Improving Rural Health Network Adequacy

-Potential Roles for SORHs-

February 24, 2015

Agenda

- **Definitions/Issues:** What is health network adequacy? How extensive is network inadequacy?
- **Regulation:** What is currently required of health networks? How do states regulate health networks? What are emerging health network regulatory initiatives?
- **Policy Targets for Network Adequacy:** What can be done to improve health networks?
- **SORH Roles:** What potential role can SORHS play in assuring network adequacy?
- **Resources:** Links for more information on health network adequacy.

Network Adequacy – A Public Policy Issue

- **Definition:** Network adequacy refers to the ability of a health plan to provide enrollees with **timely access to a sufficient number of in-network providers,** including primary care and specialty physicians, as well as other health care services included in the benefit contract.
  - This ensures that consumers have access to needed care without "unreasonable delay."
  - The Affordable Care Act (PPACA) also requires that health plans participating in Marketplaces must meet network adequacy standards. **Failure to meet these criteria could lead plan decertification.**
- Network Adequacy falls within the public policy domain for three reasons:
  - It is a **consumer protection** concern.
  - It is a public **contractual compliance** concern.
  - It is a **public health** concern – assurance is a core function.

Causes of Network Inadequacy

- **Market/Structural Factors**: Where there is inadequate availability of providers/facilities in a market at appropriate locations to assure reasonable access for the local population.
  - Whenever there is an inadequate number of providers or facilities, for example, in Health Professional Shortage Areas, it will be impossible for any health plan to assure appropriate access for its enrollees using the locally available health resources.
- **Contractual Factors**: Where a health plan has failed to establish contracts with an adequate number of providers/facilities in appropriate locations to assure reasonable access for plan enrollees.

Network Adequacy – An Important Rural Issue

- **Analysis of the Geographic Area HPSA database demonstrates the importance of health network inadequacy for rural communities.**
  - In the report Rural Health People 2010, researchers noted that more than **two-thirds of geographic medical HPSAs were in rural and frontier areas**. This emphasizes the significance of the issue as a focus for national rural health policy.
- **It should be noted that HPSAs are areas of critical shortage, not just moderate shortage.** The population-to-provider ratios used in the designation of HPSAs identify areas where, in broad terms, service capacity meets less than half the need. To assure adequate networks in these markets special arrangements are required.
- SORHs are knowledgeable about services in these communities and well placed to participate in efforts to assure rural health care.

Regulated Health Networks

- **Regulation of health networks is a shared Federal-State responsibility.**
- **Regulation may cover different networks including:**
  - Qualified Health Plans (QHPs), including PPOs, HMOs, EPOs and POSs.
  - Medicaid Managed Care Organizations (MCOs).
  - Accountable Care Organizations (ACOs).
  - Medicare Advantage Plans.
- **The extent of regulation can vary significantly between States.**
  - All health networks may not be covered, i.e., PPOs, HMOs, EPOs , POSs and ACOs.
  - Medicaid MCOs and Medicare Advantage plans may not be covered.

Network Adequacy Regulation Framework

- **Federal Agencies with Network Adequacy Interests**
  - CMS – Medicaid.
  - CMS – Center for Consumer Information & Insurance Oversight.
- **State Agencies with Network Adequacy Interests:**
  - Insurance Commissions/Departments.
  - State-Operated/Hybrid Health Exchanges.
  - Medicaid Programs.
- **Levels of Policymaking**
  - Statutes.
  - Rules/Executive Orders.
  - Program Guidance.
  - Procurement Requirements.

Medicaid Network Adequacy Requirements

- Federal regulations require States to ensure that **each MCO maintains a network of providers that is sufficient to provide adequate access to Medicaid services** covered under the contract between the State and the MCO.
- **When establishing and maintaining its provider network, each MCO must consider:**

  1. the anticipated Medicaid enrollment,
  2. the expected utilization of services,
  3. the numbers and types of providers needed,
  4. the numbers of network providers who are not accepting new Medicaid patients, and
  5. the **geographic locations of providers and Medicaid enrollees**.

- **Regulations also require that each MCO provide timely access to care and services.** If the MCO is unable to provide necessary services to a particular enrollee with providers in the managed care network, the MCO must cover these services using out-of-network providers at no additional cost to the enrollee Medicaid network adequacy requirement.

