



JAMES L. MADARA, MD
EXECUTIVE VICE PRESIDENT, CEO

ama-assn.org
t (312) 464-5000

January 26, 2015

Bruce Hinze
Senior Health Policy Attorney
Health Policy & Reform Branch
California Department of Insurance
45 Fremont Street, 24th Floor
San Francisco, CA 94105

Office of Administrative Law
Attn: OAL Reference Attorney
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Re: Provider Network Adequacy Emergency Regulation
OAL Emergency File Number: 2015-0120-03E
Department of Insurance File Number: ER-2015-00001

Dear Mr. Hinze and OAL Reference Attorney:

On behalf of the American Medical Association (AMA) and our physician and student members, I write to join our colleagues at the California Medical Association (CMA) in supporting the overwhelming majority of provisions in the Provider Network Adequacy Emergency Regulations. These regulations will establish stronger oversight and monitoring of provider networks in California, to ensure that Californians have access to the care they need.

The issue of adequacy and transparency in provider networks is a pressing one in almost every state in the nation, and one that needs immediate attention. Implementation of these regulations will place California ahead of many states in addressing some of the most significant problems patients are facing with insufficient network adequacy standards and provider directory requirements.

We strongly support the use by the Department of Insurance (the Department) of quantitative, measurable standards to assess network adequacy, including time and distance requirements and wait times standards. Additionally, the provisions contained in Section 2240.6, placing new transparency requirements on provider directories, will go a long way in helping patients make informed decisions about their health care.

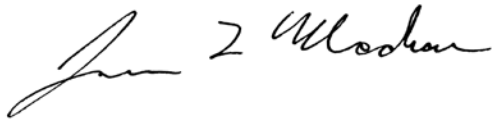
To further strengthen the regulations, we ask that you consider making the following clarifications and revisions:

- Section 2240.1(b), the AMA asks that the regulations make clear that all network adequacy standards identified in this emergency regulation apply to the lowest cost-sharing tier of any tiered network. This will help ensure that patients are able to access appropriate, affordable care, and that non-discrimination requirements outlined in section 2240.1(g) are realized.
- In Section 2240.1(g), the current language regarding tiering suggests that plans *must* develop a tiering program. We ask that you clarify that plans are not required to develop tiering programs, but if they do, then they must comply with the important requirements outlined in this section.
- In Section 2240.15(b), and throughout the proposed regulation, we ask that “substance use disorder” and “substance use disorder” providers be included in those provisions where standards are provided regarding mental health. For example, Section 2240.15(b)(5) lists mental health in several of the subsections. The addition of “substance use disorder” or “substance use disorder provider” will help ensure that patients receive these important services.
- In Section 2240.15(c), we support the use of patient and provider surveys to help assess network adequacy under a health plan; however, we think these tools would be most effective if administered not by the plan, but by the Department or an independent third party without any ties to health insurers. We ask that you consider revising this section to ensure neutrality and transparency for these surveys.
- In Section 2240.4, the AMA strongly supports greater transparency and patient access to real-time cost information. However, we have concerns about the language of this section and the patient expectations it will create. There may not be a reasonable way to anticipate the resources needed once a procedure, surgery or “episode of care” commences, as complications may arise, in-network providers may not be available when needed, and additional diagnoses and treatment decisions may be made. This language may supply patients with a false expectation of their costs and reduce the flexibility of providers to provide the best care. We recommend that this section be further studied before implementation.
- In Section 2240.7, while the AMA understands and supports the need for alternative processes to access care, we simply ask that it be clarified that alternative processes are never a substitute for network adequacy. The Department has done an excellent job in crafting meaningful oversight and enforcement provisions, and while we recognize the need for flexibility in some situations, such exceptions should be rarely needed or used. Furthermore, we request that the use of these processes be heavily monitored by the Department to ensure they are used infrequently and that they never take the place of an adequate, transparent network.

Bruce Hinze
OAL Reference Attorney
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We very much appreciate the opportunity to comment on this regulation and for your consideration of how we believe it could be strengthened further to help ensure patients access to care. If you have any questions or comments, please contact Emily Carroll, Senior Legislative Attorney, Advocacy Resource Center at emily.carroll@ama-assn.org, or (312) 464-4967 or Daniel Blaney-Koen, Senior Legislative Attorney, Advocacy Resource Center at daniel.blaney-koen@ama-assn.org, or (312) 464-4954.

Sincerely,

A handwritten signature in black ink, appearing to read "James L. Madara". The signature is written in a cursive style with a large initial "J" and "M".

James L. Madara, MD

cc: Janice Rocco, Deputy Commissioner of Health Policy
California Medical Association
Jack Resneck, Jr., MD