May 17, 2018

VIA ELECTRONIC SUBMISSION

Centers for Medicare & Medicaid Services
Department of Health and Human Services
P.O. Box 8016
Baltimore, MD 21244-8016

Attention: CMS-2406-P
Medicaid Program; Methods for Assuring Access to Covered Medicaid Services-Exemptions for States with High Managed Care Penetration Rates and Rate Reduction Threshold

Dear Sir or Madam:

Thank you for the opportunity to comment on proposed rule CMS-2406-P, "Medicaid Program; Methods for Assuring Access to Covered Medicaid Services-Exemptions for States with High Managed Care Penetration Rates and Rate Reduction Threshold."

The Colorado Children's Campaign is a nonprofit, nonpartisan advocacy organization committed since 1985 to realizing every chance for every child in Colorado. We advocate for the development and implementation of data-driven public policies that improve child well-being in health, K-12 education, and early childhood. We do this by providing Coloradans with trusted data and research on child well-being and organizing an extensive statewide network of dedicated child advocates.

We are writing on behalf of the residents of Colorado who rely on Medicaid to meet their health care needs. As a children's policy advocacy organization, we are particularly concerned about how these proposed changes to the current Access Rule at 42 CFR 447.203-204 would impact access to needed care for the 606,789 children who use Medicaid for their health insurance at some point during the year. We firmly believe that any source of children's health coverage must ensure access to timely, affordable, high-quality and age-appropriate health care that meets children's unique needs; Medicaid is no exception.

Medicaid can't do its job as a health insurer if it doesn't know whether the children it covers are getting access to the services they need. For the children in fee-for-service (FFS) Medicaid in Colorado, the Access Rule issued by CMS in November 2015 is intended to give CMS and our state Medicaid agency the information they need to make evidence-based determinations about the accessibility of covered services and the effect of proposed provider payment reductions on access. It is also intended to make the process of measuring and improving access in FFS Medicaid transparent to stakeholders and the public. While measuring access in the Medicaid program is a complex endeavor, our state has been thoughtful in its approach to this

complex task. It solicited public comment on its proposed plan and made several revisions in response to those comments. For example, the Colorado All Kids Covered Coalition suggested that data in the plan be reviewed by additional demographics including comparing access among children and adults and among various races and ethnicities. In response, the Department stated, "The Department does recognize the value such analytical stratification could bring to the task of measuring access and will consider incorporating such metrics in future iterations of the Plan." This information could be very helpful in determining whether Colorado Medicaid is meeting the needs of the children enrolled in the program.

The current Access Rule provides important protections for children enrolled in Medicaid and the providers that serve them. These requirements are designed to ensure that state agency decisions to reduce or restructure FFS payments to providers are transparent and informed by analysis and stakeholder input. This is particularly important in ensuring continued, sustained access to EPSDT.

While some revisions to the Access Rule could be helpful in ensuring access to care for people in the most sensitive periods of development – such as during pregnancy or in early childhood, proposed rule CMS-2406-P would undermine the rule to the severe detriment of children and other Medicaid populations in Colorado. The proposed rule would allow Colorado to cut its provider payments in any Medicaid service category by 4% in one year, or 6% over two years, without conducting an access review to demonstrate sufficient access, without obtaining input from beneficiaries, providers and other affected stakeholders on the impact of a proposed rate cut on access, and without submitting an access review to CMS to evaluate when it reviews the proposed rate cut and its impact. This could expose providers serving children in FFS Medicaid in Colorado to significant rate reductions from payment rates that are already low, which could reduce access to needed services by children.

Not only would this leave the children remaining in FFS Medicaid (and their providers) without the Rule's procedural protections against harmful rate cuts, it could also affect access by children enrolled in Medicaid managed care. If Colorado bases its capitation payment rates to MCO on FFS payments, or if individual MCOs base their payment rates to network providers on FFS payments, a cut in FFS payment rates could lead to cuts in payments to MCO network providers as well.

Children and families covered by Medicaid in Colorado would be far better served by strengthening the Access Rule, not gutting it. There have been only two years of operational experience with the Access Rule. The Colorado Access Monitoring Review Plan, posted in October 2016, can be improved when it is updated in October 2019 by adding a focus on children's access to EPSDT, which includes all medically-necessary services. It could also be improved by using any available data to show disparities in access by race and ethnicity due to historical structural barriers in access to care.

Thank you for your consideration of our comments. Please contact me if you have any questions or need any further information.

Sincerely,

Erin Miller
Vice President, Health Initiatives
Colorado Children's Campaign