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May 2, 2019

Seema Verma
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-2407-PN
P.O. Box 8016
Baltimore, MD 21244-8016

Submitted electronically at http://www.regulations.gov

Re: CMS-2407-PN: Comments on the Funding Methodology for 2019 and 2020 for the Basic Health Program

Dear Administrator Verma,

On behalf of our members, which include 141 hospitals and health systems that serve patients and communities throughout our state, the Minnesota Hospital Association (MHA) offers the following comments and requests in response to the proposed Basic Health Plan (BHP) federal payment methodology for 2019 and 2020. Given that Minnesota and New York are the only states with BHPs, the proposed methodology is especially important to our members. Before finalizing the payment methodology, we respectfully request that your agency modify its approach to reflect the statutorily established formula.

The proposed methodology deviates from your agency's approach in past years, from the formula and intent established by Congress,[1] and from sound public policy. If implemented, the proposed methodology would cut support for Minnesota's BHP by $24 million over 2019 and 2020 according to the Minnesota Department of Human Services (DHS). This unjustified cut in federal funding shifts greater financial burden onto Minnesotans who already contribute to ensure that low-income working individuals and families have health coverage.

This proposal uses your agency's 2018 payment methodology, that was adjusted based on Minnesota and New York's legal challenge. The proposed formula goes further by reducing federal BHP funding through a new manufactured "metal-tier selection factor" (MTSF). Nothing in the BHP statute or previous rulemaking includes, references or authorizes use of this MTSF. Not coincidentally, adding this CMS invention works entirely in the federal government's favor.

CMS attempts to explain the MTSF adjustment as a means to capture the agency's hunch that it would pay less in Advanced Premium Tax Credits (APTCs) because more people would pick bronze-level insurance products with premiums that are less than the total amount of APTCs they would receive if they picked a silver-level plan.

[1] 42 U.S.C. § 18044.

This year's proposed payment formula's inclusion of the MTSF is oddly reminiscent of the CMS interpretation of the BHP statute from 2016. However, in 2016, the logic used by the agency was almost entirely the reverse of logic used in its attempt to justify its 2019-2020 proposal.

In 2016, CMS asserted that Minnesota's decision to create and finance a reinsurance program that lowered premiums in the individual market necessitated cuts to federal BHP funding by $168 million. CMS rationalized this cut because it claimed that it could not consider premium rates from Qualified Health Plans (QHPs) in states without reinsurance because Minnesota's BHP enrollees did not have the option to purchase a QHP.

Now, CMS claims that using the premium amounts for bronze-tier QHPs and the QHP selection decisions of people in other states is entirely appropriate, even though Minnesota's BHP enrollees remain prohibited from selecting a QHP and restricted exclusively to the BHP.

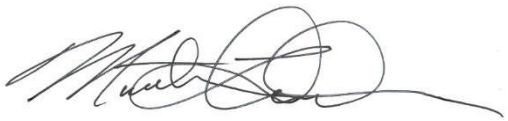
So, CMS *cannot* consider other states' QHP premium rates and plan selections when ignoring them would result in cutting $168 million from federal funding for Minnesota's BHP. And now, CMS *can* consider other states' QHP premium rates and plan selections when doing so would result in cutting $24 million from federal funding for Minnesota's BHP funding. There is no standard; there is only an arbitrary, capricious and blatantly self-serving decision based on how a formula can be manipulated to reduce the amount of BHP payments to states.

Over time, the agency's unauthorized, mathematical contortions drive toward an outcome that runs counter to good public policy. More comprehensive and affordable coverage for individuals at lower federal cost should be the policy CMS encourages states to pursue. Instead, by continuing to cut BHP payments, CMS may cause Minnesota policy makers to mistakenly consider abandoning the BHP. This would result in CMS paying more in APTCs than it would under a fair and legitimate BHP payment methodology and, worse yet, would force 100,000 working Minnesotans either to join the ranks of the uninsured or to purchase QHPs with dramatically higher premiums and radically higher deductibles. This is nonsensical and counterproductive from both an economic and a humanitarian perspective.

MHA joins with the near-unanimous urging of Minnesota's congressional delegation, our Medicaid agency and fellow health care stakeholders in urging CMS to abandon its intention to use the MTSF to modify the BHP payment formula and decrease the amount of federal BHP funding Minnesota receives.

Thank you for the opportunity to offer these comments on behalf of our members. If you have questions, feel free to contact me anytime.

Sincerely,



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