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Nathan Nau
Chief, Managed Care Quality and Monitoring Division
California Department of Health Care Services
Submitted via Email: dhcsmcqmdnau@dhcs.ca.gov

**RE: Medicaid Managed Care Final Rule
DHCS Network Adequacy Policy Proposal**

Dear Mr. Nau:

Health Access California, the statewide consumer advocacy coalition working for quality, affordable health care for all Californians, offers the following comments on the Department's Network Adequacy Policy Proposal for the Medicaid Managed Care Final Rule. Health Access sponsored the legislation that established the current network adequacy standards in California law, and has worked to strengthen state oversight over health plan compliance with these requirements.

Consumers should be able to use their health coverage when they need health care. Ensuring consumers receive access to care is of paramount importance, particularly in the managed care delivery system. Nearly 80 percent of the over 14.1 million Californians receiving health coverage through Medi-Cal are enrolled in a managed care plan, including vulnerable populations such as seniors, people with disabilities, pregnant women, and children. California must ensure that managed care plans have adequate provider networks so consumers can get the care they need when they need it.

New Network Adequacy Requirements Should Build on Existing Standards

As DHCS's proposal notes, California law already has existing network adequacy standards, which ensure there are a sufficient number of doctors and hospitals available to provide consumers with the care they need, when they need it, in a language they understand. Timely access standards ensure consumers do not have to wait a long time to see a doctor, and geographic access requirements (time and distance) ensure consumers do not to travel unreasonable distances. California already has time and distance standards for primary care (15 miles/30 minutes in Knox-Keene; 10 miles/30 minutes in DHCS-MCP contracts) and hospitals (15 miles/30 minutes). The Final Rule requires the state to adopt time and distance standards for a number of additional provider types, including specialists. In enacting time and distance standards for the provider types required by the Final Rule, California should build on our existing network adequacy requirements and the enforcement mechanisms that currently exist.

Statewide standard, with process for alternative access standards: Under existing law, there is a single, statewide time and distance standard for primary care and hospitals. (28 CCR 1300.67.2.1(a)). Health plans can propose an alternative access standard for portions of its service area if the statewide standard is unreasonably restrictive. State regulators review these proposals on a case-by-case basis and consider, among other things, the uniqueness of

the services, whether the service area is urban or rural, and the population density of the service area, the distribution of consumers and physicians, driving times, etc. (28 CCR 1300.67.2.1(c)).

We believe the time and distance standards required by the Final Rule should build on this existing structure and framework. DHCS's proposal to vary time and distance standards by county population provides too much variation across the state with no corresponding benefit or justification. Firstly, health plans service areas are not contiguous with county lines. Secondly, DHCS's proposal does not account for differences in population density and provider availability within a county. For example, Los Angeles County has communities that are relatively rural compared to the urban parts of the county. Many counties span large geographic areas and have varying densities. Therefore, basing time and distance standards on county population does not ensure consumers have access to care.

Finally, we note that time and distance standards for specialty care exist for other provider networks in California, and these should be considered for Medi-Cal managed care:

- **California Department of Insurance (CDI):** CDI regulations have time and distance standards for specialists 60 minutes or 30 miles of an insured's residence or workplace. (10 CCR 2240.1(c)(4)).
- **California Department of Industrial Relations (DIR):** Workers Compensation: Requires Medical Provider Networks to have specialists available within 60 minutes or 30 miles of a worker's residence or workplace. (8 CCR 9767.5(a)(2)).

Monitoring and enforcement: It is important that oversight over plan network adequacy encompasses the totality of California's laws and regulations around network adequacy and access to care, not just these new standards. They include the provision of timely language assistance, accurate provider directories, timely access to care, and time and distance standards. The Knox-Keene Act and its implementing regulations should be amended so DMHC, the primary regulator of managed care plans, has the ability to provide oversight over these time/distance standards, in addition to the network monitoring they currently do. This would provide the state with the tools to compare plan performance across the marketplace.

We also urge DHCS to strengthen its oversight over Medi-Cal managed care plans by verifying plan data to ensure adequate networks actually exist; perform annual medical audits of plans, and collaborate with DMHC on overlapping work efforts. We also encourage the Department provide detailed information about network adequacy and do not believe the Managed Care Performance Dashboard is the best mechanism to do so. Separate reports on network adequacy with detailed information provided by plan and region would better enable the Department and the public to monitor plan compliance.

Provider types: State law already specifies time/distance standards for primary care and hospitals, and the Final Rule provides us with an opportunity to establish similar standards for specialists and other provider types. With regard to core specialists, we suggest adding rheumatology and urology. The department should also survey primary care doctors and community clinics to identify additional specialties where Medi-Cal consumers have had challenges accessing care.

Pharmacy: DHCS's proposed pharmacy network adequacy standards forces consumers to travel too long and too far. 60 miles or 90 minutes is a long distance for most consumers in a rural or small county to travel to fill a prescription. We should look to other existing time/distance standards for pharmacy to guide the development of a more accessible standard.

External Medical Review Option: The Final Rule permits states to offer and arrange for external medical review if a consumer is denied care. External medical review is a critical consumer protection that ensures consumers can get a second opinion from outside clinicians if they disagree with their health plan's denial of care. This option is already available to the vast majority of consumers enrolled in plans that are licensed under the Knox-Keene Act through DMHC's Independent Medical Review program. The State should require all Medi-Cal managed care plans to be licensed under Knox-Keene so consumers can access the existing IMR program instead of creating duplicative processes.

Statute and formal rulemaking: New time and distance standards should be established through statute and a formal rulemaking process, consistent with the existing time and distance standards for primary care and hospitals. This would provide a transparent public process and opportunity for the public to engage in the development of these standards. In addition, the new time and distance standards would exist alongside the existing time and distance standards, which would provide consumers (along with plans and providers) with clarity about their rights to access to care. Therefore, we object to establishing these standards through subregulatory processes such as All Plan Letters and County Information Notices.

We appreciate the opportunity to comment on this proposal and look forward to working with the Department and the Legislature to craft network adequacy standards that ensure consumers have access to the care they need when they need it.

Sincerely,

Tam Ma
Legal and Policy Director
Health Access California