AAPAN | AMERICAN ASSOCIATION OF PAYERS, ADMINISTRATORS AND NETWORKS

May 8, 2017

**Via EMAIL TO: networkadequacy.mia@maryland.gov**
Commissioner Al Redmer, Jr.
Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, MD 21202

Re: Comments on Network Adequacy Regulations

Dear Commissioner Redmer:

I am writing to you to submit comments addressing the Network Adequacy regulations currently under consideration on behalf of the American Association of Payers, Administrators and Networks (AAPAN). AAPAN is a national association that represents organizations in the individual group and government health, and workers' compensation markets. AAPAN is the active voice advocating for patient access to appropriate quality health care in these respective markets, and provides a unifying, collaborative forum for member organizations to work in common cause on initiatives for improving healthcare at the federal and state levels. Our members provide network services and access to millions of Maryland consumers.

AAPAN is concerned that the Maryland Insurance Administration proposal to adopt the distance standards used by CMS to support the Medicare Advantage program would be a poor fit for the Marylanders accessing providers through networks. We believe that these CMS-based distance standards are a significantly flawed measure of network adequacy in light of the Medicare Advantage requirements which are designed to meet the needs of a specific population with a higher than average need for medical services.

More importantly, the CMS-based distance standards ignore a variety of factors that are significant in determining the quality and efficiency of a network system, including but not limited to: access to care when care is actually needed, quality of the care, the growing trend of telehealth or other innovative healthcare delivery models, as well as geographic, topographic, population density and transportation differences across regions.

Further, the CMS-based distance standard is inconsistent with the goal of the Administration to ensure access to network services for the members of all plans in the state. By selecting the CMS-based standards mapped to the profile of Medicare Advantage plan members, the Administration has chosen standards to fit a demographic make-up different than most other plans in the state. As a result, we believe that selecting this standard will burden both carriers and the Administration with excessive administrative documentation and waiver requests.

Finally, in response to these distance requirements, it is likely that healthcare costs will increase as plans contract with providers for the sake of meeting the poorly-matched distance requirements when quality and value should really be the focus. Likewise, applying the Qualified Health Plan requirements for contracting with thirty percent of essential community providers to commercial health plans that do not operate on the healthcare exchanges is a requirement that does not make sense as these providers may never see any members under the commercial plan. Alternatively, focusing network adequacy standards on the enrollees' ability to obtain services may eliminate the need for essential community providers for plans that do not have members in rural, medically underserved communities. While we are aware that one goal of network adequacy standards is to ensure sufficient network provider access and availability to rural communities, distance standards that do not take into account the factors above or consider alternatives is not an effective method of achieving that goal.

**Access to Care When it is Needed**

In theory, distance standards would ensure that in-network providers exist within a certain geographic area of enrollees. What these standards cannot measure is whether or not those providers have the capacity to add new patients, or whether or not they are working at that location during any given time, day, or week. Ensuring the location of a provider would, in theory, ensure that an enrollee would not have to travel longer than a certain distance for care. It would not ensure that an enrollee would actually be able to receive care at any given time and/or location.

**Quality of the Care**

Distance requirements such as those in this proposed rule do not take into account the enrollees' satisfaction with the provider. If a carrier needed one additional provider in a certain geographic region, but patients who had accessed that provider previously had negative experiences, it would not benefit enrollees if that provider were added to the network. Again, we understand that distance standards are a helpful measuring stick for network adequacy, but we urge the Administration to consider the fact that there are a number of other factors that truly determine network adequacy, including enrollee experience.

**Telehealth and Other Innovative Health Care Delivery Models**

Pursuant to Md. Code Ann., Insurance, §15-139, carriers are required to provide coverage for health care services appropriately delivered through telemedicine. Carriers are prohibited from excluding a health care service from coverage solely because it is delivered by telemedicine, and not through an in-person consultation or contact between a health care provider and a patient. Moreover, carriers must reimburse a health care provider participating in the carrier's network for the diagnosis, consultation, and treatment of an insured patient for health care services covered under a health insurance contract or policy that can be appropriately provided through telemedicine. Focusing solely on geographic location of a network provider is does not adequately reflect the current and emerging innovations in healthcare delivery.

**Geographic Accessibility of Providers by Specialty and Services**

The proposed specialty care geographic requirements are either far too granular or, in other cases, too broad to be an effective measurement of network adequacy. As an example, an OB/GYN can perform the same function as a Gynecologist, therefore an OB/GYN should be sufficient to meet the Gynecologist requirement (we recognize the reverse is not true). Further, the category of "Other Medical Provider not Listed" and "Other Facilities" are too broad and should not be included in the standards with distance requirements. There may be highly specialized providers who, due to the nature of the practice, cannot sustain multiple office locations or cannot be profitable in certain geographies. We believe that in general, health plans are in the best position to determine the specialty care needs of their membership. Again, we understand the importance of having specialty providers, but there are significant flaws associated with taking a strict geographic approach. Additionally, the Administration should consider the availability of providers and facilities in neighboring states which service Maryland residents.

**Conclusion**

We would like to thank the Administration for the opportunity to comment on these draft network adequacy regulations. For the reasons enumerated above, we strongly urge the Administration to reconsider using CMS-based distance standards as the measurement of network adequacy and instead take into account factors such as advancements in healthcare delivery such as telehealth services and the integration of care delivery or other innovations.

Alternatively, if the Administration adopts CMS-based distance standards as the primary measurement of network adequacy, we strongly urge the Administration to reconsider the categorizations of the specialties and distances. Finally, while we appreciate that these draft regulations contain a subsection for waiver requests, we strongly urge the Administration to further consider and elaborate on alternative methods of showing network adequacy, such as the availability and use of telehealth services, other innovative healthcare delivery models, enrollee satisfaction, and quality. In additional to using the CMS-based standards, Oregon has now adopted regulations establishing alternative, factor-based network adequacy standards in instances when those CMS-based standards are inappropriate

Sincerely

Julian Roberts
President and CEO
American Association of Payers Administrators and Networks (AAPAN)
3774 Lavista Road, Suite 101
Tucker, GA 30084
o: 404/634-8911 e: jroberts@aapan.org