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ABCD Policy Synthesis: Medicaid Reimbursement for Providers

(This Policy Synthesis is based on an Issue Brief: Assuring High Quality Home and Community Based Care through Medicaid Reimbursement Provisions, prepared by Jane Perkins, National Health Law Program, September 29, 2000)

Background on Reimbursement Provisions for Medicaid

Medicaid reimbursement provisions assure that payment rates are consistent with quality of care and sufficient to ensure adequate access.

> Under federal law, Medicaid covered services are rendered by qualified providers. The state makes payments directly to these providers.

The State Medicaid agency must comply with 42 USC Section 1396 (a) (30) (a) that requires the state to assure that payments are:

1) Consistent with efficiency, economy and quality of care; and

2) Sufficient to enlist enough providers so that care services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. (This part was added in 1989)

The entire provision ties quality and access to payment rates, the nature of investigation and relief must also be tied to payment issues.

Congress added the second requirement because states were improperly limiting provider fees as one method of controlling program costs. Congress believed that "without adequate payment levels, it is simply unrealistic to expect physicians to participate in the program…" (Report of the House Budget Committee-September 20, 1989)

<u>Equal Access Requirement</u>

In California, federal courts held that payment rates do not ensure sufficient access if they are "far below any reasonable estimate of what it actually costs providers to render services."

This requirement also compares access of beneficiaries to access of others in the same geographic area with public and private coverage. Private insurance markets, against which Medicaid coverage can be compared, are limited. Public coverage, including Medicare, school-based programs and other Medicaid waiver programs in the state are easier to compare.

Standards of Review

Nothing in Medicaid sets a minimum rate of reimbursements that states must provide. However, every court that has reviewed the regulations on payments has held that the law requires states to take the necessary steps to ensure that rates are consistent with the four factors—efficiency, economy, quality and access.

Process-oriented standard

Several courts believe that the state Medicaid agency must undertake a process of investigation or study to justify its rates and thus, ensure future results—ie, efficiency, economy, quality and access.

> In an Eighth Circuit case, the court required Arkansas to employ an objective study (using methods and procedures that are bona fide) when setting the rates.
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> In the Ninth Circuit, the court ruled that the state must consider the costs providing services to know whether its rate setting is consistent with the four factors.

Results Oriented Standard

The Third and Seventh Circuit Courts of Appeal (New Jersey is in the Third Circuit) hold that the regulations require each state to provide a result, not to employ any particular methodology for getting there.

The benchmarks for these results are:

1) that the state must assure that the four statutory outcomes occur. (The courts define "assure" as a means to make certain and beyond doubt);

2) that the process must be reasonable and sound and protect the public from the possible ill effects of an agency testing new formulas or prices at random, then correcting the results once and violation occurs; and

3) that a state cannot act arbitrarily and capriciously (eg. A state cannot simply act like any other buyer of health care by offering a certain price and seeing what response or result that price brings forth).

Conclusions

Medicaid benefits are of little use to beneficiaries if qualified providers are not available in a timely manner.

Home and Community- based waivers offer an enriched package of benefits, but these benefits do not exist beyond the treatment plan if there are not adequate numbers of qualified service providers.

Medicaid law requires that payment rates be consistent with efficiency, economy, and quality of care and equal access.

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