTER.

(ii) The newspaper of widest circulation in each city with a population of 50,000 or more.

(iii) The newspaper of widest circulation in the State, if there is no city with a population of 50,000 or more.

(iv) A Web site developed and maintained by the single State agency or other responsible State agency that is accessible to the general public, provided that the Web site:

(A) Is clearly titled and can be easily reached from a hyperlink included on Web sites that provide general information to beneficiaries and providers, and included on the State-specific page on the Federal Medicaid Web site.

(B) Is updated for bulletins on a regular and known basis (for example, the first day of each month), and the public notice is issued as part of the regular update;

(C) Includes the actual date it was released to the public on the Web site; or

(D) Complies with national standards to ensure access to individuals with disabilities; and

(E) Includes protections to ensure that the content of the issued notice is