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Comments on proposed changes to 130 CMR 450.000: Administrative and Billing Regulations; 130 CMR 506.000: MassHealth: Financial Requirements; and 130 CMR 520.000: MassHealth: Financial Eligibility

Submitted by email to masshealthpublicnotice@state.ma.us

Dear Friends,

Thank you for the opportunity to submit comments on the proposed changes to the MassHealth regulations regarding copayments. These comments are submitted by the Massachusetts Law Reform Institute, Health Care For All, Greater Boston Legal Services, and Health Law Advocates on behalf of our low-income clients who rely on MassHealth for access to medical care.

We support all changes that will reduce the burden of cost-sharing on MassHealth members. Ample research over the years has shown that even relatively small levels of cost sharing in the range of $1 to $5 are associated with reduced use of necessary services and can result in unintended consequences, such as increased use of the emergency room.[1] These changes to MassHealth's copayment rules come at a critical time. The economic insecurities caused by the COVID-19 pandemic disproportionately impact low-income people. Especially now, it is critical that MassHealth members are able to access the prescriptions they need to stay healthy, and to avoid complications or illness which might result in hospitalization. Members should be able to do this without spending the money they need for other essential expenses, and without fear of incurring debt or ill will with their local pharmacies. Thank you for moving forward with these long awaited changes now.

Since 2014, federal law has required state Medicaid agencies to use an income-based cap for premiums and cost-sharing and an effective mechanism for tracking incurred costs that does not rely on beneficiary documentation. 42 CFR 447.56(f). While it has been a long time coming, we are glad to see MassHealth moving toward an effective income-based cap. We support the steps put forward in Phase 1 –with three recommendations set out below—and look forward to learning more about Phase 2.

[1] See, e.g., Samantha Artiga , Petry Ubri, and Julia Zur, The Effects of Premiums and Cost Sharing on Low-Income Populations: Updated Review of Research Findings, June 1, 2017 https://www.kff.org/medicaid/issue-brief/the-effects-of-premiums-and-cost-sharing-on-low-income-populations-updated-review-of-research-findings/

With respect to the changes currently proposed, we strongly support the elimination of cost-sharing for people with income at 50% of the poverty level or below. At this level of deep poverty, no cost sharing is feasible. We also support the exclusion from cost sharing of cash assistance recipients and other "referred eligible" people who are very poor but for whom MassHealth has no income information. However, we urge you to remedy the omission of EAEDC recipients who receive MassHealth Family Assistance.

Recommendation to add EAEDC recipients who receive MassHealth Family Assistance to the referred eligible exclusion.
The proposed rules at 130 CMR §§ 450.130(D)(j)3, 506.015(A)(1)(j)3, and 520.037(A)(1)(j)3 exclude from cost sharing "children, young adults, and parents and caretaker relatives who receive Emergency Aid to the Elderly, Disabled and Children (EAEDC) cash assistance and who receive MassHealth Standard under 130 CMR 505.002(K) or MassHealth CarePlus under 130 CMR 505.008(B)." This regulation omits children, young adults, parents and caretaker relatives, other adults 21-64 with disabilities, and adults age 65 and older who receive MassHealth Family Assistance under 130 CMR 505.005(G). The excluded individuals include Qualified Barred, Non-Qualified Lawfully Present and PRUCOL immigrants who, like all EAEDC recipients, have very low incomes. This group will not be protected by the cost sharing exclusion for people earning less than 50% of the federal poverty level because MassHealth does not have income information for them. We urge you to exclude all EAEDC recipients from cost sharing.

Recommendation to add COVID-19 to the list of services excluded from cost sharing: We urge you to add treatment of COVID-19 to the services that do not have cost sharing. Federal legislation related to the COVID-19 pandemic already requires that testing and treatment for COVID-19 – including any new medicines or vaccines that may become available – be provided by Medicaid with no cost-sharing. Please make this addition a permanent part of the state regulations at 130 CMR §§ 450.130(E), 506.015(B) and 520.037(B).

Recommendation to exclude copayments for all services except pharmacy under CMSP:
We also urge you to address one more group of low-income individuals who receive health services administered by MassHealth and are currently subject to rules that charge them more copayments than any other group: children under 18 in the Children's Medical Security Plan (CMSP). The regulations at 130 CMR § 522.004(E) impose copayments on all children, even those with income under 50% of the poverty level, for pharmacy, dental services, medical visits and mental health visits. We recognize that the authorizing legislation for CMSP requires copayments of $3-$4 for prescription drugs and provides that no child shall be exempt from the copayments herein. G.L. c. 118E, § 10F(b)(1) and (e). However, the statute does not require copayments on dental, medical, mental health or any service other than prescription drugs. MassHealth should align the CMSP copayment rules with those applicable to other children by eliminating copayments on all services but prescription drugs.

We thank you for your continued commitment to ensuring that MassHealth members are not financially burdened by their cost sharing responsibilities. We support the adoption of these amendments with the addition of the three recommendations above, and urge that they be implemented as soon as practicable.

If you require any further information in relation to these comments, please call or email Vicky Pulos at 617-357-0700 Ext. 318 or vpulos@mlri.org

Yours truly,

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