



February 1, 2020

Ms. Seema Verma
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-2393-P Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-8016

Submitted electronically via www.regulations.gov

RE: Medicaid Program; Medicaid Fiscal Accountability Regulation [CMS-2393-P]

Dear Administrator Verma,

The American Network of Community Options and Resources (ANCOR) is a national, nonprofit trade association representing more than 1,600 private community providers of services to people with disabilities. Combined, we support over one million people with disabilities, and work to shape policy, share solutions and strengthen the community. Our members rely on Medicaid resources to provide services that support the health, welfare and quality of life for those we serve. ANCOR appreciates the opportunity to provide comments on the Centers for Medicare & Medicaid Services' (CMS') proposed rule, the Medicaid Fiscal Accountability Regulation (MFAR), published in the *Federal Register* on November 18, 2019.

While ANCOR supports the stated goals of ensuring that Medicaid resources are expended consistent with federal requirements and standards related to quality, economy, and efficiency, as well as the focus on transparency, we also have concerns that **the rule could result in substantial reductions in Medicaid funding in many states, which will put programs and people at risk. We are also deeply concerned that the response by states to less funding might be to cut existing services.** The risk to Home and Community Based Services is great. While these services are critical to the I/DD population, they are still regrettably classified as "optional" rather than "mandatory." Medicaid is an essential source of support for people with disabilities, yet providers of these services operate with little to no margin or wiggle room. Reimbursement rates are inadequate, as evidenced by an astonishingly high Direct Support Professional (DSP) turnover rate of 51.3% nationally. Any loss of funding in the overall Medicaid program would jeopardize disability service providers' ability to ensure the continued delivery of critically important services and supports.

As it may reduce overall Medicaid funding available in the states, the rule simultaneously expands state administrative burden. For example, to utilize publicly-funded resources for administrative tasks such as developing quarterly reports on supplemental payments and annual reports on provider-level payments delineated by funding source, may require both state agencies and providers to expend their limited resources on these activities, instead of focusing on improving quality of services and ensuring program integrity. CMS should ensure that additional reporting requirements are also aligned with efficiency, as well as the ability of states and providers to report information without reducing resources needed for service delivery.

The rule also does not make clear how CMS will interpret distinctions between “supplemental payments” as defined, and incentive or value-based payments not based upon individual encounters, those payments that are intended to encourage and promote quality outcomes. As states and providers seek to expand the currently limited spectrum of value-based purchasing options and initiatives in long-term services and supports, CMS should **ensure the proposed rule does not discourage innovation and curtail these reform efforts.**

Finally, the rule is likely to have a significant financial impact in many state Medicaid programs, driven by the restrictions on supplemental payments, reductions in the options for states to generate matching funds, and limits on the use of intergovernmental transfers (IGTs), certified public expenditures (CPEs), and health-related taxes. Yet it is unclear exactly what the effect will be in each state, and many stakeholders – including the provider members of ANCOR -- cannot analyze the specific impact in each state to their organizations absent additional information. In the rule, CMS states that “the fiscal impact on the Medicaid program from implementation of the policies in the proposed rule is unknown.” With so much at stake, it seems prudent for CMS to seek to better understand the possible effects of the proposed rule on states, providers, and the people who depend upon Medicaid. As such, we would respectfully ask CMS to:

- consider completing a full and robust analysis on a state-by-state basis;
- publish this impact study; and
- allow for comments on the regulation based upon this analysis prior to finalizing this sweeping rule.

Again, we appreciate the opportunity to offer our perspective on this regulation.

Sincerely,

Shannon McCracken
Vice President of Government Relations