NGA Resolution -- Managed Care and Health Care Reform

Summary: The NGA opposes "any willing provider" legislation and other legislative efforts to "restrict" health plans' efforts to improve quality and control costs. The NGA specifically notes that managed care plans should not be placed at a "competitive disadvantage" compared to other types of health plans.

Response:

The Department of Health and Human Services generally opposes "any willing provider" legislation that would disrupt the health care sector's efforts to control costs through managed care delivery systems. However, HHS also has several concerns with the NGA's resolution, as drafted.

Essential Community Providers

Federally-qualified health centers, public hospitals, public clinics and other essential community providers often sustain the health care infrastructure in under-served areas of the United States. These providers may require special protections within managed care systems in order to survive -- and therefore ensure access to care for low-income and other under-served Americans. Under current Medicaid law, for example, States must ensure that Medicaid beneficiaries retain access to FQHCs and rural health clinics in mandatory managed care programs. Similarly, HHS has ensured that Medicaid enrollees are guaranteed FQHC and RHC services -- whether provided through these providers or through other arrangements -- in state health reform demonstrations.

Provider-Sponsored Organizations

Provider-Sponsored Organizations -- networks of physicians, hospitals and other providers that are managed by physicians, rather than a corporate HMO entity -- have recently emerged as a new type of managed care plan. The Administration has proposed amending current contracting requirements, such as the state licensure requirement and solvency rules, in order to allow Medicare to contract with these entities on a pre-paid, risk basis. These proposed exceptions could be construed as placing other entities at a competitive disadvantage. However, because their organizational structure and capitalization differs from traditional HMOs, PSOs need a different, rather than level, playing field from other managed care plans.

Quality Standards

In the President's Medicaid plan, the Administration proposes to replace out-dated proxies for quality of care -- such as the 75/25 enrollment composition rule -- with new rules for quality improvement programs for both States and health plans. Similarly, the

Senate Finance Committee's version of the Republican Medicaid proposal includes a number of access and reporting standards for States and Medicaid-contracting managed care plans. The NGA's resolution could be interpreted to oppose these kinds of important beneficiary protections that would make States and plans accountable for ensuring that Medicaid enrollees receive high-quality health care services.

EXECUTIVE COMMITTEE

RESOLUTION NUMBER EC-5

MANAGED CARE AND HEALTH CARE REFORM

Description of Proposal: The proposal expresses the Governors' support for managed care and their opposition to "any willing provider" legislation (legislation that requires health plans to contract with any health care provider who agrees to meet health plan terms and conditions).

Description of Change: Under the proposed changes, the Governors would oppose "any other legislation that would restrict the ability of health plans to improve quality and control cost." This could mean that the Governors oppose a broad range of managed care legislation protecting access to and quality of health care including, for example, legislation requiring health plans to cover at least a 48 hour hospital stay for newborns and mothers, new rules in the Senate Finance Committee's version of the Republican Medicaid proposal that includes a number of access and reporting standards for states and health plans.

Administration Position: While we do not support overly restrictive, excessive regulation of managed care, we are concerned that the language proposed by the Governors is too broad. Their proposal could be amended to clarify that they do not intend to impair state of federal government efforts to promote access, quality and consumer protections.

RESPONSE TO:	National Governors' Association Resolution EC-5 concerning Managed Care and Health Care Reform
SPONSOR:	National Governors' Association Executive Committee
SUMMARY:	This policy expresses the Governors' opposition to state or federal legislation that unnecessarily restricts a health plan's ability to manage the cost and quality of health care services delivered to plan members. Originally applicable only to "any willing provider" provisions, the policy has been revised to broaden its relevance to any legislation that unnecessarily limits managed care plans including provisions that place managed care plans at a competitive disadvantage to other types of plans
HHS POSITION:	The Department of Health and Human Services (DHHS) supports efforts of states to improve the quality and efficiency of the nations' health care system. DHHS is concerned, however, that broadening the current policy as proposed could be interpreted to oppose important beneficiary protections and efforts to increase access to health care.
COMMENTS:	The Administration's Medicaid plan would replace outdated proxies for quality of care -- such as the 75/25 enrollment composition rule – with new rules for quality improvement programs for both States and health plans. Similarly, the Senate Finance Committee's version of the Republican Medicaid proposal includes a number of access and reporting standards for states and Medicaid-contracting managed care plans. The NGA's resolution could be interpreted to oppose these kinds of important beneficiary protections.
SUGGESTED AMENDMENT:	Add a clarifying statement that the Governors' do not intend to impair state or federal government efforts to promote access, quality, and consumer protections.

EC-5. MANAGED CARE AND HEALTH CARE REFORM

5.1 Preamble

~~As the nation moves to comprehensively reform its health care system,~~ States CONTINUE TO BE ~~are again~~ at the forefront of THE NATION'S EFFORTS TO IMPROVE THE QUALITY AND EFFICIENCY OF OUR HEALTH CARE SYSTEM. ~~change.~~ A number of states have aggressively moved to reduce health care inflation, expand access for the working poor, ENHANCE CONSUMER PROTECTIONS, and bring greater accountability to the system. Managed care has played an integral role in the efforts of many states to reform their health care systems and is an important part of IMPROVING ACCESS AND QUALITY TO MEDICAID BENEFICIARIES. ~~national health care reform.~~

5.2 ~~Any Willing Provider~~ Legislation IMPACTING MANAGED CARE

So-called "any willing provider" legislation AND OTHER LEGISLATION THAT WOULD RESTRICT THE ABILITY OF HEALTH PLANS TO IMPROVE QUALITY AND CONTROL COST HAVE ~~has~~ appeared in a number of state legislatures recently and IN CONGRESS. SUCH LEGISLATION is usually framed as a patient choice issue. Such legislation may undermine state health care reform efforts and could roll back our significant state-by-state progress in this area.

