



Improving Network Adequacy: Ideas for Advocacy Strategies

Marketplaces are designed to keep premium rates affordable for consumers by encouraging price competition among insurers. As a strategy to reduce costs, many insurers have responded by doubling down on a growing trend to create narrow provider networks. However, if networks become too narrow, access and quality could be jeopardized.

Consumer advocates in many states are concerned that their narrow networks may not meet the needs of consumers. Without action to set common sense standards for networks, consumers may be at risk of not gaining access to needed care - even if they have insurance.

In May 2014, insurers will submit their networks to state regulators as part of their proposals to sell insurance in 2015. The review processes will likely be conducted within one to three months. While this is a short timeframe, it is an opportunity for consumer advocates to work with regulators and policymakers at the state and federal levels to improve network adequacy. In this brief, we highlight important steps to help state advocates plan and carry out strategies to improve network adequacy standards.

Planning your network adequacy work

1. Review your state's existing network adequacy standards. Although there are no uniform quantitative standards among states, most have some regulatory requirements on network adequacy for health plans in part of the private market. At least 20 states have network requirements for health maintenance organizations (HMOs). Some states (i.e. Minnesota, Tennessee, and Texas) adopted the National Association of Insurance Commissioners (NAIC)'s model act requiring HMOs to meet specific standards on geographic access, appointment waiting times and provider-patient ratios.¹ In some states where there are no regulatory standards for network adequacy, HMOs are required to be accredited, which may include basic network standards. However, the accreditation process is not robust enough to regulate networks. States also have existing network standards for public programs including Medicaid managed care and Medicare Advantage. For more information, please see [Network Adequacy: What Advocates Need to Know](#).

2. Focus your coalition. Strong coalitions are key to successful campaigns as partners help bring key capacities, relationships and other resources to the collective effort. In most states, consumer advocacy groups have already formed coalitions for their ongoing advocacy or outreach work. Therefore, rather than create a new coalition, an option is to educate your existing coalition on network adequacy and add network standards to your advocacy priorities.

3. Articulate your goals. It is important to find common ground among coalition partners, because there are number of tradeoffs in defining provider networks. The brief, [Finding Common Ground: Network Adequacy Principles](#), will help unite consumer groups in their

advocacy for robust network adequacy standards that ensure affordable access to the highest quality providers.

4. Identify your allies. Many important health stakeholders, e.g. non-profit hospitals, insurers, or community health centers, have interests in networks that will sometimes overlap with those of consumers. They also have their own areas of influence that can help move reform forward. It is important to develop alliances with these groups.

- *Health care providers* – Engaging providers in this work may be beneficial as they have a keen sense of what is happening with networks and the impacts of narrow networks on consumers. As trusted institutions, they can leverage their political clout to build the case for improving network adequacy standards. Consumer advocates across the country have already allied with hospitals and other providers through their campaigns to expand or protect Medicaid. This is an opportunity to renew and strengthen these relationships. However, advocates should be cautious that providers' interest may be to push for networks open as wide as possible, which would then increase cost for consumers. In this case, it is important to balance the coalition principles.
- *Insurers* – Many insurers have expertise in creating networks that ensure high quality, affordable care. Reaching out to insurers, especially those with history of working with consumer groups, and showing attention to delivery system reforms can be helpful in supporting network adequacy campaigns.

5. Collect stories. Network adequacy will ensure consumers have timely access to the care they need. As consumers now begin accessing care through Affordable Care Act (ACA) programs, [collecting stories](#) is a way to find evidence about any problems consumers may have. It is especially important to highlight issues where consumers accumulate medical debt due to excessive out-of-network cost sharing.

A menu of advocacy strategies

There are a number of potential ways to improve network adequacy standards. This list suggests some areas to focus your advocacy.

1. U.S. Department of Health and Human Services (HHS)/Centers for Medicare and Medicaid Services (CMS) – While the standards in the ACA are broad, there are some opportunities to improve basic standards and transparency at the federal level.

- *Submit comments on [CMS's draft letter to insurers](#) about their participation in federally facilitated Marketplaces (FFMs) in 2015.* Due to increasing concerns about narrow networks, CMS intends to collect and review plan provider lists to determine if care is available without unreasonable delay. This review will then help the development of time and distance standards for future network reviews. This is an opportunity to weigh in urging CMS to consider other standards, such as provider-to-patient ratios and appointment wait-time. In addition, CMS requires that Qualified Health Plans (QHPs) must include 30 percent of essential community providers (ECPs) in their networks. This

is a slight improvement over the 2014 requirements. However, this new minimum standard still does not go far enough to ensure timely access for low-income, vulnerable populations. A more rigorous minimum standard is of at least 50 percent of ECPs. This is especially crucial in states that will use Medicaid funds as premium assistance to purchase coverage in the Marketplace for individuals with income at 100 percent of the federal poverty level.²

- *Urge HHS to draft regulations on data reporting on cost-sharing and payments for any out-of-network coverage.* To help Departments of Insurance (DOIs) effectively assess provider networks and monitor health plans' compliance on network adequacy requirements, it is important to collect data on networks and access. The ACA (Section 2715A) requires insurers to report to HHS and state insurance commissioners on enrollees' cost-sharing and payments with respect to any out-of-network coverage and make such information available to the public. However, until there is formal guidance from HHS on this section, this is not as likely to happen.

