Health Insurance Updates: Balance Billing Protections, Network Adequacy, Standardized Plans And More!

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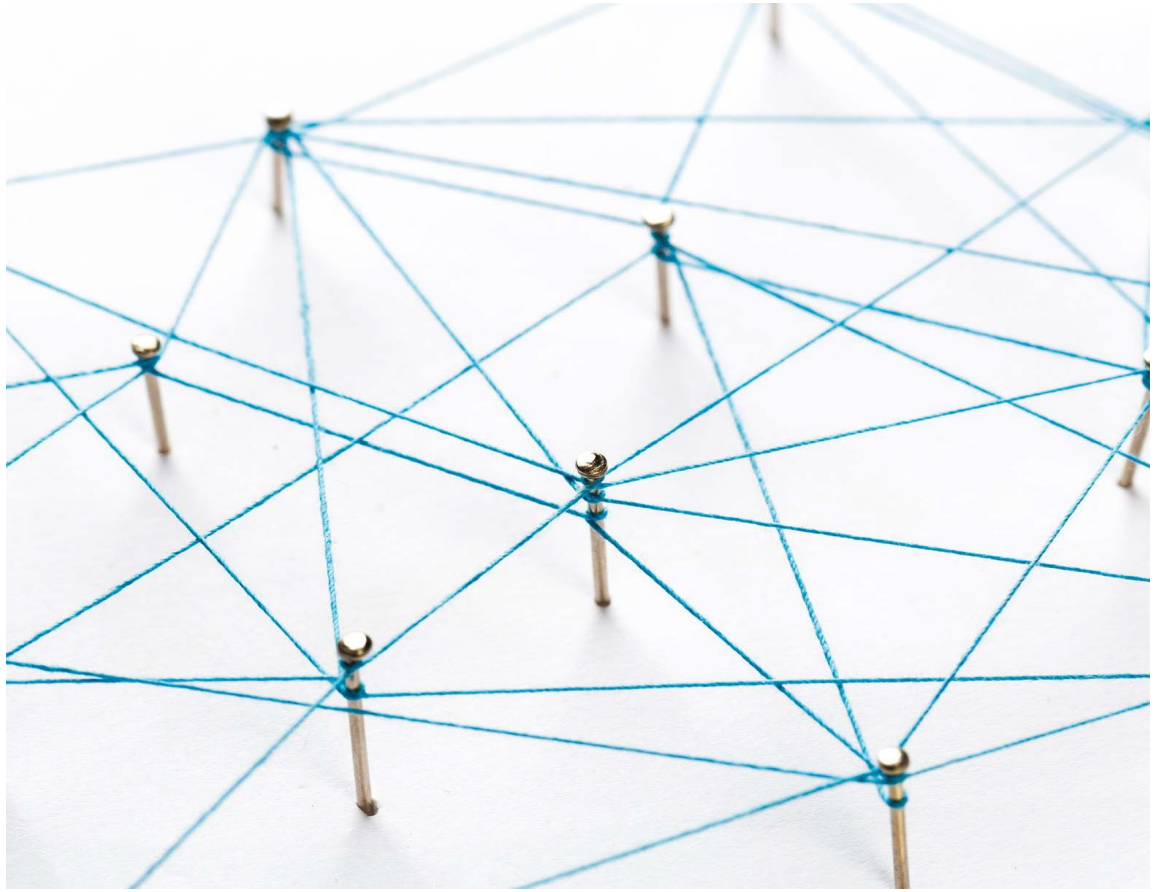
NAIC NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

Agenda

- Health Coverage Changes for 2022
  - Enhanced ACA Subsidies
  - Surprise Billing Protections
  - Monthly Special Enrollment Period
  - Disclosure of Agent/Broker Compensation
- Looking Ahead
  - Continued Enhanced Subsidies?
  - Standardized Plans
  - Federal Network Adequacy Review
  - Mental Health Parity Enforcement



Enhanced ACA Subsidies under the American Rescue Plan Act

- Applicable 2021 and 2022
- For Marketplace plans

↑ Increased subsidies for those previously eligible for tax credits (up to 400% of FPL)

