



October 26, 2021

Commissioner Michael Conway
Colorado Division of Insurance
1560 Broadway, #110
Denver, CO 80202

RE: Colorado Option—Culturally Competent Health Care Provider Networks

Dear Commissioner Conway,

We appreciate this opportunity to provide comments about DRAFT Proposed New Regulation 4-2-XX Concerning Network Adequacy Requirements and Reporting Requirements for Colorado Option Standardized Health Benefit Plans, as this is an important piece of the development and implementation of the Colorado Option.

The Colorado Medical Society (CMS) has long advocated for adequate provider networks and emphasized the need to ensure patients have access to culturally responsive care in order to help reduce disparities. We appreciate the legislature's and DOI's efforts to achieve these goals within the Colorado Option.

One key concern we have, though, is about the potential unintended consequences of overly burdensome requirements for participating in the Colorado Option. We need to be cautious about inadvertently pushing physicians away by imposing too many new demands on their practices. With that in mind, we respectfully offer the following comments and questions on the draft regulation:

- Section 5(A)(1): Demographic Data Collection for Network Providers
 - Would/could providers' personal demographic data be made available to patients through the provider directory or simply collected for internal use by carriers and aggregate reporting to the DOI? That seems unclear and should be clarified, even though this demographic data is not included under Section 5(D)(2)'s list of information about network providers to be identified in the provider directory.
 - How is "ability status" defined?
 - We understand the need for diverse providers to be available to patients as this is one way to help improve racial health equity and reduce health disparities. More specifically, we understand the desire for patients to be able to seek out providers from similar demographic categories and with similar lived experiences. We also very much appreciate that this personal data would be "voluntarily submitted" by providers and that it would not be necessary for a provider to disclose this information in order to participate. At the same time, we have serious concerns about providers' privacy with respect to this potentially sensitive information. Some providers will likely be uncomfortable sharing this information.
 - It will be important that carriers' written materials not only "explain that the data will be used to improve racial health equity and reduce health disparities," but also explain how and where the information will be shared so that providers fully understand the implications of voluntarily providing this personal information.

- Section 5(C)(2): Training Requirements for Providers and Provider Front Office Staff
 - Many physicians, practices, provider organizations, and health care employers are already engaged in work to train providers and staff on issues related to anti-bias efforts and cultural competency. This independent, voluntary work should be encouraged.
 - We appreciate that carriers “may satisfy this requirement by establishing a process for providers to report that they and their front office staff have independently undertaken anti-bias, cultural competency, or similar training,” but we believe that carriers *must* give providers/staff flexibility in how they complete such training. It would be incredibly burdensome for providers/staff to be required to complete different trainings offered by different plans. At the very least, providers/staff must be allowed to attest that they have completed a similar/relevant training on their own. It may also be useful for a standardized training to be offered that would satisfy the training requirement for all Colorado Option plans.
 - In addition, 100% compliance is a lofty and unrealistic goal, particularly given staff turnover and the need to backfill positions quickly.
 - While we laud the goals of such trainings, this kind of training requirement imposes a burden on overworked, time-strapped providers and staff that may simply act as a barrier to provider participation for even the most well-intentioned providers and the practice managers who are responsible for handling provider contracting and office staff management. This is particularly a concern for smaller practices.
- Section 5(D): Provider Directories
 - The way in which this information is collected should be standardized across carriers in order to minimize the burden on provider practices.
 - Given providers’ and patients’ experiences with outdated information in provider directories, we are hesitant about carriers’ ability to keep this additional information up to date.
- Section 7(5): Network Access Plan—Process to evaluate and measure the results of the training
 - It is unclear how carriers could effectively measure the results of this type of training—such measurement must be done carefully and mindfully, recognizing the limitations around the conclusions that can be drawn.
- Section 8(A): Action Plan Requirements
 - The DOI must be mindful of the significant limitations of information provided by carriers about the “reasons providers did not or were unable to join the network” and the “reasons the carrier was unable to obtain demographic data from providers.”
 - Section 8(A)(4) should be revised to say, “A description of the complaints the carrier has received from covered persons regarding the provider network as a whole...”

Thank you again for the opportunity to provide feedback. We hope that these comments are helpful as we work toward the shared goals of improving the adequacy and cultural responsiveness of provider networks.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark B. Johnson, MD".

Mark B. Johnson, MD, MPH
President
Colorado Medical Society

Cc:
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