COMMONWEALTH of VIRGINIA

Department of Medical Assistance Services

KAREN KIMSEY
DIRECTOR

SUITE 1300
600 EAST BROAD STREET
RICHMOND, VA 23219
804/786-7933
804/343-0634 (TDD)
www.dmas.virginia.gov

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MEMORANDUM

TO: The Honorable Janet Howell
Chairman, Senate Finance Committee

The Honorable Luke E. Torian
Chairman, House Appropriations Committee

Mr. Daniel Timberlake
Director, Department of Planning and Budget

FROM: Karen Kimsey
Director, Virginia Department of Medical Assistance Services

SUBJECT: Combining Minimum MLRs and Underwriting Gain Limits for the Medallion 4.0 and CCC Plus Programs

This report is submitted in compliance with the Virginia Acts of the Assembly – Item 313.E.7. of the 2020 Appropriation Act, which states:

"The department shall conduct an analysis and report on the costs and benefits to amending the Commonwealth Coordinated Care Plus and Medallion 4.0 contracts to combine any applicable medical loss ratios and underwriting gain provisions to ensure uniformity in the applicability of those provisions to the Joint Subcommittee for Health and Human Resources Oversight. The report shall be completed by November 15, 2020."

Should you have any questions or need additional information, please feel free to contact me at (804) 786-8099.
Enclosure

Pc: The Honorable Daniel Carey, M.D., Secretary of Health and Human Resources

Combining Minimum MLRs and Underwriting Gain Limits for the Medallion 4.0 and CCC Plus Programs

A Report to the General Assembly

November 15, 2020

Report Mandate:

The 2020 Appropriations Act Item 313.E.7.states, "The department shall conduct an analysis and report on the costs and benefits to amending the Commonwealth Coordinated Care Plus and Medallion 4.0 contracts to combine any applicable medical loss ratios and underwriting gain provisions to ensure uniformity in the applicability of those provisions to the Joint Subcommittee for Health and Human Resources Oversight. The report shall be completed by November 15, 2020.

Background

The Department of Medical Assistance Services (DMAS) has implemented minimum Medical Loss Ratios (MLRs) and underwriting gain limits separately for Medallion 4.0 and CCC Plus, because they operate under separate contracts. As a result, some managed care organizations (MCOs) have owed rebates for Medallion 4.0 while incurring losses or achieving higher MLRs in CCC Plus. This report examines the historical context, federal oversight, fiscal impact and risk considerations of that arrangement. DMAS met with the MCOs on September 26 for feedback on combining these two contract requirements across both Medallion 4.0 and CCC Plus. The Virginia Association submitted a letter to DMAS, which has been included in an Appendix.

Historical Context

Medallion 4.0 is the legacy managed care program serving pregnant women, children and low-income adults. The CCC Plus program was implemented in August 2017 to serve the population dually eligible for both Medicaid and Medicare, individuals with a disability, and those receiving long-term services and supports. Since 2019, Medicaid serves all low income adults as a result of Medicaid expansion.

In 2017 the General Assembly required DMAS to implement a specific underwriting gain limit to reduce the risk of excess profits. Each MCO must return 50% of the underwriting gain between 3% and 10%, and 100% of the underwriting gain above 10%. This underwriting gain limit was more stringent than the previous underwriting gain limit.

DMAS implemented the revised underwriting gain limit for Medallion 4.0 with the FY18 contract effective July 1, 2017. CCC Plus was implemented shortly afterwards,

About DMAS and Medicaid

DMAS's mission is to improve the health and well-being of Virginians through access to high-quality health care coverage.

DMAS administers Virginia's Medicaid and CHIP programs for more than 1.6 million Virginians. Members have access to primary and specialty health services, inpatient care, and behavioral health as well as addiction and recovery treatment services. In addition, Medicaid long-term services and supports enable thousands of Virginians to remain in their homes or to access residential and nursing home care.

