ADVOCATES FOR
COMMUNITY
HEALTH

October 21, 2022

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-2440-P
P.O. Box 8016
Baltimore, MD 21244-8016.

RE: File Code CMS-2440-P: Medicaid Program and CHIP; Mandatory Medicaid and Children's Health Insurance Program (CHIP) Core Set Reporting
Sent via electronic transmission at regulations.gov

Dear Administrator Brooks-LaSure:

Advocates for Community Health (ACH) is comprised of leading federally qualified health centers (FQHCs) focused on health equity and innovation to drive health care systems, policies, and health programs. Our members serve over two million people and provide high-quality, comprehensive primary health care, mental health services, preventive care, and social services to patients most in need.

ACH appreciates the opportunity to comment on CMS-2440-P: Medicaid Program and CHIP; Mandatory Medicaid and Children's Health Insurance Program (CHIP) Core Set Reporting. The proposed rule would establish requirements and compliance for mandatory annual State reporting of the Core Set for CHIP, the behavioral health measures on the Core Set of Adult Health Care Quality Measures for Medicaid, and the Core Sets of Home Health Quality Measure for Medicaid.

We appreciate the agency's goals to standardize quality measures for ways to produce more meaningful data while increasing transparency of data. Below, we provide our comments to the proposed changes outlined in the proposed rule.

In summary, we provide feedback in the following areas:

- Behavioral health and behavioral health measure definitions
- Interested parties for the Secretary to consult with regarding measure selection and requirements
- Stratification of measures, particularly by health plan and dual eligibility
- Review of recent Request for Information comments and other agency collaboration efforts for future rule making, particularly for race/ethnicity data and states with a separate CHIP program
- Need for technical assistance and data infrastructure support

For our specific comments, please see our recommendations below:

Proposal: CMS proposes to define at §437.5 "behavioral health" as a beneficiary's whole emotional and mental well-being, which includes, but is not limited to, the prevention and treatment of mental disorders and substance use disorders. A "behavioral health measure" would be defined as a quality measure that could be used to evaluate the quality of care, and improve the health care provided to beneficiaries with, or at-risk for a behavioral health disorder(s).

ACH Comment: As CMS mentions in the proposed rule, the Public Health Service Act and HRSA require health centers to provide additional health services, including behavioral and mental health and substance use disorder services. **Therefore, ACH agrees with these proposed definitions if behavioral health measures are integrated into primary care consideration.**

Proposal: At § 437.10(a)(2), CMS proposes that the Secretary consult annually with States and other interested parties identified in paragraph § 437.10(e) to establish priorities for the development and advancement of the Child, Adult, and both Health Home Core Sets; to identify any gaps in the measures included in each Core Set; to identify measures which should be removed because they no longer strengthen the Core Sets; and to ensure that all measures included in the Core Sets reflect an evidence-based process (including testing, validation, and consensus among interested parties), are meaningful for States, are feasible for State-level and/or health-home program level reporting as appropriate, and represent minimal additional burden to States. CMS proposes at § 437.10(a)(1) that they continue the existing annual process of identifying and updating the child health quality measures and adult health quality measures to be included in the Child and Adult Core Sets. We also propose to apply this annual process when identifying and updating the health home quality measures to be included in both Health Home Core Sets.

ACH Comment: We appreciate the agency working with Workgroups and asking for public feedback for measures to improve the Core Sets. **We recommend the agency ensure FQHC representation as an interested party for the Secretary to consult to identify measures and update guidance.** According to Uniform Data System data, health centers provided comprehensive primary care to over 30 million patients at over 14,000 delivery sites. About 48% of patients have Medicaid while 11% of our patients have Medicare. FQHCs help advance health equity by servicing 1 in 3 persons living in poverty and 63% who identify as racial and/or ethnic minorities[1]. As we describe in a recent Health Affairs article[2], by definition, FQHCs already provide quality, comprehensive care. As proposed, community health centers are not explicitly written into the regulations as an interested party that the Secretary must consult with regarding these measures. We recommend language be explicitly included to ensure engagement and consultation with health centers on these measures going forward.

We also encourage the inclusion of mental health providers in the regulations as an interested party for the Secretary. The Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act of 2018 (the SUPPORT Act) requires mandatory annual reporting of

[1] Uniform Data System, 2021- Table 3A, 3B, 4, 6A

[2] By Mission And Definition, Community Health Centers Already Perform Value-Based Care", Health Affairs Forefront, October 4, 2022. DOI: 10.1377/forefront.20220930.708414

behavioral health measures in the Adult Core Set. The administration is taking efforts to incorporate behavioral health into primary care, yet behavioral health providers are not explicitly named as stakeholders in these regulations.

Proposal: As described and proposed at § 437.10(b)(7), the reporting guidance would also provide information on the stratification of certain measures by factors such as race, ethnicity, sex, age, rural/urban status, disability, language, or such other factors as may be specified by the Secretary.