~~Generally, the legislation requires that any health care provider who agrees to meet the terms and conditions of a health plan be allowed to participate in that plan.~~ This type of legislation is problematic because it has the potential to undermine the efforts of managed care organizations to control costs and limit the size of networks in order to achieve maximum efficiency. The result may be decreased patient volume to managed care organizations, crippling their ability to control utilization of health care services. This type of legislation can have devastating effects on current managed care delivery systems by:

- destroying the gatekeeper concept essential to managed care, severely curtailing managed care organizations' ability to control health care costs and the quality of their provider networks;
- significantly increasing managed care organizations' administrative and claims costs;
- preventing managed care organizations from achieving significant provider discounts in exchange for patient volume;
- undercutting the administrative efficiencies of managed care;
- actually reducing consumer choice by limiting the patient's choice to indemnity plans; and
- impeding efforts to improve health care quality through contracting standards and information exchanges that can lead to better outcomes and higher quality care for patients.

5.3 Conclusion

THESE LEGISLATIVE PROPOSALS ~~"Any willing provider" laws~~ arise from good motives—the desire to preserve existing patient-provider relations and to safeguard patients' access to care or choice of provider from arbitrary decisions by health plans to exclude or drop providers from their networks. These are legitimate goals that need to be addressed through vehicles that do not

threaten the cost, quality, and access advantages that well-designed managed care delivery systems can provide.

The Governors do not support, at either the state or federal level, LEGISLATION THAT UNNECESSARILY LIMITS THE ABILITY OF HEALTH PLANS TO MANAGE QUALITY AND COST OR THAT PLACES MANAGED CARE PLANS AT A COMPETITIVE DISADVANTAGE RELATIVE TO OTHER TYPES OF HEALTH PLANS. ~~overly restrictive "any willing provider" laws.~~ We remain committed to retaining the state flexibility that managed care delivery systems provide to us as we move to reform our STATE health care systemS.

Time limited (effective ANNUAL MEETING 1996–ANNUAL MEETING 1998 ~~Annual Meeting 1994–Annual Meeting 1996~~).
Adopted Annual Meeting 1994.

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

08-Jul-1996 01:30pm

TO: (See Below)

FROM: Jeremy D. Benami
Domestic Policy Council

SUBJECT: NGA Policies

As mentioned at this morning's staff meeting, we need to do a quick analysis of the NGA policies to be considered at the upcoming NGA summer meeting.

For those of you who have done these in the past, it is easiest to use a common format - laid out below. For those of you not at the meeting this morning, the analyses we do help our administration representatives at the Committee meetings to understand what issues we may have with the proposal being considered.

You do not need to do a detailed analysis of the proposal in its entirely. What you need to focus on are what the main problems we might have with the policies are - i.e., any proposals that are in direct conflict with administration policy. Staff of the various governors will be looking to our reps at the meeting for guidance on where the administration is - and these sheets that you prepare may be the only information our people have (Marcia, John Emerson, etc.).

If there is no problem with the policy from our perspective, then your sheets can be extremely brief!! However, if there is a serious issue, please devote the appropriate amount of space to describing the issue.

FORMAT:

COMMITTEE
RESOLUTION NUMBER (e.g. HR-4)
RESOLUTION NAME

Brief Description of Proposal:

(try to limit this to one sentence or one paragraph describing what the policy is)

Brief Description of Change:

(what is the change that is proposed to current NGA policy - i.e., is this a radical reversal, reaffirmation, amendment, etc.)

Administration Position:

(can be brief, i.e., administration in full support or longer if there are significant issues)

This entire format does not need to be more than a page in most cases.

DENNIS: Let's talk this afternoon about how to get this done while you are out of town. I have an idea.

Please call with questions. With Dorothy out, Micah will be calling to track these down.

Thanks.

Distribution:

TO: Michael Cohen
TO: Dennis Burke
TO: Jeanine D. Smartt
TO: Lyndell Hogan
TO: Diana M. Fortuna
TO: Diane Regas
TO: Christopher C. Jennings
TO: Jennifer L. Klein

CC: Carol H. Rasco
CC: Elizabeth E. Drye

NATIONAL GOVERNORS' ASSOCIATION

Tommy G. Thompson
Governor of Wisconsin
Chairman

Bob Miller
Governor of Nevada
Vice Chairman

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1996 Annual Meeting

EXECUTIVE COMMITTEE

Governor Tommy G. Thompson, Chair
Governor Bob Miller, Vice Chair

Raymond C. Scheppach, Executive Director

Proposed Changes in Policy

Jen Klein/
Chris Jennings
Mike Cohen

New language is typed double-spaced and in ALL CAPS, with deleted material lined-throughout (—).