



November 12, 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 another round of comments on [REVISED DRAFT Proposed New Regulation 4-2-XX Concerning Network Adequacy Standards and Reporting Requirements for Colorado Option Standardized Health Benefit Plans](#) and we appreciate that you and your team have been receptive to the feedback that stakeholders have provided thus far. 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.

First, we would like to recognize the significant revisions made to the regulation that address some of our key concerns. One lingering concern we have, though, is about the potential unintended consequences of what may be seen as burdensome requirements for participating in the Colorado Option. We still need to be cautious about inadvertently pushing physicians away by imposing new demands on their practices. With that in mind, we respectfully offer the following comments and questions on the draft regulation to follow up on our previous letter from October 26th:

- Section 5(A)(1): Demographic Data Collection for Network Providers
 - We appreciate the addition of language to clarify that, “All voluntarily reported demographic data will be kept confidential by the carrier, and will not be disclosed publicly without the written consent of the reporting provider or office staff member.”
 - With this important protection in place, it will still 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 when, how, and where the information will be shared so that providers fully understand the implications of voluntarily providing this personal information and may actually feel more comfortable doing so.
- Section 5(C)(2): Training Requirements for Providers and Provider Front Office Staff
 - We appreciate that carriers will no longer be required to offer anti-bias, cultural competency, or similar training, but will instead “create a process for their Colorado Option standardized plan network providers and providers’ front office staff to annually report on the anti-bias, cultural competency, or similar training that providers and providers’ front office staff have taken in the last year...”
 - We also appreciate that, “Carriers shall collect network provider and front [office] staff training information using a standard reporting form created by the Division,” as this will

help to minimize the additional administrative burden being imposed. However, what does it mean that the form will include “the certification and duration of the training”? Is this simply data collection or is it meant to imply that the Division may impose requirements related to the certification and duration of the training? Is it accurate that there will be no requirement that the training be “certified” in some way (e.g. offered by an accredited continuing medical education (CME) provider) or be for a certain number of hours? 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 and this independent, voluntary work should be encouraged, no matter what form it takes. Providers and staff must have flexibility in how they complete such training.

- Finally, we recognize that the target of 100% compliance was reduced to 90%, but, while we laud the goal of providing culturally competent care, 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
 - We appreciate the revisions that were made to the provider directories section, including the reference to complaints regarding provider directories.
- Section 7(B): Network Access Plan—Summary of the anti-bias, cultural competency, or similar training offered
 - It appears this section has not yet been revised to align with the revisions made to Section 5(C)(2), since the training will no longer be “offered” by the carrier.
- Section 7(E): Network Access Plan—Carrier's evaluation of the efforts to create a culturally responsive network
 - We appreciate that carriers will no longer be required to attempt to evaluate and measure the results of the training, since it is unclear how carriers could effectively do so.
- Section 8: Action Plan Requirements
 - Once again, 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” (as well as the “reasons the carrier was unable to obtain demographic data from providers”). Carriers’ own actions may need to be implicated when evaluating why providers did not or could not join the network, but this will not be captured in one-sided, self-reported data. Carriers may not be able to provide an accurate assessment of providers’ reasons for being unable to join the network—especially since those reasons may include the unwillingness of carriers to negotiate fair rates or engage in provider support activities that help to enable practices to participate.
 - We appreciate that Section 8(D) was 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 your efforts to incorporate stakeholder feedback as you continue to make important improvements to this regulation. 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 that reads "Mark B. Johnson, MD". The signature is written in a cursive style with a large, stylized initial "M".

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

Cc:
Debra Judy
Cara Cheevers
Kyla Hoskins
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