Medicaid members historically have included children, pregnant women, parents and caretakers, older adults, and individuals with disabilities. In 2019, Virginia expanded the Medicaid eligibility rules to make health care coverage available to more than 400,000 newly eligible, low-income adults.

Medicaid and CHIP (known in Virginia as Family Access to Medical Insurance Security, or FAMIS) are jointly funded by Virginia and the federal government under Title XIX and Title XXI of the Social Security Act. Virginia generally receives a dollar-for-dollar federal spending match in the Medicaid program. Medicaid expansion qualifies the Commonwealth for a federal funding match of no less than 90 percent for newly eligible adults, generating cost savings that benefit the overall state budget.

but DMAS had decided to stagger the contract periods to facilitate rate setting.

Prior to the General Assembly mandate, DMAS had plans to switch from an underwriting gain limit to a minimum MLR. The minimum MLR requirement is a policy that returns excess capitation funding to the state that was originally intended for use by the MCOs to provide a certain level of medical benefits to covered individuals. In the Medicaid managed care final rule, the Centers for Medicare and Medicaid Services (CMS) required states to target its capitation rates to achieve a MLR of at least 85% and for states to report the MLR annually by contract. The rule did not require states to implement a minimum MLR, but many states, including Virginia, implemented a minimum MLR. Virginia implemented both a minimum MLR and a revised underwriting gain limit.

DMAS was instructed by the General Assembly to develop a plan to combine the two managed care programs under one contract. Under such a proposed plan, DMAS would combine the contracts beginning in FY23. This contract merge would have the effect of combining the minimum MLR and underwriting gain limit in FY23. Effective with FY21, both Medallion 4.0 and CCC Plus operate on a State fiscal year basis. Therefore, combining the MLR and underwriting gain limit in the managed care contracts effective July 1, 2021 would accelerate it by one year.

Currently, the minimum MLR and underwriting gain limit does not apply to Medicaid expansion rates. CMS requires DMAS to have a “risk corridor” for rates that include expansion populations to protect CMS if the rates are too high, and protect the MCOs if the rates are too low. There are two reasons for a different policy for expansion populations. The first is that rate setting for expansion populations is initially based on proxy data rather than actual experience with the population, which could result in costs significantly different from the rates. The second is that CMS has assumed the majority of the risk by paying 90% of the cost compared to the normal 50% for base Medicaid. The current contracts implement separate risk corridors for Medallion 4.0 and CCC Plus expansion populations. CMS recommends risk corridors for Medicaid expansion rates until there is sufficient experience from actual operations of the plans in order to make actuarial certification. After which time DMAS would include expansion in the minimum MLR and underwriting gain limit.

Federal Oversight

The Medicaid managed care final rule requires MCOs to report the MLR based on a specific methodology, and mandates that states set capitation rates such that MCOs can achieve an 85% MLR. MCOs must report the MLR for each contract; therefore they must report an MLR separately for Medallion 4.0 and CCC Plus for each rating period.

If the state chooses to include a minimum MLR or underwriting gain limit in its contract, the actuarial certification must evaluate these risk mitigation strategies in determining that rates are actuarially sound. A minimum MLR cannot be lower than 85%, but other requirements for the minimum MLR and underwriting gain limit are up to the state. While there is no prohibition on combining the minimum MLR or the underwriting gain limit, any change to the MCO contract with a material impact would have to be reviewed by the Department of Planning and Budget prior to implementation. Further, DMAS would need to submit the change as a decision package in order to be included in the Appropriation Act. As a practical manner, it is easier to combine the minimum MLR and underwriting gain now that both programs are using the same rating period and if contracts are combined.

Risk Considerations

In general, one of the advantages of managed care is that it reduces the financial risk to the state and shifts it to MCOs. MCOs accept that risk for the potential profit in both the short-term and long-term. Both the minimum MLR and the underwriting gain limit reduce the state’s risk of overfunding. The minimum MLR is a risk reduction approach that returns excess funding to the state that was originally intended for use by the MCOs to provide medical benefits to covered individuals. The underwriting gain limit is another risk reduction strategy designed to limit excess MCO profits.