2. National Association of Insurance Commissioners (NAIC) – The NAIC, a body made up of insurance commissioners from every state, sets standards that states can choose to follow on regulations.

- *Urge state insurance commissioners to create a new model law on network adequacy.* There is opportunity to update the NAIC's Network Adequacy Model Act # 74³ or develop an entirely new model act in the next few months. However, the NAIC is only likely to act if there is consensus from insurance commissioners. It is important to put pressure on state insurance commissioners to look at their network adequacy standards and review the process in their state. The more DOIs see this as an issue, the more likely the NAIC will be to amend the model act.

3. At the state level – State Regulators (DOI), Legislatures and Marketplaces - Because standards set by the ACA are broad, states have the opportunity to be more prescriptive in setting stronger network adequacy standards to meet the needs of state residents. These talking points, [Educating Policymakers about Network Adequacy – Talking Points for Advocates](#), will help advocates explain the issue to policymakers and can be tailored to your state.

Regulatory process

In most states, the Department of Insurance (DOI) reviews plans' network adequacy at the point when HMOs apply for licensure or as part of quality assurance assessment. In some states plans are regulated under the Department of Health (DOH). The first step is to find out which state agencies are responsible for overseeing network adequacy standards.

- *Work on building dialogue and relationships with regulators to explore options to improve state standards.* In Washington State, the DOI Commissioner drafted proposed regulations, which were then circulated among key stakeholders for comments. However, some DOIs will need additional authority from the legislature to make regulatory changes. See this brief for [tips on how to build relationships with state officials](#).

- *Ask your DOI how they now monitor networks to make sure people can access care.* All insurance commissioners are required to ensure the insurance benefits outlined in the plan contract are met. However, most states do little to monitor plans' compliance with network adequacy standards. Advocates should work with the DOI to develop tools to monitor network adequacy on behalf of consumers. There is information that you can ask your state's DOI to track. For instance, the number of out-of-network claims is one indicator of how well networks are working.
- *Compile consumer stories about network adequacy issues to share with your DOI to monitor health plans' compliance with network adequacy standards.* It is critical that DOIs hear consumer complaints when networks are not sufficient. Keep in mind that state DOIs have a process of collecting consumer complaints. However, this is rarely known by consumers. Advocates in Illinois are working with navigators, assisters and certified application counselors to collect stories about network issues as people start accessing care. These stories can highlight problems finding in-network physicians or specialists, getting timely access to care and finding doctors to provide culturally and linguistically competent care.

State legislative process

The more legislators hear complaints about networks from their constituents, the more they will become interested in taking action. Some DOIs will need greater authority through legislation to perform tests for network standards.

- *Choose the messaging that resonates with your legislators.* Network adequacy is potentially a bipartisan issue. Many Republican legislators who may not support the ACA may be in favor of strong network adequacy standards. Separating the conversation entirely from ACA implementation might be a good tactic to start the conversation in states with difficult political environment. In Texas, advocates have [slightly shifted the focus to balance billing](#), on which legislators have more concerns, as opposed to network adequacy. According to advocates in Minnesota, the most effective and persuasive strategy was to use existing language on network standards which had already been used in other markets in the state, to extend to all plans.

Marketplaces

If your state runs a state-based Marketplace, or retains plan management functions, advocates may be able to work with the Marketplace board or staff to ensure that QHPs are required to meet network adequacy standards that go beyond the ACA's minimum guidelines. At least 13 state-based Marketplaces have specific network adequacy standards to supplement the federal rule on provider networks. The most common criteria included in state approaches to defining a sufficient provider network include: maximum travel time; provider-enrollee ratios; maximum appointment waiting times; hours of operation; and services reasonably accessible by public transportation.⁴

- *Join existing taskforces that work on network adequacy.* Since the ACA passed, some states formed taskforces to collect stakeholder input for the development and implementation of Marketplaces. State consumer advocates have been participating in

these working groups to influence the policy discussions to include the needs of consumers. According to advocates in Minnesota and Washington, becoming leaders in taskforces is an effective way to identify allies and get consumer-oriented messages across on network adequacy.

**Authored by,
QUYNH CHI NGUYEN, PROGRAM & POLICY ASSOCIATE**

¹ The State Health Reform Assistance Network (August 2013). ACA Implications for State Network Adequacy Standards. http://www.rwjf.org/content/dam/farm/reports/issue_briefs/2013/rwjf407486

² The Henry J. Kaiser Family Foundation (December 2013). Medicaid Expansion Through Premium Assistance: Arkansas, Iowa, and Pennsylvania's Proposals Compared. <http://kaiserfamilyfoundation.files.wordpress.com/>

³ NAIC's Model Act # 74, which has not been updated since 1996, applies to all managed care plans such as health maintenance organizations (HMOs).

⁴ The Commonwealth Fund (December 2013). Realizing Health Reform's Potential: How Are State Insurance Marketplaces Shaping Health Plan Design?

[http://www.commonwealthfund.org/~media/Files/Publications/Issue%20Brief/2013/Dec/1719_Rosenbaum_how_are_state_marketplaces_shaping_rb%20\(2\).pdf](http://www.commonwealthfund.org/~media/Files/Publications/Issue%20Brief/2013/Dec/1719_Rosenbaum_how_are_state_marketplaces_shaping_rb%20(2).pdf)