American Society of Clinical Oncology Position Statement Addressing Medicaid Waivers & Their Impact on Cancer Care

Approved by the ASCO Board of Directors July 26, 2018

Overview

In the 2014 American Society of Clinical Oncology Policy Statement on Medicaid Reform,[1] ASCO called for major changes to the Medicaid program to ensure access to high-quality cancer care for all low-income individuals. ASCO recommended that Medicaid beneficiaries: 1) have access to cancer care delivered by a cancer specialist, 2) receive the same timely and high-quality cancer care as patients with private insurance, and 3) have access to cancer screening and diagnostic follow up without copays. Additionally, there should be no difference in access to care between traditional Medicaid beneficiaries and those newly eligible due to Medicaid expansion.

ASCO is deeply concerned that proposed new Medicaid eligibility requirements in some states could result in reduced access to care for this vulnerable population. This statement provides background and recommendations for both states and CMS.

Background

Section 1115 of the Social Security Act grants the Secretary of Health and Human Services (HHS) authority to approve waivers allowing demonstration projects to test modified administration and payment in various aspects of the Medicaid program. These waivers are for experimental, pilot, or demonstration projects that are found by the Secretary to be likely to assist in promoting the objectives of the Medicaid program. States have sought 1115 waivers over the years to tailor the Medicaid program to their unique needs and populations. The 1115 waivers are subject to extensive public comment and notice requirements and must be budget neutral for the federal government. They can be used to change some, but not all, elements of the Medicaid program. Historically, each administration has sought to have its priorities reflected in the waivers it approves.

On November 6, 2017 CMS issued a bulletin to states highlighting new processes for evaluation and approval of waivers, including the potential for states to obtain a ten-year extension of certain kinds of waivers.[2] This guidance was followed by a January 11, 2018 letter specifically designed to "assist states in their efforts to improve Medicaid enrollee health and well-being through incentivizing work and community engagement."[3] The January letter gave states advice and guidance on elements that comprise a successful waiver application.

Recently, several states have sought approval from CMS to implement programmatic changes that would condition eligibility, continued coverage, cost-sharing and other benefits on work status. CMS has committed to supporting state efforts to incentivize certain Medicaid populations to participate in work and community engagement activities. These could include requirements for employment, time spent on a job search or in training, volunteering or community service, or education. Some states have submitted waivers requesting authority to enforce non-coverage penalties, or "lock-outs," connected to premium payments, eligibility redeterminations and work requirements. Certain waivers state that if beneficiaries are unable to pay premiums, fail to meet the requirements for work, fail to comply with other eligibility requirements, and/or fail to report income changes in a timely fashion, they can be locked out of Medicaid coverage for a specified period. Other strategies under discussion include drug screening and lifetime limits on eligibility.

The Affordable Care Act provided an opportunity for states to expand their Medicaid programs to cover new populations. Under the terms of the regulations establishing these new benefits, states were permitted to define who would be exempt from certain benefit packages by defining a category of "medically frail" individuals (42 CFR 440.315(f)). States have chosen to apply this definition in different ways. However, they are required to include persons with "serious and complex medical conditions," among others, in their definition of medically frail. Although ASCO does not view the term "medically frail" as universally applicable or appropriate for cancer patients or survivors, we use it here only as a link to its official reference in HHS regulations.

ASCO shares the concern expressed by many in the medical professional community, health policy experts and several public health organizations about this new approach to waivers. The impact of certain aspects of such waivers could be harmful for beneficiaries in the Medicaid program. Some experts have challenged whether these waivers meet the basic criteria as outlined in the Social Security Act – to "further the objectives of the Medicaid program." This issue brief highlights ASCO's concerns about potential negative impact these waivers could have on patients with cancer.

Impact on Cancer Patients

ASCO does not support waiver policies that have the potential to restrict or otherwise hinder access to Medicaid for individuals with a cancer diagnosis, or who are at increased cancer risk. More restrictive eligibility policies, resulting in disruptions in care, unanticipated treatment delays, delayed enrollment in Medicaid or disenrollment, are likely to lead to delays in screening and care. Such delays are linked to worse cancer care outcomes. When patients are no longer able to access screening or other preventative care, they may (knowingly or not) delay seeking treatment until their disease is at an advanced stage.[4] The benefits of screening and early detection are well documented for many types of cancer, and the evidence is clear that those with health care access through insurance coverage are more likely

to receive screening. Hence, **CMS should not approve any waivers or state plan amendments that would serve to create delays or barriers to timely and appropriate access to cancer care.**

