
CMCS Informational Bulletin

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SUBJECT: Exercise of Enforcement Discretion until Calendar Year 2029 for Medicaid Interested Parties Advisory Group

The Center for Medicaid and CHIP Services (CMCS) is issuing this CMCS Informational Bulletin (CIB) to announce that, until January 1, 2029, CMS does not anticipate taking enforcement action against states with respect to the deadline for the interested parties advisory group to initially convene and provide recommendations to the Medicaid agency, per 42 CFR 447.203(b)(6). Under 447.203(b)(6)(iv), states are required to convene the interested parties advisory group at least every 2 years, which, based on the effective date of the Ensuring Access to Medicaid Services Final Rule (89 FR 40542, “Access Final Rule”), would be first by July 9, 2026, and next by July 9, 2028. Additionally, under 447.203(b)(6)(v), the Medicaid agency must publish the group’s recommendations within one month of when the interested parties advisory group convenes and provides recommendations to the Medicaid agency. However, CMS does not expect to take enforcement action against states that do not meet these deadlines, provided they convene the group by January 1, 2029. States have the flexibility to convene the group and publish earlier as best suits individual circumstances. Through this CIB, we are providing states with additional time to meet the deadlines in section 447.203(b)(6) while they work to comply with the revised Medicaid Advisory Committee (MAC) and new Beneficiary Advisory Council (BAC) requirements, so states may then determine if a standalone interested parties advisory group is appropriate in their state. CMS will use this time to consider proposing changes to these requirements in future notice-and-comment rulemaking. Giving states more time to meet this deadline will also allow them to focus critical resources on implementing recent federal legislation. We selected this timeframe to be mindful of state legislative cycles and to ensure the additional time provided offers a practical benefit.

Background

Section 1902(a)(30)(A) of the Social Security Act requires state Medicaid programs to “assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent

that such care and services are available to the general population in the geographic area[.]” On April 22, 2024, CMS issued the Access Final Rule. Among other provisions, the final rule included a new requirement to establish an interested parties advisory group. Under 42 CFR 447.203(b)(6), states must establish an advisory group for rates for specified home and community-based services (HCBS). The group must advise and consult on provider rates, and the group must include direct care workers, beneficiaries and/or representatives, and other interested parties. The group must convene at least every two years, and provide recommendations to the Medicaid agency, which the state must make available to the public. Under current regulations and absent the exercise of enforcement discretion announced in this bulletin, states are required to convene the first meeting by July 9, 2026, and publish the recommendations by August 9, 2026.

Non-Enforcement and Next Steps for States

CMS expects it will not take enforcement action before January 1, 2029, with respect to the July 9, 2026, deadline and subsequent July 9, 2028 deadline to convene the interested parties advisory group, or as to the corresponding publication deadlines, provided that states convene the first meeting of the interested parties advisory group by January 1, 2029, and publish its recommendations by February 1, 2029. As previously mentioned, states may convene the group and publish its recommendations earlier than the expiration of this enforcement discretion, and administrative match will be available for allowable administrative activities related to implementing this provision regardless of whether the exercise of enforcement discretion is in place.

For questions related to Medicaid FFS access to care requirements, please contact MedicaidAccessToCare@cms.hhs.gov.