AMA
AMERICAN MEDICAL ASSOCIATION

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J. P. Wieske
Chair
Network Adequacy Model Review Subgroup
Jolie H. Matthews
Senior Health and Life Policy Counsel
National Association of Insurance Commissioners
701 Hall of the States
444 North Capitol Street, NW
Washington, DC 20001-1509

Re: AMA Comments on September 1 Draft of the NAIC Network Adequacy Model Bill

Dear Mr. Wieske and Ms. Matthews:

On behalf of our physician and student members, the American Medical Association (AMA) appreciates the opportunity to submit comments on the current draft of the National Association of Insurance Commissioners (NAIC) Managed Care Plan Network Adequacy Model Act #74 (the draft model act).

Technical and clarifying edits

Recognizing and respecting that subgroup members are interested at this time only in technical or clarifying edits, we have identified changes which we believe were adopted during the subgroup's meetings and not reflected in the draft, or edits that would serve to clarify the purpose of language currently in the draft model. Those edits are included in the attached document. While there are many important technical edits attached, we would like to draw your attention to the following and further clarify our suggestions:

- Section 7: The AMA strongly opposes the incorporation of Section 7 into the final model act. Rather than modeling regulation of provider payments, we encourage the NAIC regulators to make significant changes to network adequacy standards that would address the root of so-called "surprise billing" – networks that fail to ensure access to participating hospital-based physicians at participating hospitals.

  However, should the subgroup choose to include this section, we have suggested changes that serve to clarify the processes outlined. Under this section, we ask that the subgroup clarify that this provision applies only to unanticipated out-of-network charges for services received at participating facilities. We also ask that the language clarify that, if the billed charges are within the range disclosed and agreed to by the patient prior to care, the patient is responsible for those charges and the mediation process is unavailable. Finally, we hope to clarify that when a remittance is received under this section for $500

or less, excluding appropriate cost-sharing, the mediation process is unavailable and the patient is responsible for the balance. These changes would help clarify the complicated process outlined in the draft model act.

- Section 5(F)(1): The intent of the subgroup, based on the conversations between regulators and interested parties, was to support the use of telemedicine to complement in-person providers, or possibly to assist patients in rural locations where in-network providers are unavailable. Contrary to that intent, however, the current language allows telemedical providers to replace in-person providers for the purposes of meeting network adequacy standards. Therefore, we suggest clarifying the subgoup's intent by changing the language to simply and clearly say that the access plan shall describe or contain ... "The health carrier's network, including how the use of telemedicine or telehealth or other technology may be used."

AMA supports positive changes in the model act

As we near the end of the revision process, we would like to thank you for allowing for significant public debate and stakeholder participation. In the current draft model act, there are many improvements made upon the 1996 model that, if adopted by states, would help ensure patient access to care. In particular, we are pleased to have language in the draft model act that:

- Requires stronger regulation and transparency of provider directories;
- Creates a shift toward regulator evaluation of networks and a shift away from using accreditation as a "deeming" tool;
- Puts forward options for using quantitative standards to measure adequacy;
- Defines and suggests attention be paid to tiered networks to prevent discriminatory network designs;
- Increases focus on access to appropriate specialty care, including pediatric specialty care; and
- Requires transparency in carriers' selection and tiering criteria used to build networks.

AMA to continue to advocate for critical changes

As the subgroup completes a final review of the model act and the Regulatory Framework Taskforce and Managed Care (B) Committee considers a draft model act for adoption, we plan to continue to advocate for important changes to the final NAIC network adequacy model act, including:

- The removal of Section 7 to prevent an undermining of fair contracting principles and the creation of disincentives for insurers to contract with physicians. The AMA is disappointed that

the subgroup chose to narrowly focus on payments to non-participating provider as a solution to so-called "surprise billing," rather than attempting to correct the source of such billing – inadequacies in the way networks are structured. The AMA will continue to strongly advocate for network adequacy standards that ensure all networks are coordinated to provide access to participating health care providers at participating hospitals.

- A requirement that tiered networks meet all network adequacy requirements with the lowest cost-sharing tier. The AMA believes this is a critical step in preventing discriminatory network design and cost-shifting onto patients.

- Clarification that telemedicine should not be used to replace in-person providers, but instead as a potentially valuable addition to a network that meets all adequacy requirements with its in-network providers.

- A requirement of prior approval of an insurer's access plan by a regulator. This active approval of networks prior to going to market is a critical component of regulating networks and ensuring that patients purchase products that will provide access to all covered services.

- Specific requirements that insurers meet clear, measureable standards established by law or regulation when evaluating networks to ensure patients can trust that they will receive maximum value for their premium dollars.

We look forward to continuing to work with you and your colleagues to create the best model for states to address the important issue of network adequacy. As always, please contact Daniel Blaney-Koen, JD, Senior Legislative Attorney, Advocacy Resource Center, at daniel.blaney-koen@ama-assn.org or (312) 464-4954, or Emily Carroll, JD, Senior Legislative Attorney, Advocacy Resource Center, at emily.carroll@ama-assn.org or (312) 464-4967 with any questions.

Sincerely,

James L. Madara, MD

Attachment