DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

Center for Medicaid and State Operations

SHO #09-013
CHIPRA #8

October 21, 2009

Dear State Health Official:

The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) reauthorized the Children's Health Insurance Program (CHIP) under title XXI of the Social Security Act (the Act). CHIPRA ensures that States are able to continue their existing programs and expand health insurance coverage to additional low-income, uninsured children. On August 31, 2009 (SHO #09-008), the Centers for Medicare & Medicaid Services (CMS) provided general information on the implementation of section 403 of CHIPRA, which applied specific Medicaid managed care requirements in section 1932 of the Act to State CHIP managed care programs. The purpose of this letter is to follow-up and provide more specific guidance on the application of section 1932(c) of the Act (Quality Assurance Standards) to State CHIP managed care programs.

All States that contract with managed care organizations (MCOs) for the delivery of care in their Medicaid programs are already required to have a system-wide quality program for MCOs. Regulations at 42 CFR, Part 438, Subparts D and E show how section 1932(c) of the Act is applied in Medicaid managed care. Due to the Medicaid requirement, States that provide CHIP benefits through an MCO under a title XIX expansion program already have such a quality program in place. Effective July 1, 2009, States contracting with MCOs for delivery of care under separate CHIP programs must institute such a program for their CHIP-contracting MCOs. As a result, these States may need to modify their managed care quality system. Note that CHIP managed care contracts effective on or after July 1, 2009 must also include references to the quality program, as necessary. Only States using MCOs are affected by this provision. Many State CHIP programs have already developed their own systems that can be used to meet these requirements. States that were not in full compliance by the effective date should review the CMS compliance policy discussed later in this letter.

Specific Requirements for a Systemic Quality Program under section 1932(c)

1932(c)(1) – Quality Strategy

This section requires each State CHIP program that contracts with MCOs to develop and implement a Quality Assessment and Improvement Strategy. The strategy must address access to care standards, and other measures of care and service related to quality, such as grievance procedures, marketing information standards, monitoring procedures, and a process for periodic revision of the strategy. Federal regulations do not preempt State standards that are more stringent than the Federal regulations.

1932(c)(2) – External Quality Review (EQR)

This section requires that a contract between an MCO and a State CHIP program include a mandatory annual external review of the quality of care provided by the MCO. This review must be conducted by a qualified and independent external quality review organization (EQRO), which means that the EQRO may not have a financial relationship with the MCO under review. The results of these reviews must be made public upon request, and must be conducted in accordance with protocols developed by CMS. The State must ensure that the EQRO produces a detailed technical report that describes the manner in which the data from all activities were aggregated and analyzed, and conclusions drawn as to the quality, timeliness, and access to the care furnished by the MCO.

EQR reviews shall include, at a minimum, three specific quality improvement activities for each MCO EQR: (1) validation of performance measures (PMs) reported by the MCO; (2) validation of performance improvement projects (PIPs) conducted by the MCO; and (3) overall assessment of compliance by the MCO with the quality standards outlined in the State's quality strategy.

There are also five optional EQR activities: (1) validation of MCO Encounter data; (2) administration of State-run patient satisfaction surveys; (3) calculation of State-established performance measures; (4) management of State-directed PIPs; and (5) administration of focused studies.

Each of these eight activities, together with assessment of information systems, must have a governing protocol as required by 1932(c)(2)(a)(iii), which are used by EQROs for the external quality review of MCOs serving Medicaid beneficiaries. These protocols are available at: http://www.cms.hhs.gov/MedicaidCHIPQualPrac/07_Tools_Tips_and_Protocols.asp#TopOfPage. Although CMS intends to modify the protocols over the next year to reflect their application to CHIP MCOs, they remain a useful reference tool for State CHIP programs.

The CMS plans to publish a Notice of Proposed Rulemaking on all of the managed care provisions that now apply to CHIP. This will contain further guidance on these provisions, including how they apply to prepaid health plans providing services in CHIP programs.

It should be noted that Section 401(c)(1) of CHIPRA requires each State to complete an annual report on its child health quality measures and other State-specific information, including information collected through EQRs. Beginning in 2010, the Secretary will analyze and publish information from these annual reports. In addition to the inclusion of EQR information in CHIP annual reports, EQR information will be part of the Secretary's annual report to Congress on children's health care quality issues.

Compliance

While there are many ways to meet these requirements, the easiest approach might be for State CHIP and Medicaid programs to integrate, to the extent possible, their managed care quality compliance and oversight activities. For example, a State might want to submit a joint Medicaid-CHIP quality strategy to CMS to meet the requirements of section 1932(c)(1) for both programs. Another possible coordination opportunity is for State CHIP programs to incorporate in their EQR contracts some of the

contract language being used by State Medicaid Agencies in their EQR contracts. Finally, it might be worthwhile to consider whether the EQRO used by the Medicaid program to conduct EQRs could also conduct the CHIP EQRs.

States will need to review their State laws and regulations to see if there are barriers to compliance with these requirements for a system-wide quality program. States must comply with these requirements with respect to CHIP managed care programs beginning July 1, 2009. However, section 3(b) of CHIPRA provides that the Secretary may extend the date by which a State must implement any provision if the Secretary determines that State legislation is required in order for a State's CHIP plan to comply with the provision. If your State requires such legislation, please submit to my attention a letter to that effect as soon as possible. The letter should include the provision in question, the reason that State legislation is required for compliance, and the date the State will be implementing the provision.

For States with annual legislative sessions, this date must be no later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after February 4, 2009 (the date of enactment of CHIPRA). For States that have a 2-year legislative session, each year of the session is considered to be a separate regular session for this purpose.

In addition, section 3(d)(2) of CHIPRA provides that Federal financial participation (FFP) shall not be denied to a State which makes a good faith effort to comply with the requirements in this Act prior to the issuance of any regulations implementing the provisions in question. In situations where a State may still have difficulty coming into compliance, CMS will develop a corrective action plan with actions and target dates for State compliance. FFP will not be denied as long as a State makes a good faith effort to comply and implements any corrective action plan required. Examples of a good faith effort by a State would include deciding on appropriate performance measures and planning the review process. We will also be considering this policy further as we develop the regulations implementing this provision.

If you have any questions regarding this guidance, please contact Ms. Maria Reed, Deputy Director, Family and Children's Health Programs Group, who may be reached at 410-786-5647. We look forward to working with the States to implement these important provisions.

Sincerely,

/s/

Cindy Mann
Director

cc:

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