



The American College of
Obstetricians and Gynecologists
WOMEN'S HEALTH CARE PHYSICIANS

March 16, 2020

President Donald J. Trump
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Vice President Michael R. Pence
The White House Office of the Vice President
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Trump and Vice President Pence:

On behalf of the American College of Obstetricians and Gynecologists (ACOG), the Nation's leading women's health organization, representing over 60,000 physicians and partners dedicated to advancing women's health, thank you for declaring a state of national emergency in response to COVID-19, a global pandemic and serious public health threat. This declaration enables your Administration to overcome regulatory hurdles and act swiftly to respond to the pandemic.

We commend your Administration's actions to waive requirements for prior authorization, gatekeeper referral, provider enrollment, and licensure for providing care across state lines, all of which will expand access to treatment for Medicare and Medicaid beneficiaries seeking care amid this pandemic. In addition, we appreciate the Centers for Medicare and Medicaid Services (CMS) decision to waive the burdensome 3-day stay rule and other requirements for hospitals that will allow for facilities to admit, discharge, and transfer patients more quickly.

As you know, roughly 108.8 million people are covered by Medicare and Medicaid.ⁱ Medicaid is the single largest payor for births in the United States, covering 43% of all U.S. births.ⁱⁱ In addition to the important actions listed above, ACOG recommends that CMS take the following steps to increase access to care for Medicare and Medicaid beneficiaries in the wake of this pandemic:

- **Waive prior authorization, step therapy, and other utilization management requirements across payers:** ACOG commends the steps CMS has taken to waive prior authorization requirements for Medicare Advantage (MA) plans and traditional Medicare beneficiaries.ⁱⁱⁱ We recommend that CMS waive other utilization management requirements, such as step therapy for MA beneficiaries. Evidence indicates that step therapy requirements delay treatment and result in worse patient outcomes.^{iv} It is likely that our health care system will become overwhelmed with individuals requiring treatment for COVID-19, and CMS should ensure that burdensome requirements are waived and patients can easily access the care they need. To ensure that individual market enrollees do not experience unnecessary care delays, ACOG also recommends that CMS waive utilization management requirements for issuers administering plans on the individual market. There has been rapid growth in the use of utilization management across payers in recent years and it is critical that clinicians are not faced with unnecessary administrative tasks amid this crisis.^v
- **Provide authority for Medicare Advantage plans to waive network requirements and ensure out-of-network clinicians are paid for services provided to beneficiaries:** CMS has the authority to waive network requirements for Medicare Advantage beneficiaries during this public

health emergency.^{vi} Doing so would expand access for MA beneficiaries to out-of-network facilities and practitioners, in the event that their in-network options are overwhelmed. CMS must then ensure that out-of-network facilities and practitioners are fairly reimbursed for the services they have provided.

- **Support state efforts to provide continuous Medicaid coverage for 12 months postpartum:** COVID-19 is and will continue to create stress on our country's health care system, undermining the ability of patients to obtain access to timely health care. Such strains on access are particularly troubling for already vulnerable patient populations, including women who rely on Medicaid during their pregnancy. Accordingly, ACOG urges CMS to expeditiously approve pending Section 1115 Waivers from Illinois and Missouri, and work with additional states to ensure that women who rely on the Medicaid program receive continuous coverage for one year after delivery. Our Nation is facing a maternal mortality crisis and is the only developed country with a rising maternal death rate.^{vii} One in three women experience a disruption in insurance coverage before, during, or after pregnancy, and nearly 60 percent of these perinatal insurance disruptions include a period of uninsurance.^{viii} The postpartum period is a time of vulnerability during which many women have unmet health needs.^{ix,x} Cardiac disease—the leading cause of maternal mortality in the U.S. according to the Centers for Disease Control and Prevention (CDC)—is particularly linked to maternal deaths in the late postpartum period up to one year after the end of pregnancy.^{xi} The CDC warns that people with chronic medical conditions, such as heart disease, are at elevated risk of becoming very ill from COVID-19.^{xii} We urge the Administration to prioritize this at-risk population and take immediate action to increase coverage for postpartum moms by supporting state efforts to extend continuous Medicaid coverage for one year postpartum.