While the MCOs agree to accept risk for the potential profit, they are interested in managing their risk and limiting unnecessary risk to the extent possible. They have argued that combining the profit caps limits the risk to the MCOs without increasing the risk to the state.

One simple approach to mitigating financial risk for the MCOs is to increase the size of the contract. The risk can be reduced by combining the populations into a single pool, instead of splitting up costs into separate pools. With a merged population, the risk that one population will have greater than expected costs can be

spread across a larger base, assuming other populations do not experience the same unexpected costs.

As detailed above, MCOs assumed the risk for the CCC+ population in 2017. MCOs incurred significant losses through the end of CY2019 for CCC Plus. During that same time period, MCOs experienced financial gains in Medallion 4 and were required to pay back excess capitation. If MLR and profit requirements were combined, MCOs could have used profits in the Medallion 4 program to make up for losses in the CCC Plus program, [eliminating?] the need to return money to the state and better cross subsidize unaccounted for costs in one population.

Another example of the potential real world impact that combining the contract provisions could have is the rate changes that DMAS made in April 2020 in response to the COVID-19 global pandemic. Expenditures under the Medallion 4.0 program dropped significantly because many acute care services were postponed or cancelled. At the same time, LTSS utilization did not drop off as much and DMAS added $20 per nursing home patient day without any additional funding. DMAS and the MCOs agreed to reduce Medallion 4.0 capitation rates by 1.5% and increase CCC Plus rates by an equivalent amount. DMAS limited the change to 1.5% because that is the maximum amount allowed under CMS rules without a new actuarial certification. Such an action would not have been required if the minimum MLR and the underwriting gain limit had been combined..

Fiscal Impact

If rate setting was perfect and all MCOs operated at the same level of efficiency, then all MCOs would achieve at least 85% MLR and earn a reasonable profit. The MCOs only make refund payments due to the minimum MLR or the Underwriting Gain Limit when the unexpected occurs. DMAS does not know in advance whether the minimum MLR or underwriting gain limit will result in a refund for a plan in a given year. DMAS also does not know how much any potential rebate might be. As long as the change is prospective, DMAS does not estimate a fiscal impact for any future year, such as FY22.

If these provisions operate separately, it is more likely that some MCOs would have to make refunds in one program for not meeting the minimum MLR or exceeding the underwriting gain limit when this would not occur, if the results for both programs were combined. However, the goal of the minimum MLR and the underwriting gain limit is not to raise revenues.

In the past, MCOs have asked DMAS to combine the contract provisions for the minimum MLR and underwriting gain limit during the rating year when it is anticipated that one program may have losses while another program has gains. In this situation, DMAS may reasonably anticipate a fiscal impact.

As to the question of whether or not there would be a cost to the state for combining MLR and profit caps before FY21 or in the middle of the rating year the recently published Medicaid Managed Care Final Rule 2020 does prohibit retroactive modifications to risk-sharing mechanisms including the MLR refund requirements. MCOs will report financial results for the first quarter of the fiscal year prior to the 2021 General Assembly, but won't report the second quarter financial results until after the end of the session. Even with results for half a year, there will still be uncertainty about the FY21 financial results. This past year is an example where unexpected events like COVID-19 can change outcomes unexpectedly from one month to the next. Given the uncertainty, DMAS believes that combining the minimum MLR and underwriting gain limit in FY21 would have an indeterminate fiscal impact.

Conclusion

The decision to combine minimum MLRs or underwriting gain limits for Medallion 4.0 and CCC Plus (or even for separate rating categories within Medallion and CCC Plus) would be up to the Governor and the General Assembly. The combination mitigates financial risk to the MCOs while continuing to require a minimum amount of funding be spent on medical benefits and to limit excess profits.