Highmark's Weekly Capitol Hill Report

Issues for the week ending May 31, 2024

Federal Issues

Regulatory

AHIP Responds to CMS Medicare Advantage Data RFI

AHIP submitted comments in response to CMS's Medicare Advantage (MA) Data Request for Information (RFI).

Why this matters: AHIP's letter emphasized the MA program is transparent for beneficiaries, policymakers, researchers, and other stakeholders. AHIP highlighted recent efforts by CMS to improve data collection and called on the agency to report more data comparisons of MA and FFS. AHIP also asked CMS to evaluate the comprehensive landscape of MA data before considering additional reporting that could duplicate or otherwise impose unnecessary costs to the program. Finally, AHIP provided specific recommendations for CMS to increase transparency further and enhance the ability of stakeholders to assess policy options.

Go Deeper: Read AHIP's comments here

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2024 Gag Clause Prohibition Compliance Attestation Documents Released

The Centers for Medicare & Medicaid Services, in collaboration with the Departments of the Treasury and Labor, have updated system features for the Gag Clause Prohibition Compliance Attestations (GCPCA), via the portal. In addition, they posted the following materials:

- 2024 Instructions, available here.
- 2024 User Manual, available here.
- 2024 Template, available here.

Why this matters: Group health plans and health insurance issuers offering group or individual health insurance coverage must annually submit a GCPCA to the Departments. GCPCAs are due by December 31 of each year. A GCPCA is an attestation of compliance with Internal Revenue Code section 9824, Employee Retirement Income Security Act section 724, and Public Health Service Act section 2799A-9, as applicable, which was added by the Consolidated Appropriations Act (2021). These provisions generally prohibit plans and issuers from entering into an agreement with a health care provider, network or association of providers, third-party administrator, or other service provider offering access to a network of providers that would directly or indirectly restrict a plan or issuer from providing, accessing, or sharing certain information related to cost or quality of care or de-identified claims and encounter information. More information is available here. Please note that the instructions on the CMS site are still outdated – only the EBSA link above has the more updated version of the instructions.

CMS Issues Update to Spousal Impoverishment Standards

The Centers for Medicare & Medicaid Services (CMS) issued an informational bulletin providing updates on the 2024 Supplemental Security Income (SSI) and Spousal Impoverishment Standards.

Why this matters: SSI provides monthly payments to adults and children who have income and resources below specific financial limits and who are either 65 or older, blind, or have a medical condition that keeps them from working. The spousal impoverishment standards were designed for elderly couples dealing with the high expense of nursing care. Specifically, the spousal impoverishment standards protect a certain amount of the couple's combined resources for the spouse living in the community to ensure that community spouses are able to live out their lives with independence and dignity.

The minimum monthly maintenance needs allowance (MMMNA), effective July 1, 2024, will be $2,555 in all states except Alaska and Hawaii. In Alaska, the MMMNA will be $3,192.50, and in Hawaii, it will be $2,937.50. For reference, the MMMNA for 2023 was $2,465 for all states except Alaska and Hawaii. The community spouse monthly housing allowance, also effective July 1, 2024, will be $766.50 (up from $739.50 in 2023) in all states except Alaska and Hawaii. In Alaska, it will be $957.75, and in Hawaii, it will be $881.25. The Consumer Price Index increase for SSI in 2024 will be 3.7%, compared to 8.2% in 2023. Read More

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CMS Releases Updates to Annual Guidance on Medicaid, CHIP Core Set Reporting

CMS released a State Health Official (SHO) letter which notifies states of updates for mandatory annual state reporting of the Core Set of Children's Health Care Quality Measures for Medicaid and CHIP (Child Core Set) and the behavioral health measures on the Core Set of Adult Health Care Quality Measures for Medicaid (Adult Core Set).

Why this matters: The letter includes guidance on mandatory reporting regulations; core set measures; populations and the population exemption process; stratification categories; measures subject to stratification; and annual updates to the 2025 Child and Adult Core Sets. Read More

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CMS Extends State Reporting Requirements Related to Medicaid and CHIP Redeterminations

The Centers for Medicare & Medicaid Services (CMS) has published a State Health Official (SHO) letter that extends the requirement for state reporting of certain Medicaid and CHIP redetermination data beyond the current reporting deadline.

