



2019 HEALTH
MEETING

JUNE 24-26 | PHOENIX, AZ



Session 30, Medicaid Final Rule Updates

[SOA Antitrust Disclaimer](#)

[SOA Presentation Disclaimer](#)

Medicaid Final Rule (Proposed!) Updates

Session 30 – June 24, 2019 – 1:45pm

SOA Health Meeting | June 2019



Society of Actuaries

Antitrust compliance guidelines

Active participation in the Society of Actuaries is an important aspect of membership. While the positive contributions of professional societies and associations are well-recognized and encouraged, association activities are vulnerable to close antitrust scrutiny. By their very nature, associations bring together industry competitors and other market participants.

The United States antitrust laws aim to protect consumers by preserving the free economy and prohibiting anti-competitive business practices; they promote competition. There are both state and federal antitrust laws, although state antitrust laws closely follow federal law. The Sherman Act, is the primary U.S. antitrust law pertaining to association activities. The Sherman Act prohibits every contract, combination or conspiracy that places an unreasonable restraint on trade. There are, however, some activities that are illegal under all circumstances, such as price fixing, market allocation and collusive bidding.

There is no safe harbor under the antitrust law for professional association activities. Therefore, association meeting participants should refrain from discussing any activity that could potentially be construed as having an anti-competitive effect. Discussions relating to product or service pricing, market allocations, membership restrictions, product standardization or other conditions on trade could arguably be perceived as a restraint on trade and may expose the SOA and its members to antitrust enforcement procedures.

While participating in all SOA in person meetings, webinars, teleconferences or side discussions, you should avoid discussing competitively sensitive information with competitors and follow these guidelines:

- **Do not** discuss prices for services or products or anything else that might affect prices
- **Do not** discuss what you or other entities plan to do in a particular geographic or product markets or with particular customers.
- **Do not** speak on behalf of the SOA or any of its committees unless specifically authorized to do so.
- **Do** leave a meeting where any anticompetitive pricing or market allocation discussion occurs.
- **Do** alert SOA staff and/or legal counsel to any concerning discussions
- **Do** consult with legal counsel before raising any matter or making a statement that may involve competitively sensitive information.

Adherence to these guidelines involves not only avoidance of antitrust violations, but avoidance of behavior which might be so construed. These guidelines only provide an overview of prohibited activities. SOA legal counsel reviews meeting agenda and materials as deemed appropriate and any discussion that departs from the formal agenda should be scrutinized carefully. Antitrust compliance is everyone's responsibility; however, please seek legal counsel if you have any questions or concerns.

Presentation Disclaimer

Presentations are intended for educational purposes only and do not replace independent professional judgment. Statements of fact and opinions expressed are those of the participants individually and, unless expressly stated to the contrary, are not the opinion or position of the Society of Actuaries, its cosponsors or its committees. The Society of Actuaries does not endorse or approve, and assumes no responsibility for, the content, accuracy or completeness of the information presented. Attendees should note that the sessions are audio-recorded and may be published in various media, including print, audio and video formats without further notice.

Today's presenters

Presenters



Mike Nordstrom, ASA, MAAA, Mercer GHSC

- Partner and Actuarial/Financial (A/F) Sector Leader for Mercer Government. A/F includes ~ 50 Credentialed Actuaries and 50 Actuarial Students.
- Health care actuarial work for 30+ years, the last ½ devoted exclusively to Medicaid and CHIP.
- Direct actuarial lead consulting and certifications to 7 state programs, non-lead work with multiple other states.
- Chair of the American Academy of Actuaries Medicaid Subcommittee since 2010, and Member of the Academy's Health Practice Council.
- Member of the Actuarial Standards Board's Task Force that developed the Actuarial Standard of Practice on Medicaid Managed Care Rate Setting and Certification – ASOP 49.



Jared Simons, ASA, MAAA, Centene

- Director, Actuarial Services – Medicaid for Centene supporting operations in 5 state programs.
- 13 years of health care actuarial work, focused on Medicaid Managed Care for the last 7+ years.
- Medicaid experience includes both certifying rates for state programs and supporting MCO operations.
- Member of the American Academy of Actuaries Medicaid Subcommittee.