ACH Comment: **ACH supports requiring stratification of measures** that will help improve accuracy of the data. Accuracy of data is vital for federal, state, and local health equity efforts. However, only recently has the agency pushed accuracy on race/ethnicity and other data. **We strongly urge the agency to consider comments from the recent Request for Information (RFI) "Make Your Voices Heard", particularly for data concerns,** that is due November 04[3]. The RFI asks for best practices and policy suggestions that could reduce implicit bias in tools and technologies that then in turn affect quality measures and possibly health outcomes. We also note more stakeholders may provide feedback on the CMS RFI that can inform this proposed rule, specific guidance, and further rulemaking.

Additionally, **we request the Secretary require MCOs to deliver stratified data in a timely manner to FQHCs, facilities, and providers**. **ACH also recommends stratification of data by health plan to be specified in the regulations at §437.10(b)(7).** Because FQHCs serve mostly Medicaid patients, receiving this data from MCOs is vital. Currently, FQHCs vary in ability to analyze data. For example, some of our members state their internal data is more accurate and up to date than data from MCOs. Bridging the data gaps is key to understand both population and individual health. Additionally, aligning measures across the governemnt and private payers exists as part of the CMS Meaningful Measures Initiative[4].

Proposal: CMS request comment on whether 5 years is sufficient for phasing in required stratification of the Child Core Set, behavioral health measures of Adult Core Set, and Health Homes Core Sets, and whether States, providers, and other interested parties would need more, or less, time. We would provide technical assistance to assist States in improving their ability to collect the information required to allow for valid stratification.

ACH comment: **While ACH supports a phase-in time for stratification of data, we want to be respectful of the current healthcare workforce challenges**. In preparing for the expiration of the Public Health Emergency, states are focusing on unwinding efforts to ensure health insurance coverage for patients. Therefore, the agency should consider technical assistance and data infrastructure for the state **as well as** to FQHCs and our providers. We suggest the agency prioritize which data is required immediately and and from which sub-populations, and that that agency work with states now to meet and achieve full stratification of data within 5 years. For example, **ACH supports reporting measures for those who are dually eligible for Medicare and Medicaid**. More pressing, **we recommend the administration streamline efforts and standardize measures sets across all payers. Additionally, we advocate CMS, HRSA, and HHS provide available data when obtainable to reduce burden to states and providers.** As

[3] https://cmsgov.secure.force.com/forms/request_info_make_your_voice_heard
[4] https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/QualityInitiativesGenInfo/CMS-Quality-Strategy

this proposed rule points out, FQHCs must report to a Uniform Data System (UDS), but Core Measure Sets data may not include traditional fee-for-service Medicaid beneficiaries who are part of MCOs. FQHCs are then required to report data across multiple platforms, and the data may not align, even for simple items such as age bracket categories. Lastly, it is difficult for providers to understand requirements of these sets of measures while waiting for the finalized CY2023 Physician Fee Schedule Rule (CMS-1770-P), which will provide to the Medicare Shared Savings Program[5].

Proposal: CMS seeks comment on whether States with separate CHIPs should combine Medicaid and separate CHIP Child Core Set reporting in order to ensure that children who transition between programs are not lost and, if so, the attribution rules to determine in which program a child who transitioned between Medicaid and CHIP during the reporting period should be included.

ACH comment: Since some states may not have data available or do not have a CHIP program, **ACH suggests reporting data as Medicaid and CHIP combined, "separate CHIP", or Medicaid inclusive of CHIP-funded Medicaid expansion.** However, this is not explicitly written into the currently proposed regulations. CMS should consider guidance for how states can calculate and report on these measures. For example, in September 2022, CMS approved a 1115 waiver from Massachusetts allowing continuous enrollment for children up to age six[6]. However, most states do not have these Medicaid continuous enrollment provisions. Many core set measures require data to include only beneficiaries continuously enrolled for 12 months. With the PHE expiring, states may have beneficiaries that lose their coverage, which may affect the data, and the data may not be representative to those patients who are often most in need. Additionally, CMS may update policies pending responses to CMS-2421-P: Streamlining the Medicaid, Children's Health Insurance Program, and Basic Health Program Application, Eligibility Determination, Enrollment, and Renewal Processes[7]. Therefore, we suggest explicit guidance for reporting, particularly to account for state differences.

Conclusion

ACH thanks the administration for proposing changes to the Medicaid and CHIP quality measures that promote health equity. For more information, please feel free to contact me at apearskelly@advocatesforcommunityhealth.org.

Sincerely,

Amanda Kelly
Chief Executive Officer
Advocates for Community Health

[5] https://www.federalregister.gov/documents/2022/07/29/2022-14562/medicare-and-medicaid-programs-cy-2023-payment-policies-under-the-physician-fee-schedule-and-other
[6] https://www.mass.gov/service-details/1115-masshealth-demonstration-waiver
[7] https://www.federalregister.gov/documents/2022/09/07/2022-18875/streamlining-the-medicaid-childrens-health-insurance-program-and-basic-health-program-application