June 20, 2011

The Honorable Kathleen Sebelius
Secretary, Department of Health and Human Services
Room 120-F, Humphrey Building
200 Independence Ave, SW
Washington, DC 20201

Re: CMS-2328-P; Methods for Assuring Access to Covered Medicaid Services

Dear Secretary Sebelius:

As organizations committed to ensuring that our nation's children get the care and services they need, thank you for the opportunity to comment on the Methods for Assuring Access to Covered Medicaid Services Proposed Rule (the "Rule"), published in the Federal Register on May 6th. We believe that the Rule represents an important step toward creating a standardized process by which states can comply with the equal access provision[i] of Medicaid, but we think that it should be made much stronger.

Children make up more than half of all Medicaid enrollees, and access to care and services is vital to their healthy growth and development. Ensuring that children enrolled in Medicaid have access to medically-necessary care and services depends on adequate payment rates to Medicaid physicians and providers. Studies have shown that appropriate payment is associated with greater likelihood of having a usual source of care and a higher number of preventive visits. In turn, having a usual source of care is associated with lower health care costs.[ii] Other studies show that low payment, capitation, and paperwork concerns all relate to low Medicaid participation by pediatric health care providers.[iii] Addressing these factors will ensure sufficient capacity to appropriately serve children enrolled in Medicaid.

First, we believe that CMS should require states to examine access to children's services specifically. Children have special protections under the Medicaid program, including the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) requirement, which entitles them to all medically-necessary services. Children's services are specific and present unique access challenges. It is particularly important that states specifically examine the impact of any provider rate change on children's access to these services.

Second, we are concerned that the Rule does not recognize a mechanism for private enforcement of adequate payment rates to ensure that states comply with the equal access provision of the Medicaid statute. The Rule states: "even if access issues are discovered … states may be able to resolve those issues through means other than increasing payment rates." This suggestion would provide a secondary avenue for compliance with equal access even though payment rates and access are linked in the academic literature.

Third, we are concerned that the Rule does not apply to Medicaid managed care, even though the majority of children covered by Medicaid are enrolled in managed care plans. According to the Medicaid Statistical Information System (MSIS), 22.8 million (70%) of 32.8 million Medicaid enrollees through age 20 were enrolled in some pre-paid plan (HMO/medical, dental, behavioral health, primary care case management, or some

combination of the above). Among them, 19.6 million (or 60% of all Medicaid children ages 0 through 20) were enrolled in Medicaid HMOs.[iv]

We support the framework outlined in the Rule because it will increase information about whether children have access to services. However, more data is not equivalent to real access. We urge you to strengthen the Rule. Without enforcement and comprehensiveness, CMS will have missed the opportunity to ensure that children and other populations covered under Medicaid have real access to care.

Sincerely,

American Academy of Family Physicians
American Academy of Pediatrics
American Medical Association
Academic Pediatric Association
American Pediatric Society
Association of Medical School Pediatric Department Chairs
Child Welfare League of America
Children's Defense Fund
Council of Pediatric Subspecialties
Family Voices
First Focus
Georgetown University Center for Children and Families
National Alliance to Advance Adolescent Health
National Assembly on School-Based Health Care
National Association for Children's Behavioral Health
National Association of Children's Hospitals
National Association of Pediatric Nurse Practitioners
Pediatrix Medical Group
Society for Adolescent Health and Medicine
Society for Pediatric Research
Voices for America's Children
ZERO TO THREE

---

i The equal access provision requires that a state's plan for Medicaid "assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available at least to the extent that such care and services are available to the general population in the geographic area." See 42 USC § 1396a(a)(30)(A).

ii J W Cohen and P J Cunningham, "Medicaid physician fee levels and children's access to care," Health Affairs, Vol 14, Issue 1, 255-262 (1995).

iii Steve Berman, MD, Judith Dolins, MPH, Suk-fong Tang, PhD, Beth Yudkowsky, MPH, "Factors That Influence the Willingness of Private Primary Care Pediatricians to Accept More Medicaid Patients," Pediatrics, Vol. 110, No. 2, August 2002, pp. 239-248.

iv AAP analysis of FY2008 CMS/MSIS2082 released through CMS's MSIS. STATE SUMMARY DATAMART at http://msis.cms.hhs.gov/