PPACA Network Adequacy Requirements

- **45 CFR 156.230 - Network adequacy standards.**
  - **(a) General requirement.** A QHP issuer must ensure that the provider network of each of its QHPs, as available to all enrollees, meets the following standards—
    - **(**1) Includes essential community providers in accordance with §156.235;
    - (2) **Maintains a network that is sufficient in number and types of providers, including providers that specialize in mental health and substance abuse services, to assure that all services will be accessible without unreasonable delay**; and,
    - (3) Is consistent with the network adequacy provisions of section 2702(c) of the PHS Act.
  - **(b) Access to provider directory.** A QHP issuer must make its provider directory for a QHP available to the Exchange for publication online in accordance with guidance from the Exchange and to potential enrollees in hard copy upon request. In the provider directory, a QHP issuer must identify providers that are not accepting new patients.

The Special Case of QHPs

- Regulation of QHPs is a joint Federal/State responsibility.
- **State regulatory authority is independent** and does not derive from PPACA.
- **PPACA sets a broad baseline** for regulation which States can supplement.
- Key enforcement action: **decertification**.
  - Both State and Federal government could potentially take this action.

How Do States Regulate

- **Regulation Process:** States regulate health network adequacy in a three-step process:
  - **Standard setting.**
  - **Monitoring.**
  - **Enforcement/Sanctioned Improvement.**
- **Types of Standards:** State network standards are generally of two types**:**
  - **System Standards:** "Plans must have a provider network with at least 1 primary care physician for every 1,000 plan enrollees."
  - **Consumer Standards:** "Plan enrollees must be able to get a routine primary care appointment within 10 days at a distance no further than 30 miles/30 minutes travel from their home."
- **Different types of standards require different approaches to monitoring.**

Network Inadequacy: A Typical Case

- **Anthem Blue Cross, the largest individual plan insurer in California is the target of multiple lawsuits and investigations over the limited health network available under its plans.**
- **Anthem Blue Cross faces a lawsuit over switching consumers to narrow-network health plans — with limited selections of doctors — during the rollout of Obamacare.**
- **Anthem members accuse the company of misrepresenting the size of its physician networks and the insurance benefits provided in new plans offered under the Affordable Care Act.**
  - **http://www.latimes.com/business/la-fi-anthem-network-suit-20140820-story.html**

OIG Study of Medicaid Managed Care

- The DHHS Office of Inspector General conducted a nationwide study of Medicaid managed care networks.
  - Slightly **more than half of providers could not offer appointments to enrollees.**
    - 35 percent could not be found at the location listed by the plan.
    - Another 8 percent were at the location but said that they were not participating in the plan.
    - An additional 8 percent were not accepting new patients.
  - Among the providers who offered appointments, the **median wait time was 2 weeks.** Over a quarter had wait times of more than 1 month, and 10 percent had wait times longer than 2 months.
  - Primary care providers were less likely to offer an appointment than specialists. Specialists tended to have longer wait times.

Health Plan Issues: NAIC Survey Results

- **Limited Adoption of Model Act**: Most states have **not** adopted the NAIC Managed Care Plan Network Adequacy Model Act.
- **Limited Scope of Regulation**: Respondents indicate more regulatory authority exists for health maintenance organizations (HMOs) than PPO plans and even less regulatory oversight is in place for newer managed care products, such as Exclusive Provider Organizations (EPOs).
- **Limited Monitoring**: The primary tool regulators use to monitor network adequacy is complaint data. Almost all states track network adequacy-related complaints but vary in the level of detail they collect.
- **Limited Enforcement Action**: Enforcement actions are rarely taken based on violations related to network adequacy. **Only four states reported** they usually take **enforcement actions** against more than one health plan a year due to network adequacy violations.

Health Network Regulation Issues

- The regulation of health network adequacy **needs improvement:**
  - **Limited Health Network Regulation:** While CMS has delegated substantial health network regulation to States, State regulation of health network adequacy has limits. There is uneven oversight of health networks.
  - **Not all Health Networks are Regulated:** Some states limit the regulation of networks to certain insurance offerings.
  - **Poorly Defined Standards:** Standards for many networks are vague or nonexistent.
  - **Fragmentary Monitoring:** Monitoring of health network adequacy is limited. and many States rely on insurer attestation and consumer complaints.
  - **Limited Enforcement:** Enforcement actions related to health network adequacy are few.

New Network Adequacy Initiatives

- There are several new initiatives designed to improve regulation of health network adequacy nationwide.
  - **New Medicaid access rules** are anticipated:
    - http://www.modernhealthcare.com/article/20141028/NEWS/310289915
  - NAIC is revising its **Network Adequacy Model Statute** for the first time in more than 15 years.
  - CMS is revisiting network adequacy and Essential Community Provider (ECP)requirements for QHPs.
- There will be new opportunities at the State and Federal level to address this issue.

