Presentation to the NASEM Committee on the Pediatric Subspecialty Workforce and Its Impact on Child Health and Well-Being

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Medicaid Statutory Requirements Related to Access

- Reasonable promptness of medical assistance (42 U.S.C. § 1395a(a)(8)
- EPSDT access (42 U.S.C. § 1396a(a)(43)
- Equal access (42 U.S.C. § 1396a(a)(30)(A))
- Managed care access standards (42 U.S..C. § 1396u-2 (c); 42 U.S.C. § 1396b(m)

Private Enforcement

- 1983 actions (Health and Hospital Corp. v Talevski)
  - Prompt assistance
  - EPSDT
- Implied right of action (Armstrong v Exceptional Child Inst.)
  - Equal access
  - Managed care access
- State law claims against the agency or MCOs

CMS Enforcement

- 1966 Handbook of Public Administration – Medicaid's "mainstreaming" goal
- 1983 EPSDT regulations
- 1979 – original access rule codifies Handbook
- 2015 -- "access monitoring review plans" geared to FFS provider payment. Variation in data and measures
- 2016 managed care rule including network requirements for both primary and specialty care (438.206)
- 2018 – Trump administration proposes exemption of "high managed care" states from access monitoring. Never finalized
- 2022 -- CMS delays reports until 2024.

Possible actions

- Congressional ratesetting/access standards – unlikely (tried with equal access rule in 1902(a)(30)(A), which was partially repealed by eliminating ob-gyn standards
- CMS access monitoring -- both coverage and care (Feb 2022 RFI and rule expected by year's end)
- MACPAC access monitoring recommendations (June 2022)
  - Consistent, common measures across 3 domains of provider availability, use of care, and beneficiary experience including barriers and unmet needs
- EPSDT enforcement & monitoring as a dimension of access
- State actions -- ratesetting

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