

Medicaid Access Rule Background

What is the Medicaid Access Rule

In 2011 the Centers on Medicare and Medicaid Services (CMS) issued a proposed rule that provided numerous ways to strengthen and support states in meeting the requirement that reimbursement rates are adequate to protect access to Medicaid services. The 2011 Notice of Proposed Rulemaking established a process for the states to review and report to CMS on the adequacy of reimbursement rates. It provided CMS with the data needed to determine if access to services was inappropriately limited.

This regulation was developed to comply with a provision of the Medicaid statute known as the “equal access” requirement. While setting reimbursement rates for services is largely left to the states, the law requires that Medicaid payments be sufficient to allow access to services and supports

The final rule and later rule making significantly narrowed the scope of the rule. It excluded managed care, home and community-based services (HCBS) - like Family Care and IRIS, and limited the number of Medicaid services subject to review. It required states to create an access monitoring review plan (AMRP) and to monitor selected Medicaid services. The intent of these provisions was to ensure that CMS had data to provide oversight of the states and hold them accountable for adequate reimbursement rates.

This summer CMS issued a proposed rule further weakening the access rule by removing the requirement that states submit AMRPs. CMS maintains that states must continue to meet the statutory requirement but removed the method of doing so. CMS plans to offer future guidance to states on complying with the law. While the current rule is problematic, it should be strengthened not further weakened.

Why does it matter?

The Arc has long urged CMS to develop a comprehensive and transparent system to enforce the Medicaid equal access provisions. The Arc has advocated for reimbursements rates sufficient to meet the support needs of people with disabilities, including people with intensive and complex needs. If rates are insufficient to attract quality providers or do not allow existing providers to reach more people, people will not be served or added to waiting lists.

Too often the reimbursement rates do not reflect the actual cost of providing the services and supports. A comparison to the actual costs should be a critical part of any analysis of rate sufficiency. If rates are well below costs, providers will not want to participate or will not be able to provide high quality services. The current rule does not explicitly require this analysis.

Inadequate reimbursement rates contribute to low wages and high turnover rates for direct support professionals (DSPs). The work of DSPs is invaluable to the disability community and the service

system that relies on their abilities to keep people out of institutional settings. The low wages and high turnover is creating a nationwide crisis disrupting the lives of people with disabilities and putting their health and safety at risk.

Maintaining strong agency oversight of this key provision of the law is even more critical following the Supreme Court decision in *Armstrong v. Exceptional Child Center, Inc.*, which left few options for individuals to remedy insufficient access to services outside of petitioning CMS for oversight and enforcement. CMS' current proposal would greatly reduce CMS' oversight of Medicaid services.

What can you do?

This is an opportunity to tell CMS that inadequate reimbursement rates is a critical issue for people with disabilities. States must do a meaningful review of access to services and supports and provide CMS with tools to enforce this requirement. CMS should keep the rule in effect and expand it to include managed care and HCBS and covers services important to people with disabilities.

Key messages to send to CMS:

- Stress the importance of adequate reimbursement rates in your state
- Explain the impact of inadequate rates on individuals with disabilities, family members and service providers
- Describe the work force crisis and how it impacts you
- Strengthen the rule by broadening who it covers and how it is done

Send your message to CMS through this [comment link](https://disabilityadvocacynetwork.org/app/act-on-a-regulation?0&engagementId=502153):

<https://disabilityadvocacynetwork.org/app/act-on-a-regulation?0&engagementId=502153>