STRATEGIC HEALTH CARE

CMS's Final Rule: Patient Protection and Affordable Care Act; Market Stabilization; Changes to Network Adequacy

On June 19, 2017 CMS published a final rule designed to help stabilize the individual and small group markets and set new standards related to network adequacy for Federally-facilitated Exchanges. Click here for an article from *The Pew Charitable Trusts* published on February 6, 2018.

For the 2018 plan year, CMS is deferring to the States with sufficient network adequacy review (or relying on accreditation or an access plan) to determine network adequacy for the Exchanges. States with the authority that is at least equal to the "reasonable access standard" defined in 45 CFR §156.230 and means to assess insurer network adequacy will be permitted to do so. *This change means that CMS will no longer perform a time and distance evaluation.* CMS will coordinate with states to monitor network adequacy through complaint tracking.

If states do not have the authority and means to conduct sufficient network adequacy reviews, CMS will rely on an issuer's accreditation (commercial, Medicaid or Exchange) from an HHS-accrediting entity for Qualified Health Plans (QHPs): The National Committee for Quality Assurance, URAC and Accreditation Association for Ambulatory Health Care. Unaccredited issuers are required to submit an access plan as part of the QHP application. To show that the QHP's network meets the requirement in 45 CFR §156.230, the access plan would need to demonstrate that an issuer has standards and procedures in place to maintain an adequate network consistent with the National Association of Insurance Commissioners' (NAIC's) Health Benefit Plan Network Access and Adequacy Model Act. Click here for a copy.

CMS rejected commenters concerns that relying on state reviews or accreditation could decrease healthcare access and create disparities in access to and quality of providers. CMS noted that it would monitor implementation of the NAIC Model Act to shape future network adequacy policy.

For additional information contact our General Counsel Diane Turpin at 202-266-2600.