Ernest Jaramillo, ASA, MAAA, Salud Actuarial Consulting

- Partner and Founder of Salud Actuarial Consulting – a Phoenix based health actuarial consulting firm.
- 15 years of health actuarial work including time with a health plan, and as a consultant representing states, health plans, and provider groups.
- Reviewer of Medicaid managed care rate certifications, including acute, BH, LTC, NEMT, and PACE programs across the US.
- Lead actuary on multiple capitation rate development engagements for acute, LTC and NEMT programs.
- Consultant to states, health plans, and provider systems on actuarial issues including but not limited to managed care ratesetting, federal MLR requirements, pass-through payments, and value-based purchasing arrangements.
- SOA/MAAA volunteer since 2008.

- Goals

- Brief Recent History of Medicaid Actuarial Guidance
- Proposed Changes and Comments
- Additional Stakeholder Perspectives
- Question & Answer

Goals



Familiarize audience with monitoring of proposed/actual rule changes



Discuss key actuarial issues in proposed rule changes



Share some additional points from other stakeholders



Note: Proposed rule changes at this point, stakeholder recommendations may in part or in whole be implemented into the Final Rule update

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Brief Recent History of Medicaid Actuarial Guidance



2019-2020 Medicaid Managed Care Rate Development Guide



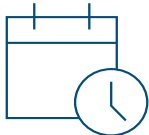
Final Rule: Medicaid and CHIP Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability 05/06/2016



Actuarial Standard of Practice (ASOP) No. 49 “Medicaid Managed Care Capitation Rate Development and Certification”



Health Practice Council Practice Note, *August 2005, Actuarial Certification of Rates for Medicaid Managed Care Programs*

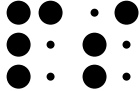


Appendix A. PAHP, PIHP and MCO Contracts, Financial Review Documentation for At-risk Capitated Contracts Ratesetting

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Proposed Changes and Comments



Actuarially Sound Capitation Rates

Special Payment Provisions

Other

Hey CMS, not in your proposed changes, but...

- FFP Rate Variation
- Rate Range Option
- +/- 1.5%
- Data/Information Submission

- Risk Sharing Mechanisms
- State Directed Payments
- Pass-through Payments

- MLR

- Social Determinants of Health
- Payment for Value/Outcomes
- Withhold Arrangements

Key Discussion Items

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Actuarially Sound Capitation Rates

FFP RATE VARIATION

Prohibitions for Capitation Rate Development

+/- 1.5%

Documentation

De Minimus Range Size

RATE RANGE OPTION

5% Limit

Document Criteria

Costs Not Common

IGTs

DATA/INFORMATION SUBMISSION

Sub-Contracted Arrangements

- *Allowed/Paid*
- *Non-standard Payment Structure*
- *Contract Updates*
- *Documentation*

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Special Payment Provisions/Other

RISK SHARING

Timing of Agreements

Modifications

Narrowly Focused Situations

STATE DIRECTED PAYMENTS

State Plan Approved Rate vs. Supplemental Payment

Approval Process

Approval Timeframes

PASS-THROUGH PAYMENTS

Provider Type vs. Provider Class

MEDICAL LOSS RATIO

Value-Added Services

Rebate Calculation

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Hey CMS, not in your proposed changes, but...

SOCIAL DETERMINANTS OF HEALTH

Establish Workgroup to Assess

PAYMENT FOR VALUE/OUTCOMES

Payment Structure Flexibility

WITHHOLD ARRANGEMENTS

Achievable Withhold
Withholds & health plan financial operating needs

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Additional Stakeholder Perspectives

MACPAC

Directed Payments/Pass-through Payments

Network Adequacy

Payment for In-lieu-of Services in IMDs

NAMD

Cost Shifting to the Federal Government

Rate Ranges

Risk Sharing Arrangements

New Options for Directed Payments

Pass-through Payment Transition Period

AHIP, MHPA, ACAP, ACHP, NMLTSSHPA

Rate Range Option, 5% Width

Rates that Vary by FFP

Risk Sharing Mechanisms

Rate Certification Submission

MLR Standards

AMA, AHA, ADA/AAPD

Adherence to Capitation Rate-setting Safeguards

IMDs and SUD Treatment

Pass-through Payments/Directed Provider Payments

Use of Dental Commercial Plans Utilization Data

Note: Comment letters can be found at <https://www.regulations.gov/docket?D=CMS-2018-0140>

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