$0 premium plans for eligible households below 150% of federal poverty level

34% of consumers enrolled in a plan with <$10 a month premium for 2022

- New eligibility for households over 400% of FPL

8.5% of household income cap on after-subsidy premiums

Balance Billing Protections under the No Surprises Act

- Effective for plans that begin on or after January 1, 2022
- Plans covered
  - Individual market
  - Small and large group markets, including self-insured
  - Grandfathered plans
- Services covered
  - Providers at in-network facilities
  - Emergency care
  - Post-stabilization
  - Air ambulance (not ground)
- Protections
  - Patient only pays in-network cost sharing
  - No balance billing – Insurer pays negotiated rate or arbitrated amount

No Surprises Act – Dispute Resolution

- Provider Payment Amount
  - State payment method used when it applies
  - If no state method, 30 days to agree, then claim goes to Independent Dispute Resolution (IDR)
  - IDR uses "baseball arbitration"
- Litigation
  - Last month, a federal district court held original rules relied too much on median network rates
  - Other cases pending

https://www.cms.gov/nosurprises

No Surprises Act – Enforcement

- If state laws are in place, states can be "primary enforcers" of No Surprises Act
- Federal agencies enforce where states do not, for example:
  - Self-insured plans
  - Providers
  - Provisions where no state law controls
- In Louisiana, federal agencies will enforce
- State laws that "do not prevent application of Federal law" are preserved

New Special Enrollment Period

- Federal rules established a new SEP, available each month
  - For low-income consumers who qualify for $0 premium plans
  - New enrollees can choose any plan
  - Current enrollees may switch to a silver plan

Disclosure of Agent and Broker Compensation

- 2020's Consolidated Appropriations Act (CAA) requires individual market and short-term, limited duration **issuers** to disclose direct and indirect compensation to agents and brokers to consumers
  - Before plan selection, and
  - After enrollment.
- Issuers must also report compensation information to the Dept. of Health and Human Services
- Federal rules were proposed in September 2021, but have not yet been finalized
- A similar provision requires disclosure of broker compensation for group plans

Looking Ahead

Enhanced ACA Subsidies

- Scheduled to end at the end of 2022
- Part of Build Back Better Act
  - Passed House November 19, 2021
  - Senate consideration ongoing, future uncertain
- May become part of another piece of legislation

- Insurers and regulators must approve 2023 rates in the coming months

Proposed Standardized Marketplace Plans

- Proposed in CMS 2023 Notice of Benefit and Payment Parameters (NBPP), not yet finalized
- Starting in 2023, insurers would be required to offer standardized plans for every network type and metal level for which they have a non-standard plan
- Standardized plans would share:
  - Deductibles
  - Out-of-pocket maximum
  - 4 tier prescription drug formulary
  - More co-pays than co-insurance
- No limit on number of non-standardized plans (yet)

Proposed Federal Network Adequacy Review

- ACA requires sufficient networks
- Prior deferral to state review was struck down in federal court
- 2023 NBPP Proposal, not yet finalized
- States may continue review IF standards are as stringent as federal

- States may opt-in to showing classification of network breadth on Healthcare.gov
  - Basic
  - Standard
  - Broad

