



FLORIDA HEALTH JUSTICE PROJECT

Miriam Harmatz, Esq.
Co-Executive Director

Katherine DeBriere, Esq.
Co-Executive Director

Matt Childers, Ph.D.
Policy Research Director

Blanca Mesa, Esq.
Communications & Outreach
Director

Troy Elder, Esq.
Legal Consultant

Board of Directors

Fred Anderson, M.D.
Shawn Boehringer, Esq.
Marian Griffiths, M.D.
Brian Larson, Esq.
Gabriela Ruiz, Esq.
Paul Nathanson, Esq.
Carolina Lombardi, Esq.

Advisory Board

Gordon Bonnyman, Esq.
Shani King, Esq.
Jane Perkins, Esq.
Anne Swerlick, Esq.
Janet Varon, Esq.

May 22, 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.”

This comment letter is submitted by the Florida Health Justice Project. Our mission is helping to ensure access to health care to low income Floridians. We are writing on behalf of the residents of Florida who rely on fee-for-service (FFS) Medicaid to meet their health care needs. We are particularly concerned about how these proposed changes to the current Access Rule at 42 CFR 447.203-204 would adversely impact access to needed care for the over 500,000 Floridians who are in FFS Medicaid.

Most Florida populations who remain in FFS have complex health care needs. The current Access Rule provides important protections for these populations, which include medically fragile recipients, those with developmental disabilities and women with breast and cervical cancer, as well as dual eligibles.

As one of the states that has large managed care population (and thus would be exempt from the access monitoring under the current rule), there are vulnerable populations who still rely on FFS-- either because they are either in an exempt or voluntary population. For

example, full dual eligibles who are enrolled in DSNPs are an “excluded population” from the state’s Medicaid managed assistance. In other words, these frail individuals with serious and complex needs are **required to remain in FFS**. Thus, it is critical that FFS Medicaid access standards be monitored and strengthened—rather than gutted, as under the proposed rule.

Similarly, while thousands of Florida Medicaid child beneficiaries with developmental disabilities are not required to be in managed care (a “voluntary population”), this is an illusion because Florida’s FFS network of providers is much diminished. This lack of an adequate network forces families to enroll their children in Medicaid managed care, so they can get services essential for them to remain at home and out of an institution. For example, in Jacksonville and other parts of Florida, children needing home health services have little choice but to enroll in managed care. Again, the protections of the current rule for ensuring access should be monitored and strengthened—not gutted as under the proposed rule.

Conclusion

We urge CMS to withdraw the proposed changes and instead require the next round of Access Monitoring Review Plans to use a standardized set of data sources. This would better inform CMS and state agency decision-making, as well as stakeholder and public understanding, regarding the access implications of cutting FFS provider payment rates.

Thank you for your consideration of our comments. If you have any questions or need any further information, please contact us.

Sincerely,
s/Miriam Harmatz, Katy DeBriere

Miriam Harmatz and Katy DeBriere
Co-Executive Directors
Florida Health Justice Project, Inc.