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CMS Tells States and Providers: Value-Based Care is the Answer

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The Centers for Medicare & Medicaid Services (CMS) has sent a clear message to states and providers: they already have the tools to improve healthcare. Through a combination of value-based arrangements and already existing services and supports, states and providers can address the social determinants of health (SDOH). This will lead to an improvement in health outcomes, a reduction in health disparities, and lowered healthcare costs.

Tools for States

Beneficiaries of Medicaid and the Children's Health Insurance Program (a joint federal and state program that provides health coverage to eligible children) are at risk of having limited opportunities for employment, affordable housing, quality education, and nutritious food. These challenges lead to poor health outcomes. However, by utilizing a variety of accessible delivery approaches and benefits, they can improve beneficiary outcomes. CMS provided state Medicaid directors with a roadmap to address these issues through existing services and supports (CMS Press Release). For example, states have the option to implement the following services:

- Non-Medical Transportation: States may cover non-medical transportation to allow individuals

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receiving Medicaid-funded home and community-based services (HCBS) to travel to grocery stores, places of employment, etc.

- Home Delivered Meals: States may provide meals to individuals receiving HCBS who need additional assistance to meet their nutritional needs.
- Educational Services: Through the Individuals with Disabilities Education Act, states may provide children with disabilities additional educational services through individualized education plans.
- Employment: States may provide support to assist individuals with disabilities to obtain employment. This support may include services such as job coaching to enable individuals to successfully integrate into job settings.

It is essential that states implement these services now, during the current pandemic. “[T]he on-going COVID-19 pandemic has exacerbated long-understood disparities in health outcomes among low-income populations, particularly children” (CMS Press Release). States with high poverty rates and crowded housing units are facing the greatest risk of contracting COVID-19. By using tools, such as those described above, states can give these individuals the resources they need to improve their SDOH. Bettering health outcomes will also give them a better chance of not contracting the virus.

President Biden shares this view, stating in a recent Executive Order that “[t]he Federal Government must take swift action to prevent and remedy differences in COVID-19 care and outcomes within communities of color and other underserved populations.” (Also see COVID-19 Cases by Race/Ethnicity, Kaiser Family Foundation Data). Through the Executive Order, the President established a COVID-19 Health Equity Task Force, within the Department of Health and Human Services, which shall provide recommendations to the President for mitigating these types of health

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inequities and preventing these inequities in the future.

Tools for Providers

CMS is also seeking to shift providers from traditional fee-for-service payment models toward value-based models. Value-based models hold providers accountable for cost and quality. CMS wants to ensure that providers enter into financial arrangements where they are rewarded for keeping patients healthy and out of the hospital – value over volume.

On November 20, 2020, CMS announced finalized changes to the federal physician self-referral regulations (the Stark Law). The changes provide a tool for providers that previously was not available to them. “The final rule unleashes innovation by permitting physicians and other healthcare providers to design and enter into value-based arrangements without fear that legitimate activities to coordinate and improve the quality of care for patients and lower costs would violate the Stark Law. The exceptions apply regardless of whether the arrangement relates to care furnished to people with Medicare or other patients. [...] These final policies recognize that incentives are different in a healthcare system that pays for the value, rather than the volume, of services provided.” (See CMS Press Release). In the final rule, CMS declined to provide a list of examples of value-based activities that qualify under the new exceptions out of the concern that doing so may limit innovation and inhibit participation in new value-based models of healthcare delivery (85 FR 77492, 77500, December 2, 2020).

Next Steps

CMS has given states and providers the tools to improve patient care. It is now the responsibility of states and providers to utilize those tools to reduce disparities in healthcare. Providers should seek

health law counsel to assist in determining whether its value-based activities might qualify under the new exceptions.

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