MERCER

Comment #12 – 5/13/-14 – 7:24 p.m.

On behalf of the 31 credentialed health actuaries in the Mercer Government Human Services Consulting practice, we appreciate and acknowledge the significant volunteer efforts of the Medicaid Rate Setting and Certification Task Force in developing this excellent Exposure Draft. Our comments begin with the “Request for Comments” section on page v of the Exposure Draft.

1. In our opinion, the scope of this ASOP should be limited to actuaries developing capitation rates/rate ranges and certifications under 42 CFR 438.6(c). Compliance with this federal rule for capitated at-risk Medicaid managed care programs may have different objectives compared to the development of capitation rates for a specific Medicaid MCO, or other Medicaid programs, that are not required to comply with this rule. These differing objectives may yield results that accomplish certain business or policy objectives and comply with all respective applicable rules and regulations, but may not always comply with this Exposure Draft ASOP as written.

   However, we believe that it is clearly desirable and practical for all actuaries developing Medicaid capitation rates to be held to an appropriate standard of practice. With this in mind, we propose the following language, *“The scope of this ASOP is limited to actuaries developing capitation rates/rate ranges and certifications under 42 CFR 438.6(c). Actuaries developing Medicaid managed care rates for purposes other than certification under 42 CFR 438.6(c) may find information in this ASOP useful; if an actuary elects to adhere to this ASOP when developing such Medicaid capitation rates, then the actuary should clearly state so and document any material deviations from this ASOP.”*

   If the scope of the final version of this ASOP is limited to only those actuaries developing rate certifications under 42 CFR 438.6(c), then the references to rates developed on behalf of MCOs will need to reviewed, with some references modified and others removed. These include Section 3.1, and the negative underwriting gain scenario within Sections 3.2.11.b, 3.3 and 4.2.d. Also the reference to CHIP in Section 1.2 should be modified to say, “This standard also applies to actuaries performing professional services related to managed care capitation rates for CHIP when such rates are subject to 42 CFR 438.6(c). Throughout this standard, the term “Medicaid” also refers to CHIP when subject to 42 CFR 438.6(c).

2. In our opinion, the scope of this ASOP should be limited to actuaries developing capitation rates/rate ranges and certifications under 42 CFR 438.6(c). This approach would require actuaries to adhere to this ASOP when developing CHIP rates for Medicaid and Medicaid-expansion CHIP programs, but it would not be a requirement when developing rates for standalone CHIP programs.

   Standalone CHIP programs adhere to separate rules identified in 42 CFR 457.940(b)(2) and (c), and the funding for these programs is ultimately limited by the CHIP allotment. While these rules require using developed payment rates that are consistent with the principles of actuarial soundness, the rules also allow for establishing higher rates than those developed following the principles of actuarial soundness to ensure sufficient provider participation or sufficient provider access. These different rules allow for additional flexibility for these programs, which may require additional flexibility in the rate development process.

3. In our opinion, the definition of actuarially sound/actuarial soundness is clear and correct. It is an incremental improvement on the definition of the term(s) from the August 2005 Practice Note *Actuarial Certification of Rates for Medicaid Managed Care Programs*, which we believe has served Medicaid programs, and their multiple stakeholders, extremely well for almost a decade.

4. In our opinion, Section 3.2.16 is clear and appropriate.

5. In our opinion, this Exposure Draft ASOP may restrict practice inappropriately if it applies to more than just actuaries developing capitation rates/rate ranges and rate certifications under 42 CFR 438.6(c).

6. In our opinion, this Exposure Draft ASOP provides sufficient guidance to actuaries developing capitation rates/rate ranges and rate certifications under 42 CFR 438.6(c). It may require additional guidance and clarification if its scope includes actuaries developing rates that are not required to be certified under 42 CFR 438.6(c), as there are inherently different, and oftentimes opposing, actuarial viewpoints about rate adequacy and what is reasonable, appropriate, and attainable from a statewide Medicaid program perspective compared to each individual MCO's perspective.

7. In our opinion, this Exposure Draft ASOP does not provide sufficient guidance to identify and address inconsistencies in the expectations of actuaries working on behalf of a Medicaid MCO compared to those working on behalf of state Medicaid agencies. However, we do not believe that should be a goal of the ASOP. As discussed in the previous responses, there will be inherently differing actuarial viewpoints and expectations about what is reasonable, appropriate, and attainable, and rate adequacy.

   The last sentence in the second paragraph of Section 3.1 on page 4 states, *"However, the actuary is not certifying that the underlying assumptions supporting the certification are appropriate for an individual MCO."* We agree with this statement; however, it seems at odds with the intent of this comment #7, *"…sufficient guidance to actuaries in identifying and addressing potential inconsistencies in the expectations of actuaries working for Medicaid MCOs and those actuaries working for State Medicaid Agencies."*

   If it truly is a goal of this ASOP (and we do not believe it should be) to directly address these differences in the expectations of actuaries, then we recommend including significantly more clarity around specific definitions and rate development assumptions. This approach would considerably increase the prescriptive nature of the ASOP and could have material cost implications for state and federal stakeholders, as it would be a significant change from current practice. An extremely careful balance would need to be struck to ensure that practice is not restricted from the perspective of actuaries working on behalf of MCOs and developing rates that are sometimes based on business objectives compared to the perspective of actuaries working on behalf of state Medicaid agencies and developing rates for the statewide population and in compliance with 42 CFR 438.6(c).

Additional Comments

- Page 4, Section 3.2.2. Structure of the Medicaid Managed-Care Capitation Rates and page 8, Section 3.2.11 Non-Medical Expenses.

  Sentences in these sections seem to imply that the development of each individual capitation rate must have every rating assumption developed independently, including administrative cost assumptions. There are a variety of ways in which the administrative cost assumptions are developed in practice, some of which result in a uniform application of a factor across several rate cells. However, sentences in these sections could be interpreted to restrict some of these practices. Additional language to clarify that not every rating assumption must be developed at the individual capitation rate cell level of detail would be helpful.

- Page 10, Section 3.2.14. Performance Withholds/Incentives.

  Providing guidance related to performance withholds/incentives is reasonable considering the use of these types of arrangements in Medicaid managed care programs. The language in this section seems to go a bit further than the language used in similar sections, such as Section 3.2.13 for Reinsurance, Risk Corridors and Other Risk-Sharing Arrangements and Section 3.2.15 for Minimum Medical Loss Ratios. Removing the statements, *"The capitation rates should reflect the value of the portion of the withholds for targets that the MCOs can reasonably achieve. The capitation rates should not reflect the value of the incentives."* would result in language similar to these other sections, while maintaining the intent of this section. Alternative opening statements could be *"The actuary should consider the reasonability of the performance withholds and incentives, as well as how the existence of the withholds and incentives will affect the MCO costs, including claims and administration costs."*

In summary, our comments and non-comments reflect a general theme that this Exposure Draft ASOP has fundamentally accomplished a difficult task in balancing many different perspectives for Medicaid managed care rate development and certification. In our opinion, the overall level of guidance in the Exposure Draft ASOP is sufficient as written, with certain exceptions noted (primarily around scope) in the comments above. We appreciate the opportunity to provide comments to the Actuarial Standards Board.

Respectfully,

Kevin Lurito, FSA, MAAA, on behalf of Mercer Government Human Services Consulting