Network Adequacy Policy Targets

- **<u>Comprehensive Scope</u> - Assure network adequacy regulation applies to all health networks:**
  - Assure that PPO,HMO,EPO,POS health plans and ACOs are covered by standards.
  - Assure that Medicaid Managed Care Plans are covered by standards.
  - Assure that Medicare Advantage plans are covered by appropriate standards.
- **<u>Standards</u> - Establish appropriate network adequacy standards:**
  - Include both System and Consumer Standards.
  - Include clear specification of **'<u>accessible</u>' and** 'timely'.
  - Include appropriate standards for Urban/Rural/Frontier Residents.
- **<u>Monitoring</u> - Establish adequate health network monitoring:**
  - Include proactive surveying of available capacity.
  - Include regular access plan submission.
  - Include consumer complaint and investigation capacity (see also below).
  - Monitor out-of-network utilization by enrollees.

Network Adequacy Policy Targets - 2

- **<u>Penalties and Sanctions</u> - Create effective penalty and sanction structure:**
  - Include immediate notification, remedial plan submission and progressive sanctions.
  - Established pre-defined penalty structure.
  - Make some sanctions/penalties automatic.
  - Include de-certification process.
- **<u>Essential Community Providers (ECPs)</u> - Establish comprehensive essential community provider requirements:**
  - Create a comprehensive definition of ECPs, including all important Rural/Frontier entities.
  - Require that health networks include opportunity for all ECPs to participate.
  - Provide adequate compensation to ECPs, at least equal to payment levels under public programs.

Network Adequacy Policy Targets - 3

- **<u>Consumer Protection Provisions</u> - Establish effective community protection requirements:**
  - Create assured access at in-network benefit levels for consumers facing inadequate networks.
  - Establish consumer complaint and follow-up mechanisms.
  - Require up to date and accessible provider and facility directories.
  - Assure continuity of care protections for enrollees.

- **<u>Payment Incentives</u> - Create payment incentives for targeted areas:**
  - Create payment differentials for providers in shortage areas.
  - Create payment differentials for providers in areas with inadequate health networks.

How SORHS can get involved

- **Explore your state's network/access standards** for private and Medicaid managed care.
- **Engage state regulatory agencies** – introducing staff to SORH function and expertise.
  - Provide definitive information on shortage areas.
  - Provide definitive listing of ECPs.

Additional Engagement Possibilities

- In light of current/developing regulatory responsibilities, discuss potential areas of SORH support and cooperation.
  - **Monitoring** – direct testing of compliance.
  - Development of **revised access standards** for rural areas, including both system and consumer standards.
  - Facilitation of **rural provider/ECP contracting** with health plans.
  - Facilitation of rural consumer use of internal/external **complaint/appeal processes**.

Potential Policy Consequences: Market Exit

- Regulatory actions can increase insurer costs of doing business.
- If costs increase too much, potential profits may fall to a level where **insurers decide to withdraw from the market**.
- This occurred in the first year of PPACA implementation when United Healthcare, Aetna and other companies withdrew from the individual policy market in many states.
- In states with poorly designed insurance rating areas, insurers could decide to exit rural rating areas and limit their offerings to more profitable urban rating areas.
- **Appropriate design of rating areas**, including single statewide rating areas, is an additional policy target needed to assure that rural communities are well served.

Resources

- **State Standards for Medicaid Access to Care**
  - Describes approaches to standard setting and the importance of direct tests of compliance.
    - http://oig.hhs.gov/oei/reports/oei-02-11-00320.pdf
- **Network Adequacy Planning Tool for States**
  - Detailed outline for state efforts to improve health network adequacy. Addresses 10 different issue areas.
    - http://statenetwork.org/resource/network-adequacy-planning-tool-for-states/
- **NAIC Revised Model Access and Adequacy Statute**
  - Showing the latest consensus revisions to the proposed state model statute.
    - http://www.naic.org/documents/committees_b_rftf_namr_sg_exposure_draft_proposed_revisions_mcpna_model_act.pdf

Resources - 2

- **Managed Care State Laws - NCSL**
  - A roadmap of links to state managed care laws.
    - http://www.ncsl.org/research/health/managed-care-state-laws.aspx
- **Medicaid MCO Access Standards**
  - Presents links to different state Medicaid MCO access standards in -
    - Primary Care:
      - http://kff.org/other/state-indicator/medicaid-mco-access-standards-primary-care/
    - Specialty Care:
      - http://kff.org/other/state-indicator/medicaid-mco-access-standards-specialty-care/