Work requirements may be problematic for patients with cancer, who often need to stop working entirely—or dramatically reduce the number of hours worked[5]—because of their illness and/or treatment. A person's ability to work can be affected by the time commitment involved in managing treatment and attending medical appointments, recovery from surgery or other procedures, symptoms of the disease, and side effects of treatment. Family members or others who are primary caregivers may themselves be unable to sustain normal work schedules. In one study, patients in active cancer treatment missed 22.3 more workdays per year than healthy workers.[6] Another found that the probability of a cancer patient being employed dropped 10% in the first year after diagnosis.[7]

Further, imposing work or volunteer requirements on patients already dealing with a life-threatening illness could have an adverse impact on treatment outcomes. In addition to managing what are often highly toxic treatments with significant side effects, oncologists advise their patients on ways to reduce stress, as it can impede treatment progress and leads to worse outcomes in cancer treatment. Research is ongoing, but early results indicate that chronic stress may impact cancer progression.[8-12] **States should deem patients in active treatment for cancer as exempt from any work or community engagement requirements (such as job skills training or public service).** Additionally, **ASCO encourages states to consider the primary caregivers for patients in active cancer treatment for a similar exemption.**

Difficulties in adhering to work requirements may continue, even after active treatment is complete. Cancer survivors may face long-term effects and increased health risks related to the cancer, to pre-existing comorbidities, and to the therapy itself.[13] For these reasons, individuals recovering from cancer may not be appropriate candidates to comply with work requirements. Therefore, **for patients in active treatment for cancer and survivors of cancer treatment, states should not impose lockout periods, lifetime limits or elimination of retroactive eligibility for a minimum of one year after last treatment. CMS should codify these exemptions as a matter of federal policy.**

ASCO endorses the National Coalition for Cancer Survivorship definition of a cancer survivor as starting at the point of diagnosis.[14] However we also recognize that not all survivors may wish for an exemption; some former patients may want to participate, for example, in community engagement opportunities. Conversely, some survivors may have a clinically appropriate need for a longer-term, or potentially permanent exemption. In order to strike a balance between the goals of the Medicaid program and the medical needs of patients, we believe that **states should deem survivors of cancer treatment for a minimum of one year after their last**

treatment as exempt from any work or community engagement requirements (such as job skills training or public service). This exemption should allow for clinically appropriate exemptions as deemed by a provider. States should not prevent survivors from participating if they wish to do so.

Impact on Providers

Although some Medicaid waiver proposals exempt "medically frail" beneficiaries from work requirements, they still require verification of the patient's status (in Arkansas, every two months) from physicians. Thus, not only are patients being burdened by complex eligibility systems, but by extension these restrictions are adding to the increasingly unsustainable administrative burden shouldered by physicians.

Time for oncologists to spend with patients is increasingly limited by a growing list of administrative demands. These include compliance and quality reporting requirements, electronic health records maintenance, and obtaining preauthorization for treatment, to name a few. According to Sinsky and colleagues, physicians currently spend 49% of their office hours updating records and files rather than treating patients.[15] This has been cited as a major contributor to physician burnout.[16] **CMS should not approve any waivers that place additional uncompensated administrative burdens and paperwork on cancer care providers.**

Requiring providers to expend yet more of their limited time on paperwork for new Medicaid restrictions will only exacerbate this problem. In order for health care providers to describe the full practical impact on their practices and patients, **CMS and states should ensure that all 1115 waiver applications and amendments are open to a full and transparent public comment period that includes outreach to cancer care stakeholders.**

Conclusion

As the world's leading professional organization for physicians and oncology professionals that care for people with cancer, we strongly urge state and federal governments to focus on the impact these new Medicaid policies can have on patients and adopt ASCO's recommendations:

- **CMS should not approve any waivers or state plan amendments that would serve to create delays or barriers to timely and appropriate access to cancer care.**

- **States should deem patients in active treatment for cancer as exempt from any work or community engagement requirements (such as job skills training or public service). ASCO encourages states to consider the primary caregivers for patients in active cancer treatment for a similar exemption.**

- **For patients in active treatment for cancer and survivors of cancer treatment, states should not impose lockout periods, lifetime limits or elimination of retroactive eligibility for a minimum of one year after last treatment. CMS should codify these exemptions as a matter of federal policy.**

- **States should deem survivors of cancer treatment for a minimum of one year after their last treatment as exempt from any work or community engagement requirements (such as job skills training or public service). This exemption should allow for clinically appropriate exemptions as deemed by a provider. States should not prevent survivors from participating if they wish to do so.**

- **CMS should not approve any waivers that place additional uncompensated burdens on cancer care providers.**

- **CMS and states should ensure that all 1115 waiver applications and amendments are open to a full and transparent public comment period.**

*Questions? Contact policy@asco.*org

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