Further, ACOG recommends that the Administration take action to increase access to coverage for individuals insured in the private insurance market:

- **Establish a midyear open enrollment period in the health insurance exchanges:** During this time of uncertainty, many Americans are evaluating their health insurance coverage, and may discover that their coverage is not sufficient to meet their needs. In particular, those covered by short-term, limited duration insurance plans are at particular risk of needing health care services that are not covered by their limited-benefit plan. As individuals evaluate their coverage needs, we urge your Administration to establish a midyear open enrollment period to ensure access to adequate coverage.
- **Establish a special enrollment period for pregnancy:** Pregnant women are known to be at greater risk of severe morbidity and mortality from other respiratory infections such as influenza and SARS-CoV.^{xiii} As such, pregnant women should be considered an at-risk population for COVID-19.^{xiv} For decades, the Medicaid program has recognized pregnancy as a critical life event, a point at which women need immediate access to affordable care through coverage expansions and presumptive eligibility based on pregnancy status. Timely prenatal care improves the health of pregnant women, as well as birth outcomes and the health of babies throughout their lifetimes. With roughly half of all U.S. pregnancies being unplanned, a woman's coverage needs can suddenly change if she learns she is unexpectedly pregnant. Pregnant women must be able to switch into health plans that cover pregnancy care, both for the financial protection pregnant women and their families need during this life changing period, and for the health of the mother and the baby. The COVID-19 pandemic puts a spotlight on the need for access to coverage and care that meets the needs of our pregnant patients.

In addition to the authorities requested above, ACOG urges your Administration, through CMS and other agencies, as appropriate, to suspend indefinitely or rescind several recent administrative actions that are likely to reduce access to care amid this national emergency:

- **Pause all state-based work and community engagement requirements imposed on Medicaid beneficiaries:** CMS has approved six state requests to implement work and community

engagement requirements in Medicaid— four of which have been halted by federal courts— and ten more are waiting for CMS approval.^{xv} ACOG believes work and community engagement requirements are antithetical to the long-standing objectives of the Medicaid program and create unnecessary barriers to coverage. In addition, these policies have a disproportionate impact on women, in part, because women represent nearly two-thirds of minimum wage workers across the country.^{xvi,xvii} To best ensure access to care for our nation’s most vulnerable, ACOG urges CMS to immediately suspend approval of all work and community engagement requirements, including those that have not yet been implemented.

- **Rescind the pending Medicaid Fiscal Accountability Regulation:** CMS is in the midst of reviewing comments related to the Medicaid Fiscal Accountability Regulation (MFAR). If finalized as proposed, the rule would make changes to what funding states can use to support their share of the Medicaid program and alter supplemental payments to physicians and other health care providers. The changes could have significant implications for state budgets, potentially resulting in less access to care for patients. While the rule is likely to reduce federal spending in Medicaid, it would create significant uncertainty for states as they work to address COVID-19 and result in barriers to access to care for patients. For these reasons, ACOG requests that you rescind the pending regulation.
- **Guarantee freedom of choice of provider in the Medicaid program:** Medicaid’s “freedom of choice” and “any willing provider” protections were enshrined in law to ensure that individuals on Medicaid have the right to choose the providers and the treatments that best suit their needs, without outside interference. CMS recently approved a Section 1115 Waiver proposal from the state of Texas to bar certain women’s health care physicians from the Medicaid program, and similar proposals await CMS approval. These proposals are harmful to our patients, many of whom consider their obstetrician-gynecologist their sole source of health care. To best facilitate access to care in the midst of COVID-19, ACOG urges CMS to rescind its approval of the Texas Section 1115 Waiver and release guidance to states reinforcing the Administration’s commitment to freedom of choice of provider for Medicaid beneficiaries.
- **Pause implementation and enforcement of the Inadmissibility on Public Charge Grounds final rule:** In order to best protect the public’s health during the COVID-19 pandemic, all individuals— regardless of immigration status— need equal access to benefits and treatment. While we were pleased to see the notice from the United States Department of Homeland Security stating that the United States Citizenship and Immigration Services “encourages all those, including aliens, with symptoms that resemble COVID-19 (fever, cough, shortness of breath) to seek necessary medical treatment or preventive services” and that “such treatment or preventive services will not negatively affect any alien as part of a future Public Charge analysis,” ACOG would like to see a similar public commitment from CMS as the administrator of the Medicaid program.^{xviii}

The COVID-19 pandemic will test the strength of our health care system, and the ability of your Administration to meet the needs of all those living in the United States. We appreciate the work you are already doing to address this public health crisis and continue to see vast opportunity for action within your Administration. We hope to partner with you as you rapidly work toward our shared goal of controlling and mitigating the negative impacts of this global pandemic, and urge you to give full consideration of ACOG’s recommendations to remove barriers to coverage and increase access to care.

