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December 11, 2020

Via E-mail to
Kenneth.geter@state.nm.us

Kenneth Geter, Bureau Chief
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1190 S St. Francis Dr., Ste N1320
Santa Fe, NM 87505

Re: Comments on New Mexico Proposed Rule: 7.1.31 NMAC (Statewide Health Care Claims Database)

Dear Mr. Geter,

UnitedHealthcare, on behalf of itself and its affiliated companies, would like to take this opportunity to address the New Mexico Department of Health proposed adoption of rule 7.1.31 NMAC, concerning the establishment of a statewide all-payer claims database (“APCD”). We respectfully request your consideration of the following comments to the proposed rule.

Comments to §7.1.31.9 – Submission of Claims Data to Database:

Subsection (A): The rule should contain an exemption from the mandatory submission requirements for payers below a certain threshold level of membership. Such an exemption would align with the intent of both the statute and rule to collect data in a cost-efficient manner without creating an undue burden. APCDs across other states commonly provide submission exemptions for payers below a certain threshold membership level. For example, Delaware exempts payers with less than 1,000 members, Utah exempts payers with less than 2,500 members, and Rhode Island exempts members with less than 3,000 members. Other states have different threshold exemption levels.

Subsection (B)(5): Initial submissions to the database should not require more than 3 years of historical data. APCDs across other states have typically not required more than a 3 year look back period. Further, retrieving data beyond that length would be overly burdensome as such data has been archived and is no longer available in its original format. UnitedHealthcare estimates that it could take up to 2 years to retrieve and then format such data for submission. By the time of its submission, this data would provide only limited value and the time and expense spent providing the data would likely outweigh the benefits of submission. For these reasons we strongly recommend limiting historical data submissions to no more than the current and two previous calendar years.

Comments to §7.1.31.11 – General Provisions on Access to the Claims Database Data:

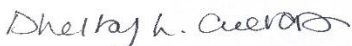
Subsection (C): The current proposed rule requires that requests for data be made to the Department of Health and that the Department convene a subcommittee to establish a more formalized data release process. Similar to other state APCDs the rule should add further requirements to this process, to include the

following: public posting of data release requests; notification of data requests to data submitters; and the opportunity for data submitters and the public to submit comments on data release requests for the consideration of the Department and the subcommittee.

Subsection (E): The current proposed rule provides a general, non-binding timeline of one month for the Department to fulfill data release requests. Although non-binding, such a timeline is likely insufficient to allow for notice and comment followed by consideration of the request by the Department and subcommittee. We recommend against including a specific timeline (even if aspirational) for fulfilling these requests until after the data release process is fully established.

Thank you for the opportunity to comment on New Mexico Proposed Rule 7.1.31 NMAC. Please let me know if you have any questions or desire further discussion on these matters.

Sincerely,


Shelby L. Cuevas
Associate General Counsel

THINK NEW MEXICO

A Results-Oriented Think Tank Serving New Mexicans

December 18, 2020

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Dear Mr. Geter,

Think New Mexico appreciates the opportunity to submit the following comments on the proposed rule 7.1.31 NMAC – “Statewide Health Care Claims Database.” In brief, we urge you to include language in the proposed rule specifically stating that an authorized use and purpose of the database is to provide aggregate data for the state’s health care transparency website, which is required by NMSA 24-14A-6.1.

Background

Think New Mexico is an independent, nonpartisan, results-oriented think tank whose mission is to improve the lives of all New Mexicans, especially those who lack a strong voice in the political process. In 2014, Think New Mexico published a research report calling for the creation of a user-friendly health care transparency website where New Mexicans could find information about the prices and quality of common medical procedures. In that report, we discussed the need for New Mexico to create an All-Payer Claims Database (APCD) in order to collect the data needed to populate the health care transparency website.

During the 2015 legislative session, Think New Mexico worked with other stakeholders to develop and advocate for the bill that became the Senate Judiciary Committee Substitute for Senate Bills 323 and 474. This legislation amended the existing Health Information System Act to allow for the release of hospital-specific cost and quality data, and added a new section to the law requiring the Department to create and regularly update a user-friendly and easily accessible website with hospital costs and quality information.

Specifically, the law required that: “By January 1, 2018, the department shall ensure that the public is provided with access, free of charge, to a user-friendly, searchable and easily accessible web site on which the department shall post and update on a regular basis cost, quality and such other information it publishes pursuant to the Health Information System Act.” (NMSA 24-14A-6.1)

The Department launched an initial website by the January 1, 2018 date mandated by the statute, but unfortunately, since the state had not yet established an APCD, the only data available to the Department at that time was Medicaid data. The initial health care transparency website is

available at: <http://nmhealthcarecompare.com>. Because it only includes Medicaid data, this website fails to fulfill the purpose of giving New Mexicans the information they need to make informed decisions about their health care. As the Department has long recognized, creating a website that satisfies its statutory mandate will require the sort of data that can only be provided by an APCD.

Think New Mexico applauds the Department for the progress it has made over the past five years toward establishing an APCD for New Mexico, and we are very pleased that the Department has put forward this rule, which is necessary in order to make the APCD a reality. This database will provide many benefits to the state and to stakeholders, illuminating opportunities to lower costs and improve care.

However, Think New Mexico would like to be certain that a core use of the APCD will be to support a truly effective and useful public-facing health care transparency website, comparable to those in effect in states like Maine (<https://www.comparemaine.org/>) and New Hampshire (<https://nhhealthcost.nh.gov>). **Therefore, it is concerning to us that this use of the data is not specifically stated in the proposed rule.**

Providing Aggregate Data for the Health Care Transparency Website Should Be Specifically Listed As One Use of the Health Care Claims Database

Since the objective of the proposed rule is to “govern the ... usage” of New Mexico’s APCD, it is important that the rule specifically state that one purpose of the database is to populate the health care transparency website with regularly updated information about the cost and quality of common medical procedures at different health care providers across the state.

The health care transparency website directly furthers the stated objectives of the database to “improve health care cost and quality.” Research by the University of Chicago found that states with transparency websites see the price of common, elective medical procedures drop by an average of 7% as a result of price competition. For example, hip transplants cost an average of \$2,800 less in states with price disclosure websites than in states without them.

Similarly, states that publicize health care quality data, like rates of hospital-acquired infections and readmissions, have seen hospitals compete to improve quality. For example, the statewide hospital-acquired infection rate in Pennsylvania fell by 7.8% after that state began publishing the data.

We recommend revising the draft rule to add one additional subsection to either 7.1.31.11 (“General Provisions on Access to the Claims Database Data”) or 7.1.31.12 (“Access to Health Care Data Reports”), reading:

“Health Care Transparency Website: Data from the claims database shall be used to fulfill the requirement of the HIS Act that the department provide a free, user-friendly public website with regularly updated information about the cost and quality of health care.”

This addition is needed because the default is that the information in the database is shielded from disclosure and not released to the public; the rule lays out specific circumstances and procedures under which it may be released. It should be clear and unambiguous that providing the data needed to support the health care transparency website is a permitted – even required – use of the data so that this use is not open to challenge. Specifically listing the website as an authorized use of the data ensures that there will be no obstacles to that use.

We appreciate your consideration of these comments and we welcome the opportunity to answer any questions you may have or discuss this recommendation further with you or other Department of Health personnel.

Sincerely,



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**Since 2016, Think New Mexico Associate Director Kristina Fisher has served as a member of the Health Information System Act advisory committee.*