



## Fact Sheet: Proposed Rulemaking on Ensuring Access to Medicaid Services

On May 3, 2023, the Centers for Medicare and Medicaid Services (CMS) issued a notice of proposed rulemaking, [Ensuring Access to Medicaid Services](#), which seeks to improve access to care and better address health equity issues in the Medicaid program.

### Placing Additional Constraints on a System in Crisis

The proposed rule acknowledges that the direct support workforce crisis limits access to home and community-based services. However, a provision included in its proposed rule—although intended to alleviate recruitment and retention challenges—risks decreasing access to an already fragile system of supports and services.

#### *The HCBS Payment Adequacy Provision*

The proposed rule includes an HCBS payment adequacy mandate, which would require states to assure that at least 80% of all Medicaid payments for homemaker services, home health aide services, and personal care services are spent on compensation to direct care workers.

This provision is concerning to ANCOR because:

- It does not get to the root cause of the direct support workforce crisis: stagnant and insufficient Medicaid payment rates that do not include adequate funding for competitive wages.
- Without commiserate funding to meet the mandate, HCBS providers will be forced to cut funding from other areas which also ensure access, such as training, supervision, quality oversight, and transportation.
- In worst case scenarios, smaller providers unable to shoulder the cuts will be forced to close – thereby decreasing access.
- The payment adequacy mandate is neither driven by data nor tested by community practice, and the proposed rule has failed to articulate how it would mitigate the likelihood that establishing such a threshold would further constrain providers' already limited resources.

### Opportunities: Improving Quality, Transparency & Consistency

The proposed rule also includes several promising provisions, including provisions that would:

- Require states to publish their fee-for-service Medicaid payment rates in a clearly accessible location and report the date when payment rates were last updated.
- Require states to report annually to CMS on metrics related to waiting lists, including the number of people waiting, average wait times, and methodologies for determining eligibility.
- Require states to use the HCBS Quality Measure Set in 1915(c) waiver programs.
- Define critical incidents and require states to operate and maintain an incident management system, including a requirement that providers report critical incidents.

**Contact:** Have questions or thoughts for ANCOR? Email Elise Aguilar, Director of Federal Relations, at [eaquilar@ancor.org](mailto:eaquilar@ancor.org).