Sincerely,



Maureen G. Phipps, MD, MPH, FACOG
Chief Executive Officer
American College of Obstetricians and Gynecologists

-
- ⁱ Kaiser Family Foundation. Health Insurance Coverage of the Total Population. 2018. Retrieved from: <https://www.kff.org/other/state-indicator/total-population/?dataView=1¤tTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>
- ⁱⁱ Medicaid and CHIP Payment and Access Commission. Medicaid's Role in Financing Maternity Care. January 2020. Retrieved from: <https://www.macpac.gov/wp-content/uploads/2020/01/Medicaid%E2%80%99s-Role-in-Financing-Maternity-Care.pdf>
- ⁱⁱⁱ Information Related to Coronavirus Disease 2019 - COVID-19. Centers for Medicare and Medicaid Services to All Medicare Advantage Organizations, Part D Sponsors, and Medicare-Medicaid Plans. March 10, 2020. Available at: <https://www.cms.gov/files/document/hpms-memo-covid-information-plans.pdf>
- ^{iv} Influence of delay on survival in patients with breast cancer: a systematic review. The Lancet. May 20, 1999. DOI: [https://doi.org/10.1016/S0140-6736\(99\)02143-1](https://doi.org/10.1016/S0140-6736(99)02143-1)
- ^v 2018 Prior Authorization Physician Survey. American Medical Association. 2019. Available at: <https://www.ama-assn.org/system/files/2019-02/prior-auth-2018.pdf>
- ^{vi} Public Health Emergency Declaration Questions and Answers. Centers for Medicare and Medicaid Services. Available at: <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Downloads/PHE-Questions-and-Answers.pdf>
- ^{vii} Recent Increases in the U.S. Maternal Mortality Rate: Disentangling Trends From Measurement Issues. MacDorman MF, Declercq E, Cabral H, Morton C. *Obstet Gynecol.* 2016;128(3):447-55.
- ^{viii} High Rates Of Perinatal Insurance Churn Persist After The ACA. Health Affairs Blog. September 16, 2019. DOI: [10.1377/hblog20190913.387157](https://doi.org/10.1377/hblog20190913.387157).
- ^{ix} The Fourth Trimester of Pregnancy: Committing to Maternal Health and Well-Being Postpartum. Spelke B and Werner E. *R I Med J* (2013). 2018 Oct 1;101(8):30-33.
- ^x The fourth trimester: a critical transition period with unmet maternal health needs. Tully KP, Stuebe AM, and Verbiest SB. *Am J Obstet Gynecol.* 2017 Jul;217(1):37-41.
- ^{xi} Pregnancy and heart disease. ACOG Practice Bulletin No. 212. American College of Obstetricians and Gynecologists. *Obstet Gynecol* 2019;133:e320-56.
- ^{xii} Coronavirus Disease 2019 (COVID-19). Available at: <https://www.cdc.gov/coronavirus/2019-ncov/high-risk/high-risk-complications.html>
- ^{xiii} Practice Advisory: Novel Coronavirus 2019 (COVID-19). American College of Obstetricians and Gynecologists. March 14, 2020. Available at: <https://www.acog.org/Clinical-Guidance-and-Publications/Practice-Advisories/Practice-Advisory-Novel-Coronavirus2019>
- ^{xiv} Id.
- ^{xv} Medicaid Waiver Tracker: Approved and Pending Section 1115 Waivers by State. Kaiser Family Foundation. March 10, 2020. Available at: <https://www.kff.org/medicaid/issue-brief/medicaid-waiver-tracker-approved-and-pending-section-1115-waivers-by-state/#Table2>
- ^{xvi} Medicaid work requirements: Who's at risk? Ku L, Brantley E. Health Affairs Blog, Apr. 12, 2017. Available at <http://healthaffairs.org/blog/2017/04/12/medicaid-work-requirements-whos-at-risk/>
- ^{xvii} Women and the minimum wage, state by state. National Women's Law Center. August 2017. Available at: <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2017/07/Women-Minimum-Wage-7.24.17.pdf>
- ^{xviii} Public Charge. U.S. Citizenship and Immigration Services. Available at: <https://www.uscis.gov/greencard/public-charge>