

Revisions to the Medicaid Managed Care Rule Effective December 14, 2020

On November 13, 2020, the Centers for Medicare & Medicaid Services (CMS) published revisions to the May 6, 2016 Medicaid & CHIP Managed Care Final Rule in the Federal Register. CMS published a proposed rule for comment in November 2018, which encompassed most of the modifications finalized in the November 13 Final Rule. These revisions are effective on December 14, 2020, except for a few additions which are effective July 1, 2021. The revisions do not include major policy changes for states as the 2016 Final Rule enacted, but do impact a number of areas states should be aware of. For the full revision, see <https://www.federalregister.gov/documents/2020/11/13/2020-24758/medicaid-program-medicare-and-childrens-health-insurance-program-chip-managed-care>.

CMS provided a useful fact sheet summarizing revisions in the following areas:

- Setting Actuarially Sound Capitation Rates (Medicaid)
- Pass-Through Payments (Medicaid)
- State-Directed Payments (Medicaid)
- Network Adequacy Standards (Medicaid and CHIP)
- Risk Sharing Mechanisms (Medicaid)
- Quality Rating System (Medicaid and CHIP)
- Appeals and Grievances (Medicaid and CHIP)
- Requirements for Beneficiary Information (Medicaid and CHIP)

See <https://www.cms.gov/newsroom/fact-sheets/medicaid-childrens-health-insurance-program-chip-managed-care-final-rule-cms-2408-f> for a summary of the changes in each of the areas listed.

Below are additional revisions which are not highlighted in CMS' fact sheet that are also relevant.

Medical Loss Ratio (MLR) Standards - §438.8

- Per §438.8(e)(4), the numerator of the MLR should include fraud prevention activities as adopted for the private market at 45 CFR part 158. However, the MLR reporting requirements in §438.8(k) referenced program integrity requirements as defined in §438.608. CMS has revised §438.8(k)(1)(iii) to reference the definition of fraud prevention activities in §438.8(e)(4).

Enrollee Encounter Data- §438.242(c)(3)

- Enrollee encounter data submitted by managed care plans must include the allowed amount and the paid amount for each claim to allow for states to properly monitor and administer the Medicaid program, particularly for capitation rate setting and review, financial management, and encounter data analysis.

Non-Emergency Medical Transportation PAHPs- §438.9

- In the 2016 Final Rule, CMS inadvertently failed to exempt NEMT PAHPs from complying with MLR standards. The revision eliminates the requirement for NEMT PAHPs to develop and report an MLR.

Exemption from External Quality Review (EQR)-§438.362

- States are required to annually identify on their website, in the same location as where EQR technical reports are posted, the names of the MCOs it has exempted from EQR, and when the current exemption period began. States are also required to include in their EQR technical reports the names of the MCOs exempt from EQR by the state, including the beginning date of the current exemption period or that no MCOs are exempt, as appropriate.

If you have questions regarding the 2020 Medicaid & CHIP Managed Care Final Rule, or its associated impact, please reach out to your Myers and Stauffer contact or Michael Johnson or Keith Sorensen, members of our leadership team.



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