The Consolidated Appropriations Act, 2023 required state reporting of specified data on eligibility renewals on a monthly basis through June 30, 2024. The SHO discusses the various ways such data have provided benefits such as improved monitoring and program operations, and the importance of continued visibility into these areas.

What's New: CMS announced that it is requiring data reporting to generally continue for renewal actions that occur on or after July 1, 2024, along with continued reporting of state fair hearing requests that have been pending for more than 90 days. However, reporting will end for certain metrics when they are no longer applicable or relevant to CMS's monitoring efforts (e.g., when states have processed all applications pending before the beginning of unwinding). In addition, CMS indicated that it intends to continue publicly reporting renewal and other data related to eligibility and enrollment, although the agency may consider changes to such public reporting.

CMS Issues Part D MPPP Model Documents and Other Related Materials for Second Comment Opportunity

The Centers for Medicare & Medicaid Services (CMS) issued a Federal Register notice (89 FR 46122, 5/28/24), and related Paperwork Reduction Act (PRA) materials on model documents related to the Part D Medicare Plan Payment Program (MPPP). **The model materials are:**

- Medicare Prescription Payment Plan Likely to Benefit Notice
- Medicare Prescription Payment Plan Participation Request Form
- Part D Sponsor Notice to Acknowledge Acceptance of Election in the Medicare Prescription Payment Plan
- Part D Sponsor Initial Notice for Failure to Make Payments under the Medicare Prescription Payment Plan
- Part D Sponsor Notice for Failure to Make Payments under Medicare Prescription Payment Plan - Notification of Termination of Participation in the Medicare Prescription Payment Plan
- Part D Sponsor Notification of Voluntary Removal from the Medicare Prescription Payment Plan

CMS states that in response to comments received during the 60-day comment period, the agency has revised the forms to increase readability and plain language and has added instructions to each model notice, explaining the purpose of the notice and specifying which elements may be tailored by plan sponsors.

Comments on the PRA package are due to OMB by June 27.

CMS Releases Infographic on Medicaid and CHIP Maternal Health

CMS released an infographic detailing the maternal health of Medicaid and CHIP beneficiaries.

Why this matters: In 2021, Medicaid financed 41% of U.S. births, with more than one in four beneficiaries being females of reproductive age. The infographic highlights the demographics, health status, and healthcare utilization of beneficiaries seeking pregnancy-related care. Notably, severe maternal morbidity and maternal mortality rates are disproportionately higher among Black non-Hispanic/Latino mothers. According to all-payer data from 36 states, the leading underlying cause of pregnancy-related deaths between 2017 and 2019 was behavioral health conditions, including substance use disorders.

CMS reiterates its support for state efforts to extend postpartum Medicaid coverage to 12 months, aiming to improve maternal and infant health outcomes. The report underscores the importance of timely prenatal and postpartum care, access to maternity care providers, and the impact of chronic conditions and behavioral health on maternal health. Read More

State Issues

New York

Legislative

2024 End of Legislative Session Update

With lawmakers looking at a scheduled June 6 ending for the 2024 Legislative Session, activity on bills is picking up. Last week lawmakers gave final approval to a number of bills of interest to plans including:

- **Breast Cancer Tattooing Mandate (A.5729-A (Paulin)/S.6146-A (Cleare))** – The bill requires insurers to cover tattooing as part of breast reconstruction surgery.
- **Epi-pen Cost Sharing (A.6425-A (O'Donnell)/S.7114-A (Rivera))** – This bill requires health insurance plans to provide coverage for epinephrine auto-injector devices (epi-pens) and caps the cost to an insured at $100/year.
- **Breast Milk Donor Mandate (S.6674-A (Hoylman-Sigal)/A.7790-A (Solages))** – The legislation expands New York's existing law requiring coverage for human donor milk to newborns and infants. Currently, coverage for the cost of donor milk for an infant is required while the baby is in the hospital. This bill expands coverage to after they leave the hospital.
- **Donate Life Registry Amendment (A.9564-B (Gunther) /S.8749-B (Breslin))** – The legislation amends the effective date of the requirements for insurers to include space on enrollment or renewal forms for insureds or applicants to register or decline registration in the donate life registry. The bill changes the effective date from June 23, 2024 to January 1, 2026.