Proposed Federal Network Adequacy Review

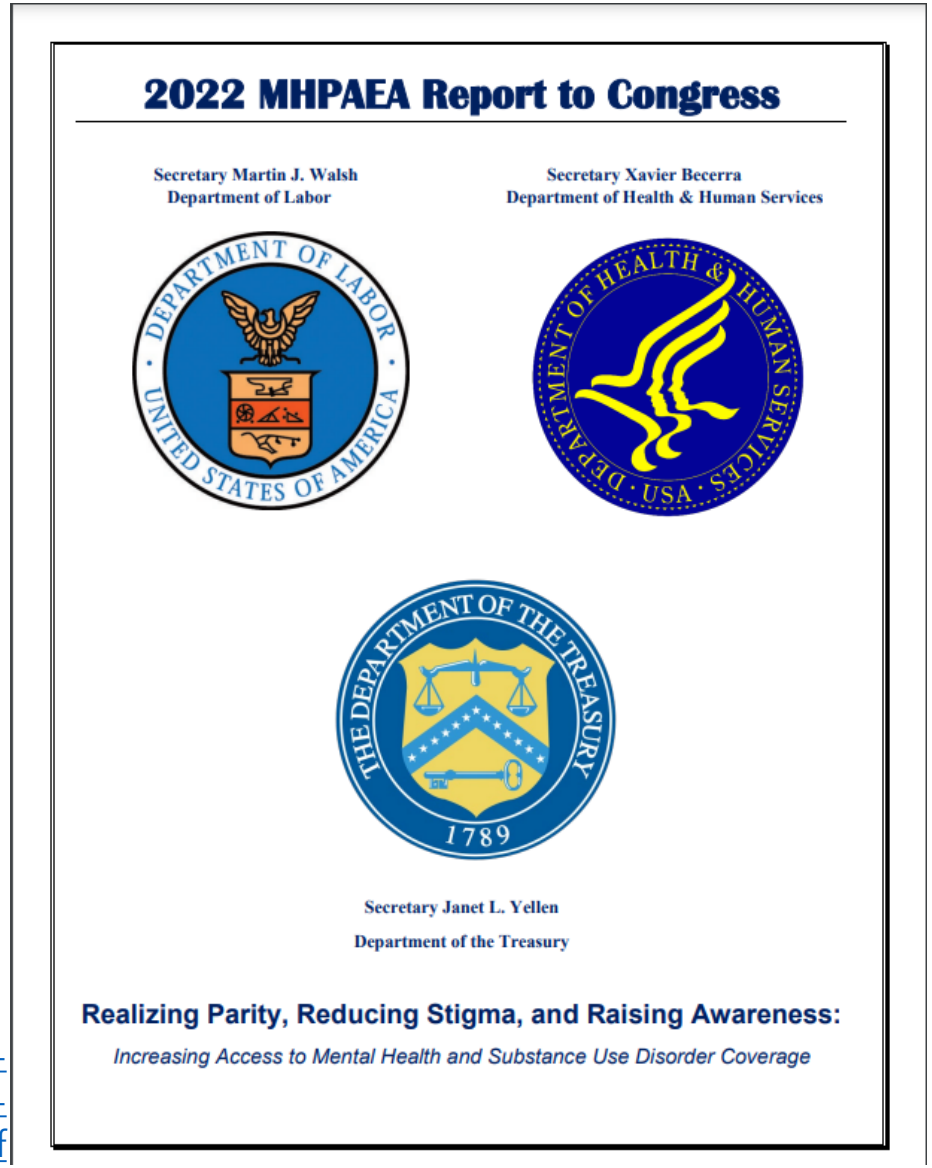
- Time and distance standards
- Measured by county, with 5 designations:
  - Large metro
  - Metro
  - Micro
  - Rural
  - County with extreme access considerations
- 34 specialties
- 11 facility types
- Dental

- Appointment wait time standards
- For 2023, applies to:
  - Routine primary care: 15 days
  - Non-urgent specialty care: 30 days
  - Behavioral health: 10 days
- Issuers may attest to meeting the standard

Mental Health Parity

- Since 2008, health plans have been required to ensure their mental health benefits are at parity with medical services.
- 2020 legislation added requirements for plans to document how benefit limitations comply with parity laws.
- Many state regulators are enhancing enforcement of parity requirements
- Federal agencies cited significant parity issues in a recent report to Congress

https://www.dol.gov/sites/dolgov/files/EBSA/laws-and-regulations/laws/mental-health-parity/report-to-congress-2022-realizing-parity-reducing-stigma-and-raising-awareness.pdf



2022 MHPAEA Report to Congress

Secretary Martin J. Walsh
Department of Labor

Secretary Xavier Becerra
Department of Health & Human Services

Secretary Janet L. Yellen
Department of the Treasury

Realizing Parity, Reducing Stigma, and Raising Awareness:

Increasing Access to Mental Health and Substance Use Disorder Coverage

Questions

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