

August 3, 2017

(via email: insurance.mia@maryland.gov & al.redmer@maryland.gov)
& for submission networkadequacy.mia@maryland.gov

Hon. Al Redmer Jr.
Maryland Insurance Commissioner
200 St. Paul Place, Suite 2700
Baltimore, Maryland 21202

Re: Reject the Proposed Network Adequacy Rule (Title 10, Subtitle 10, Chapter 44) Unless Amended

Dear Commissioner Redmer:

Members of the Coalition of Hospital-Based Physicians (American College of Radiology, American Society of Anesthesiologists, College of American Pathologists), and some of our Maryland state affiliates, are submitting these comments on the proposed "Network Adequacy" rule, published July 21, 2017, that is now open for public comment. We appreciate the opportunity to express strong concerns regarding omission of critical hospital-based physician specialties from the rule.

Of substantial concern, the proposed network adequacy rule does not evaluate health insurance plan network adequacy for hospital-based physician specialties at in-network hospitals and facilities.

Thus, the proposed plan fails to provide Maryland patients with any assurance that in-network physicians will provide the continuum of care at an in-network hospital or facility. In a rather conspicuous omission, anesthesiology, pathology and emergency medicine are not listed medical specialties evaluated under the rule, and these critical specialties, including radiology and radiation oncology, are not evaluated for health plan network adequacy at hospitals. This omission is fundamentally inconsistent with the public policy objective of network adequacy: *to ensure that Maryland patients have access to high volume in-network physicians under their plans of insurance.*

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You may note, the 2015 national model legislation/regulation on network adequacy (“Health Benefit Plan Network Access and Adequacy Model Act”), of the National Association of Insurance Commissioners (NAIC), placed a clear obligation on health insurance payers to declare, as part of their submission to the State, their “process for monitoring access to physician specialist services in emergency room care, anesthesiology, radiology, hospitalist care and pathology/laboratory services at their participating hospitals.”

This particular network adequacy provision of the NAIC model was recently adopted in Oregon (OAR 836-053-0320 (l)), Colorado (3 CCR-7024-Reg 4-2-54 Section 6 (g)) under rules promulgated by the Insurance Departments of these respective states and in Connecticut (Conn. Gen. Stat. § 38a-472f (h) (2) (j)). This explicit requirement is also now, for the first time, embedded in the “Network Adequacy” application standard for the CMS Qualified Health Plan (QHP) Issuer Application Instructions for 2018 (issued April 13, 2017) applicable to QHPs seeking entry into the federally facilitated exchanges.

Furthermore, in March 2016, the State of California adopted new rules to assess the sufficiency of health plan networks for the provision of hospital based physician providers. Specifically, the new state rule (California Code of Regulations Title 10, Section 2240.5 (d) (14)) provides that health plans submit prior to approval:

(14) A report describing, for each network hospital, the percentage of physicians in each of the specialties of (A) emergency medicine, (B) anesthesiology, (C) radiology, (D) pathology, and (E) neonatology practicing in the hospital who are in the insurer’s network(s).

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The Maryland proposed rule is also contrary to American Medical Association (AMA) policy (Network Adequacy- H.285.908), which states:

Our AMA advocates that health plans should be required to document to regulators that they have met requisite standards of network adequacy including hospital based physician specialties (I.e. radiology, pathology, emergency medicine, anesthesiologists and hospitalists) at in-network facilities, and ensure in-network adequacy is both timely and geographically accessible.

Accordingly, in order to ensure that Maryland patients have access to in-network physician specialists at hospitals and other facilities we urge that rule be amended to include Insurance Department evaluation of health plan network adequacy for hospital-based physician specialists as delineated herein. Specifically, we urge inclusion of the following language:

.03 C. (5) a report describing, for each network hospital, the percentage of physicians in each of the specialties of (A) emergency medicine, (B) anesthesiology, (C) radiology and radiation oncology, (D) pathology, and (E) hospitalists practicing in the hospital who are in the insurer's network(s) so as to ensure enrollees with reasonable and timely access to these in-network physicians.

Thank you for your consideration of our comments.

American Society of Anesthesiologists (ASA)
American College of Radiology (ACR)
Maryland Society of Radiologists
College of American Pathologists (CAP)
Maryland Society of Pathologists

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