Regulatory

1332 Waiver Amendment Released

New York last week released a draft amendment for its approved 1332 Waiver that expands the state's Essential Plan.

Why this matters: The amendment details how the state will implement the provisions in the recently approved FY25 Budget that reduce or eliminate cost sharing for New Yorkers buying Qualified Health Plan (QHP) coverage. The provisions include expanding the availability of Cost Sharing Reduction (CSR) assistance for individuals with incomes up to 400% of the federal poverty level, and eliminating cost sharing for diabetes care as well as pregnancy and post-partum services.

Plans would be reimbursed for these costs using federal passthrough funding, starting January 1, 2025 through the end of the waiver period on December 31, 2028. The NY State of Health will be accepting written comments on the proposed waiver amendment, with the comment period running from May 28, 2024 through June 27, 2024.

NYSOH will also provide a status update on the waiver and receive comments at two upcoming virtual public forums, to be held on Wednesday, June 12, 2024 at 2:00 p.m. (register here), and Friday, June 14, 2024 at 9:00 a.m. (register here).

2025 ACA Applications Posted

The Department of Financial Services on Friday, May 31 posted the rate application for the 2025 plan year, with a proposed average rate increase of 16.6% for the individual market and 18.6% for small group policies. The posting of rate applications triggers the 30-day public comment period and the requirement for plans to send initial rate notices to policy holders, with DFS indicating these notices should be sent no later than close of business, Friday, June 7.

State Issues

Pennsylvania

Regulatory

Pennsylvania's Health Insurance Exchange Authority (Pennie) Proposes Health Equity Accreditation for All Insurers Participating on the Exchange

On May 25 Pennie published in the *Pa. Bulletin* a proposed regulation requiring all insurers who participate on the state-based exchange to obtain Health Equity Accreditation (HEA). The Exchange Authority is the State-affiliated entity that operates the Commonwealth's State-based health insurance marketplace.

Why this matters: According to the proposed rule, the Exchange Authority hopes that the HEA requirement will lead to better health outcomes for historically marginalized communities by requiring insurers to use race and ethnicity data for quality measurement. By requiring HEA, the Exchange Authority anticipates a decrease in health inequities among those who purchase qualified plans through Pennie, and an increase in enrollment among underserved populations.

Failure to comply with the provisions of this chapter will subject an insurer offering qualified plans through the Exchange Authority to referral to the Department for enforcement in accordance with 40 Pa.C.S. § 9702 (relating to enforcement) and any other penalty provided by law.

The proposed rulemaking will become effective immediately upon final-form publication in the Pennsylvania Bulletin. The Exchange Authority will monitor the effectiveness of the regulation every other year. Therefore, no sunset date has been assigned.

Questions or comments regarding the proposed rulemaking may be addressed in writing to PennieRegulations@pennie.com within 30 days of the publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Industry Trends

Policy / Market Trends

Administration Announces National Strategy for Maternal Mental Health

This month, the U.S. Department of Health and Human Services (HHS) announced a national strategy to address the urgent public health crisis of maternal mental health and substance use issues. The recommendations were developed by the Task Force on Maternal Mental Health.

Purpose: The United States has the highest maternal mortality rate among high-income countries. Suicide, drug overdoses, and other causes related to mental health and substance use issues are the leading cause of pregnancy-related deaths in the U.S., accounting for more than 22% of deaths. The Report to Congress and accompanying National Strategy to Improve Maternal Mental Health Care are integral to the federal effort to address women's overall health, and maternal health across the nation.

The five pillars of the national strategy focus on:

- Building a national infrastructure that prioritizes perinatal mental health and well-being, with a focus on reducing disparities.
- Making care and services accessible, affordable, and equitable.
- Using data and research to improve outcomes and accountability.
- Promoting prevention and engaging, educating, and partnering with communities.
- Amplifying the voices of people with lived experience.

Go Deeper: Read more about the national strategy here.

Interested in reviewing a copy of a bill(s)? Access the following web sites:

Delaware State Legislation: **http://legis.delaware.gov/.**
New York Legislation: **https://nyassembly.gov/leg/**
Pennsylvania Legislation: **www.legis.state.pa.us.**
West Virginia Legislation: **http://www.legis.state.wv.us/**
For copies of congressional bills, access the Thomas website – **http://thomas.loc.gov/.**