

PRELIMINARY REPORT
FROM
THE NEGOTIATED RULEMAKING COMMITTEE ON THE DESIGNATION OF MEDICALLY
UNDERSERVED POPULATIONS AND HEALTH PROFESSIONS SHORTAGE AREAS
TO
THE SECRETARY OF HEALTH AND HUMAN SERVICES
MARCH 2011

INTRODUCTION

The Affordable Care Act (ACA) requires the Secretary of Health and Human Services to establish revised methodologies and criteria for the designation of medically underserved populations (MUP) and health professions shortage areas (HPSA), under Sections 330(b)(3) and 332 of the Public Health Service Act, respectively. To accomplish this objective, the ACA required the Secretary to appoint a negotiated rulemaking committee.

Under current law, HPSA and MUP designations have multiple uses, including identifying areas eligible for:

- Funding under the Section 330 Community Health Center Program;
- National Health Service Corps placement;
- Medicare incentive payments to physicians;
- Certification by the Centers for Medicare and Medicaid Services (CMS) of rural health clinics;
- Certification by CMS of Federally Qualified Health Centers and Look-Alikes; and
- Placement of J1 Visa Waiver and Conrad 30 physicians who agree to serve in underserved communities.

In July 2010, the Negotiated Rulemaking Committee on the Designation of Medically Underserved Populations (MUPs) and Health Professions Shortage Areas (HPSAs) (Committee) was established and Committee membership announced. The Committee includes 28 members representing a range of stakeholders, including representatives of programs impacted by HPSA and MUP designations such as Community Health Centers, Rural Health Clinics and rural health care practitioners, and special populations with unique health care needs. It also includes experts with research and technical expertise in health care access issues and statistical methods. (Membership list included as Appendix A.)

The ACA requires the Committee to provide a status report to the Secretary on the Committee's progress. Specifically, the Committee is to report on its progress on the development of recommendations for revised methodologies and criteria and the likelihood of achieving timely consensus among Committee members regarding this goal.

NOTICE REGARDING LIKELIHOOD OF CONSENSUS

The Committee has made significant progress toward developing improved methodologies and believes it can reach consensus on a final report in the coming months. However, given the number of complex and substantive issues for the Committee to address, the final Committee report cannot be issued by the July 1, 2011 target date included in the Notice of Intent to Form a Negotiated Rulemaking Committee published in the *Federal Register* on May 11, 2010. The Committee believes that it can develop recommendations for revising the HPSA and MUP-designations in ways that will improve these important tools and help the Department of Health and Human Services and others better direct health resources to underserved areas. It requests additional time to complete its work.

Specifically, the Committee seeks additional time to complete impact testing of the various components of the proposed model in development and of the full model. Impact testing is essential to assessing the effects of the proposed changes under discussion and it requires appropriate time to allow for refinements to the model based on the testing results. In addition, an important part of the negotiated rulemaking process is gathering input from stakeholder groups. Committee members need time to consult with their constituencies before reaching final agreement. Therefore, the Committee requests that it be able to continue its work and issue a final report as soon as possible but no later than October 31, 2011.

UPDATE ON COMMITTEE PROGRESS

The 28 member Committee has met six times in person, often for 3 days at a time, for a total of 15 days of in-person meetings. Workgroups have been established on specific issues. There has been extensive workgroup activity via conference calls between the meetings. Meetings have produced substantive dialogue about the framework for a new methodology and criteria and about the primary components to be included. As with any such effort, there are many inter-related parts of the whole. To advance the process, Committee members have reached preliminary agreement on a number of components, but intend to fully evaluate the comprehensive proposal once each component is agreed upon and impact testing of the full model is completed.

Based on deliberations to date, the Committee has reached preliminary agreement on certain key concepts, including:

- Evaluating shortage in rational service areas that recognize how health care services are organized locally;
- Maintaining separate designations for HPSAs and MUPs and weighting factors differently to achieve the distinct goals of HPSAs and MUPs.
- Including factors that reflect the health status of the population, socio-economic factors that correlate with health status, and barriers to care;
- Developing an option for a streamlined process for special populations with widely recognized health status and access problems;
- Accounting for the range of primary care providers who serve a population;
- Ensuring that the need/demand component of any methodology is age and sex adjusted to recognize differences in utilization; and

- Considering options for facility designations.

The Committee is making decisions about the various factors for these components and other key concepts and beginning the process of modeling the impact of the concepts and their supporting elements. It will use this data to inform final decision-making.

CONCLUSION

The Committee is strongly encouraged by its progress to date and anxious to continue its work. Committee members have demonstrated a willingness to make difficult decisions, informed by data, in a timely way. The Committee has created a process that is a valid and viable mechanism for achieving the consensus necessary to advance a new rule for HPSA/MUP criteria and methodologies. We look forward to completing this effort and thank the Secretary for consideration of our request.