November 19, 2015

Dear Mr. Cameron:

The National Association of Insurance Commissioners (NAIC) is reviewing issuers’ compliance with the definition of quality improvement activities as well as making recommendations to the Secretary of the U.S. Department of Health and Human Services (HHS) on how the definition may be improved. The Centers for Medicare and Medicaid Services (CMS) uses the definition developed by the NAIC to inform their definition of quality improvement activities for the purposes of reporting and calculating Medical Loss Ratio (MLR). The Association for Community Affiliated Plans (ACAP) thanks the NAIC MLR Quality Improvement Activities Subgroup for providing us with an opportunity to comment on how the definition of quality improvement activities can be further improved.

ACAP is an association of 61 not-for-profit and community-based Safety Net Health Plans (SNHPs) located in 24 states. Our member plans provide coverage to approximately 15 million individuals enrolled in Medicaid, the Children’s Health Insurance Program (CHIP) and Medicare Special Needs Plans for dually-eligible individuals. Nationally, ACAP plans serve roughly one-third of all Medicaid managed care enrollees. Eighteen of ACAP’s Safety Net Health Plan members have elected to offer qualified health plans (QHPs) in the Marketplaces in 2015.

Our specific positions on the quality improvement definition follow:

1. Many of the ACAP plans participating in the Marketplaces entered the market to serve members who “churn,” or move back and forth, between Medicaid and subsidized Marketplace coverage. ACAP plans, for their Medicaid Managed Care line of business in particular, frequently provide non-traditional, patient-centered services that are not listed in the benefit package or considered a state service to improve care and reduce costs. A classic example is providing air conditioning units to individuals with asthma or congestive heart failure, which has been demonstrated to reduce emergency department and inpatient utilization, save money, and improve health outcomes. For low-income populations with complex needs, non-medical expenditures can keep individuals in their homes, improve patient choice, and reduce costs associated with more-intensive health care services. Although these services were not traditionally associated with commercial-type insurance, Safety Net Health Plans may still provide these services to their low-income Marketplace members to ensure continuity of care between programs.

ACAP recommends that another activity be added to the “improve health outcomes” category that would include care coordination and case management activities, including those directed at addressing social determinants of health, promoting patient engagement and assisting enrollees in improving self-sufficiency.
2. Similarly, non-emergency medical transportation or NEMT, is required to be provided to any Medicaid enrollee who is in need of the service. As beneficiaries transition from Medicaid to Marketplace coverage, Safety Net Health Plans may choose to continue offering this service to their members to provide continuity between programs as well as increase access by ensuring members can get to their needed medical primary and specialty care appointments and decreasing usage of unnecessary emergency transportation.

   *ACAP therefore recommends that non-emergency transportation also be included as an activity in the “improve health outcomes” category.*

3. ACAP has concerns regarding the following language in the NAIC’s overarching definition of improving health care quality expenses:

   “Qualifying QI expenses should be grounded in evidence-based medicine, widely accepted best clinical practice or criteria issued by recognized professional medical societies, accreditation bodies, government agencies or other nationally recognized health care quality organizations.”

   *We do not believe that this language is broad enough to include the kinds of activities described above as well as promising and emerging quality activities and therefore request that the NAIC modify this language to do so.*

4. ACAP supports that health promotion activities, including communications related to such activities, are included under the “wellness and health promotions activities” category. SNHPs often undertake these activities as part of their overall mission to improve the health status of the communities within which they operate. We do believe though that the definition should specify that costs associated with enrollee incentive activities, to the extent that they are quality-improvement-related (such as providing a gift card when a pregnant woman goes to her prenatal visits), are included under this category.

   *We recommend clarifying that costs associated with calculating and administering enrollee incentives be included under the “wellness and health promotions activities” category.*

5. Lastly, excluding fraud prevention activities from the quality definition seriously understates the value of proactive fraud and abuse avoidance efforts as a quality-related activity. Aiming to ensure that everyone gets the most out of the health care system by focusing on decreasing wasteful spending and avoiding potentially harmful activities such as unnecessary or duplicative services, has a direct relationship to improving health outcomes. Moreover, limiting fraud and abuse expenses to amounts recovered for the purposes of calculating MLR could be detrimental to the continuation of cost-effective, cost avoidance activities that have a direct bearing on eliminating fraud, waste, and abuse associated with quality of care issues.

   *ACAP urges the NAIC to include fraud prevention activities in the “improve health outcomes” category.*

Sincerely,

Margaret A. Murray
CEO