



## Legal Alert

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### COMMENTS TO FEDERAL PROPOSED MEDICAID MANAGED CARE REGULATIONS

The comment period for the proposed Medicaid/CHIP Managed care regulations closed July 27. When finalized, these regulations will be the first major overhaul since the Balanced Budget Act of 1997 regulations were enacted. Many of the proposals are unlikely to cause major changes for Arizona if they are adopted, although there are more reporting burdens for the state agencies, including the AHCCCS Administration. But there are a few areas that are of particular note.

On the positive side, CMS is proposing a new interpretation of the payment exclusion for “institutions for mental diseases” (“IMD”) that would allow coverage for up to 15 days “in lieu of” other covered services for adults 18-64. CMS is also proposing allowing 120 days for beneficiaries to request a state fair hearings from an adverse plan appeal decision and requiring enhanced notices to beneficiaries of adverse determinations.

On the less positive side, the proposal would require states submit their Medicaid managed care contracts and capitation rates to CMS for certification and approval before they are implemented. Given the inflexible timing of state budget and managed care contract years, a number of commentators expressed grave concern over (and doubts about) whether CMS could complete review and certification on a timely basis. If CMS cannot meet each state’s deadlines, contracting and care could be greatly disrupted. CMS also proposed a 14 day “fee-for-service” window before a new member could be enrolled in a managed care plan. If adopted, this would be a major change for Arizona’s enrollment process; it would interrupt continuity of care and care management and complicate billing.

Finally, CMS solicited comments on whether there should be national network adequacy standards; it is hard to imagine that any national standards could be sufficiently flexible to accommodate the diverse geography and demographics across the country. The comments to the proposed regulations are posted at <http://www.regulations.gov/#!docketDetail;D=CMS-2015-0068>.

The AHCCCS Administration ( [www.azahcccs.gov](http://www.azahcccs.gov)) and the Arizona Hospital and Health Care Association ( [www.azhha.org](http://www.azhha.org)) also have their comments available on their websites.

Contact Susan Watchman for additional information.

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