



THE AMERICAN CONGRESS
OF OBSTETRICIANS
AND GYNECOLOGISTS

December 16, 2014

Marilyn Tavenner, Administrator
Centers for Medicare & Medicaid Services
200 Independence Ave., SW
Washington, DC 20201

Dear Administrator Tavenner:

The American Congress of Obstetricians and Gynecologists (ACOG) represents over 58,000 members nationally and the Arizona Section of the American Congress of Obstetricians and Gynecologist represents over 550 practicing obstetrician gynecologists (ob-gyns). As physicians dedicated to providing quality care to women, both nationally and in the State of Arizona, we welcome the opportunity to comment on the amendment to the 1115 Waiver for Arizona's Expansion population.

ACOG and the Arizona Section commend Governor Brewer and her administration for expanding Medicaid. However, the proposed copayments and premiums could jeopardize access to care and penalize ob-gyns. Any gains in coverage for low-income women and families should not be achieved by eroding essential services. We urge the Centers for Medicare and Medicaid Services (CMS) to deny the request for a waiver amendment.

Premiums

The waiver application proposes premium amounts of 2% of the individual's household income. An individual with a household income at 100% of the federal poverty level (FPL) earns \$972 per month (\$11,670 annually) and would be required to pay \$19 per month under the proposed amendment. The amendment application makes no mention of what penalties, if any, will be levied on enrollees who do not pay their premiums. We are concerned about the imposition of a lock-out provision. Unlike private insurance, Medicaid is an entitlement program, and payment of contributions should not be a condition of eligibility. Disenrollment of our patients from the Medicaid program inhibits our ability as physicians to provide uninterrupted care as well as receive appropriate reimbursement.

ACOG recommendation: Deny the request to impose premiums on Medicaid expansion enrollees.

Copayments

Cost-sharing for medical and pharmacy services. The waiver amendment application proposes enacting all federally allowed cost-sharing on Medicaid expansion enrollees. We are concerned that any cost-sharing will limit women's access to care. Women are particularly vulnerable

because of their increased health care needs.¹ Women who qualify for this program are of limited means and paying co-pays may be financially burdensome. Women who are required to pay out-of-pocket costs will either not seek care or be unable to pay co-pays for the services they receive.² We are also concerned that there are no details provided about the federally-required process Arizona must use to track whether participants have met their monthly or quarterly aggregate limit of 5% of household income, either monthly or quarterly, for premiums and cost-sharing.³ Because the application amendment indicates that any and all cost-sharing options will be pursued, it is likely that some participants will hit aggregate limits when cost-sharing requirements are combined with monthly premiums.

ACOG recommendation: Deny the request to impose all federally allowed cost-sharing.

Cost-sharing for non-emergency use of the emergency department. We are also concerned by two proposals to charge enrollees copayments for “non-emergency” use of a hospital emergency department 1.) if they are not admitted as an inpatient and 2.) if a community health center, rural health center, or urgent care center is located within twenty miles of the hospital. Research demonstrates that while Medicaid enrollees do seek care more frequently in the ED, they are not seeking care inappropriately.^{4,5} The proposed cost-sharing would not deter non-emergency use of the ED; instead, it would deter all use of the ED among Medicaid expansion enrollees. Rather than penalizing Medicaid enrollees who utilize the emergency department (ED), ACOG supports efforts to increase access to primary care like those described in the Centers for Medicaid and CHIP Services (CMCS) Informational Bulletin on Reducing Nonurgent Use of the Emergency Department and Improving Appropriate Care in Appropriate Settings.⁶

First, the proposed copayment amount of \$200 is twenty-five times greater than what is allowed in federal regulation.⁷ As noted above, women in Medicaid expansion are of limited means and may avoid seeking any care if it means they must pay such exorbitant copays. This could result in catastrophic outcomes for women who are deterred from seeking medically necessary care in an emergency.

Second, lack of admission to an inpatient unit is not an appropriate measure of what is a medical emergency. As ob-gyns, we sometimes send patients who present in our offices to the emergency department for various conditions, such as vaginal bleeding, abdominal pain, chest pain, or respiratory problems, because we cannot treat them in our offices. These conditions may or may not result in an admission to an inpatient unit, but that does not make them any less of a

¹ Kaiser Family Foundation. Women and Health Care in the Early Years of the Affordable Care Act: Key Findings from the 2013 Kaiser Women’s Health Survey. May 2014.

² Ibid.

³ 42 CFR 447.56 requires that state agencies may not impose more than 5% in cost-sharing and premiums, either monthly or quarterly, and must have a process in place to track whether participants are going to hit the limit if participants are at-risk of doing so. Participants and providers must also receive notification when the limit has been reached.

⁴ Garcia et al. 2010. Emergency Department Visitors and Visits: Who Used the Emergency Room in 2007? CDC, NCHS Data Brief No 38.

⁵ Sommers et al. 2012. Dispelling Myths About Emergency Department Use: Majority of Medicaid Visits Are for Urgent or More Serious Symptoms. Center for Studying Health Systems Change.

⁶ CMCS Information Bulletin. Reducing Nonurgent Use of the Emergency Department and Improving Appropriate Care in Appropriate Settings. Released January 16, 2014.

⁷ 42 CFR 447.54 limits copayments for non-emergency use of a hospital emergency department to \$8 for individuals with household incomes under 150% of the federal poverty level.

medical emergency. Our patients should not be penalized for our exercise of appropriate medical judgment.

Third, a hospital's proximity to another health care facility is not an appropriate indication of access to care. Not every urgent care facility, rural health clinic, and community health clinic is open every hour of the day and emergencies can occur at any time throughout the day. The proposed amendment ignores these realities. Further, it ignores the fact that some patients do not have control over where they go because they are brought to the nearest emergency department by emergency transportation. If a Medicaid participant believes that she needs emergency medical attention, she should be allowed to go to the closest medical facility without financial penalties.

ACOG recommendation: Limit copayments to the federally-approved amount for non-emergency use of an emergency department and base the criteria for imposing a copayment on the prudent layperson standard for determining medical emergencies.

Thank you for the opportunity to provide comments on Arizona's Medicaid Expansion 1115 Demonstration Waiver amendment request. To discuss these recommendations further, please contact Ilana Addis, MD, MPH, FACOG at (520) 626-6591 or iaddis@obgyn.arizona.edu or Elizabeth Wieand, ACOG Health Policy Analyst, at (202) 863-2544 or ewieand@acog.org.

Sincerely,



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