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June 28, 2023

Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
200 Independence Ave SW  
Washington, DC 20001

Submitted Electronically at [www.regulations.gov](http://www.regulations.gov)

Re: Medicaid Program; Ensuring Access to Medicaid Services (CMS–2442–P)

Dear Administrator Brooks-LaSure,

I am pleased to submit these comments on behalf of the Association for Clinical Oncology (ASCO) in response to the Ensuring Access to Medicaid Services proposed rule (CMS–2442–P) that was published in the Federal Register on May 3, 2023.

ASCO is a national organization representing more than 45,000 physicians and other health care professionals specializing in cancer treatment, diagnosis, and prevention. We are also dedicated to conducting research that leads to improved patient outcomes, and we are committed to ensuring that evidence-based practices for the prevention, diagnosis, and treatment of cancer are available to all Americans.

We are pleased to offer our comments below.

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*Promoting Public Engagement in State Medicaid Programs Using Medical Care Advisory Committees and Beneficiary Advisory Groups*

The proposed rule strengthens how states use state Medical Care Advisory Committees, renamed Medicaid Advisory Committees (MAC), and separately creates a new Beneficiary Advisory Group (BAG). The rule proposes to expand the scope of the MACs and requires states to establish a beneficiary-only group that feeds into the broader MAC. The MAC would advise the State on issues related to health and medical services, policy development, and effective administration of the Medicaid program, consistent with the requirement that States must meaningfully engage Medicaid beneficiaries and other low-income people in the administration of the plan. CMS is also proposing minimum

requirements for Medicaid beneficiary and caregiver representation on the Committee.

**ASCO supports CMS’ proposal to require states to establish and maintain a beneficiary advisory group and offer direct input to the MAC on how to improve access to covered services, coordination of services, and health equity.**

As demonstrated in other public programs for low-income individuals, Financial Alignment Initiative and Programs of All-Inclusive Care for the Elderly programs, enrollee advisory programs provide valuable and insightful enrollee perspectives leading to enhanced quality and plan design. These two programs have demonstrated that the use of advisory committees improves plans’ ability to meet their enrollees’ needs by providing plans with a deeper understanding of the communities the plans serve and the challenges and barriers their enrollees face.<sup>1</sup>

Opportunities such as the establishment of advisory committees can provide critical openings for enrollees and plans to examine, discuss, and consider solutions affecting cancer health equity. As data have illustrated, while cancer is a disease that can affect anyone, it does not affect everyone equally. African Americans and other racial and ethnic groups, those with low incomes, those living in low-quality housing and unsafe environments, and people in rural areas often face greater obstacles for cancer screening, diagnosis, and treatment.<sup>2</sup>

Integration of the enrollee voice, perspective, and needs into plan design can enhance the quality of care for Medicaid enrollees and other populations who may have a higher risk for experiencing disparities in care. Effective implementation of advisory committees, when the resulting policies and procedures are responsive to enrollee input, will aid in identifying, addressing, and easing barriers to high-quality and equitable cancer care for dually eligible individuals. ASCO supports policies such as this that promote collaboration between patients, providers, and other stakeholders in the health care system to improve access to high-quality and equitable cancer care<sup>3</sup>.

*Enhancing Transparency and Review of Payment Rates to Protect Access in Fee-For-Service*

This proposed rule would rescind and replace the access monitoring review process (AMRP) requirements. In its place, the proposed rule would require states to publish all Medicaid fee-for-service (FFS) payment rates in a clearly accessible, public location on a publicly accessible website. States would

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<sup>1</sup> <https://www.federalregister.gov/documents/2022/01/12/2022-00117/medicare-program-contract-year-2023-policy-and-technical-changes-to-the-medicare-advantage-and>

<sup>2</sup> *Cancer Disparities*. National Cancer Institute (NCI). <https://www.cancer.gov/about-cancer/understanding/disparities#:~:text=Cancer%20health%20disparities%20happen%20when,ethnicities%2C%20or%20other%20population%20groups>.

<sup>3</sup> Patel MI, Lopez AM, Blackstock W, Reeder-Hayes K, Moushey EA, Phillips J, Tap W. Cancer Disparities and Health Equity: A Policy Statement From the American Society of Clinical Oncology. *J Clin Oncol*. 2020 Oct 10;38(29):3439-3448. doi: 10.1200/JCO.20.00642.

also be required to conduct a more “excess access review” if they reduce or restructure payment that results in any of the following: 1) aggregate Medicaid payment rates are lower than 80 percent of the most recently published Medicare payment rates; 2) changes to Medicaid payment rates are more than a 4 percent reduction in aggregate FFS Medicaid expenditures for each affected benefit category during the state fiscal year; or 3) the public processes raised significant access-to-care concerns from beneficiaries, providers, or other interested parties.

**ASCO supports CMS’ proposal to make FFS payment rates publicly available and easily accessible; however, ASCO does not support Medicaid provider payments that are less than the Medicare payment. We urge CMS to require any state that does not establish a minimum payment rate *equivalent* to the Medicare rate complete an “excess access review” in addition to the other two circumstances listed above.**

As CMS acknowledges in the proposed rule, insufficient Medicaid provider payments jeopardize Medicaid beneficiary access to care. The Kaiser Family Foundation published a report in 2019 on the Medicaid-to-Medicare fee index, which measures the Medicaid physician fees relative to Medicare fees of each state. Fee indexes for all services range from a low of 0.37 in Rhode Island to a high of 1.18 in Delaware.<sup>4</sup> A 2019 study found that physicians in states that pay above the median Medicaid-to-Medicare fee ratio accepted new Medicaid patients at higher rates than those in states that pay below the median<sup>5</sup> which would put more than 1/3 of state’s beneficiaries at risk of decreased access to services.

A physician survey found that only 72% of specialty physicians accepted new Medicaid patients, compared with 91% who accepted new Medicare patients.<sup>6</sup> The lack of participating physicians leaves many patients scrambling to find a physician or obtaining their care in emergency departments. This is especially problematic for patients with cancer because delay in treatment may have life-threatening consequences. Expanding the number of community-based oncologists who accept Medicaid patients would not only improve access but also increase patient choice and autonomy. To this end, we support payment models that increase Medicaid payment rates to equal those for Medicare<sup>7</sup>.

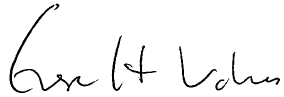
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<sup>4</sup> <https://www.kff.org/medicaid/state-indicator/medicaid-to-medicare-fee-index/?currentTimeframe=0&sortModel=%7B%22colId%22:%22All%20Services%22,%22sort%22:%22asc%22%7D>  
<sup>5</sup> Physician Acceptance Of New Medicaid Patients: What Matters And What Doesn’t”, Health Affairs Blog, April 10, 2019. DOI: 10.1377/hblog20190401.678690  
<sup>6</sup> Decker SL: In 2011 nearly one-third of physicians said they would not accept new Medicaid patients, but rising fees may help. Health Aff (Millwood) 31:1673-1679, 2012  
<sup>7</sup> Polite, Blase N., et al. "American Society of Clinical Oncology policy statement on Medicaid reform." Journal of Clinical Oncology 32.36 (2014): 4162.

We appreciate the opportunity to comment on the proposed rule. Please contact Gina Hoxie ([gina.hoxie@asco.org](mailto:gina.hoxie@asco.org)) with any questions or for further information.

Sincerely,



Everett Vokes, MD, FASCO  
Chair of the Board  
Association for Clinical Oncology