(3)(a) There is established a Medical Care Advisory Committee, which shall be the committee that is required by federal regulation to advise the Division of Medicaid about health and medical care services.

(b) The advisory committee shall consist of not less than eleven (11) members, as follows:

(i) The Governor shall appoint five (5) members, one (1) from each congressional district and one (1) from the state at large;

(ii) The Lieutenant Governor shall appoint three (3) members, one (1) from each Supreme Court district;

(iii) The Speaker of the House of Representatives shall appoint three (3) members, one (1) from each Supreme Court district.

All members appointed under this paragraph shall either be health care providers or consumers of health care services. One (1) member appointed by each of the appointing authorities shall be a board-certified physician.

(c) The respective Chairmen of the House Medicaid Committee, the House Public Health and Human Services Committee, the House Appropriations Committee, the Senate Medicaid Committee, the Senate Public Health and Welfare Committee and the Senate Appropriations Committee, or their designees, one (1) member of the State Senate appointed by the Lieutenant Governor and one (1) member of the House of Representatives appointed by the Speaker of the House, shall serve as ex officio nonvoting members of the advisory committee.

(d) In addition to the committee members required by paragraph (b), the advisory committee shall consist of such other members as are necessary to meet the requirements of the federal regulation applicable to the advisory committee, who shall be appointed as provided in the federal regulation.

(e) The chairmanship of the advisory committee shall be elected by the voting members of the committee annually and shall not serve more than two (2) consecutive years as chairman.

(f) The members of the advisory committee specified in paragraph (b) shall serve for terms that are concurrent with the terms of members of the Legislature, and any member appointed under paragraph (b) may be reappointed to the advisory committee. The members of the advisory committee specified in paragraph (b) shall serve without compensation, but shall receive reimbursement to defray actual expenses incurred in the performance of committee business as authorized by law. Legislators shall receive per diem and expenses, which may be paid from the contingent expense funds of their respective houses in the same amounts as provided for committee meetings when the Legislature is not in session.

(g) The advisory committee shall meet not less than quarterly, and advisory committee members shall be furnished written notice of the meetings at least ten (10) days before the date of the meeting.

(h) The executive director shall submit to the advisory committee all amendments, modifications and changes to the state plan for the operation of the Medicaid program, for review by the advisory committee before the amendments, modifications or changes may be implemented by the division.

(i) The advisory committee, among its duties and responsibilities, shall:

(i) Advise the division with respect to amendments, modifications and changes to the state plan for the operation of the Medicaid program;

(ii) Advise the division with respect to issues concerning receipt and disbursement of funds and eligibility for Medicaid;

(iii) Advise the division with respect to determining the quantity, quality and extent of medical care provided under this article;

(iv) Communicate the views of the medical care professions to the division and communicate the views of the division to the medical care professions;

(v) Gather information on reasons that medical care providers do not participate in the Medicaid program and changes that could be made in the program to encourage more providers to participate in the Medicaid program, and advise the division with respect to encouraging physicians and other medical care providers to participate in the Medicaid program;

(vi) Provide a written report on or before November 30 of each year to the Governor, Lieutenant Governor and Speaker of the House of Representatives.

(4)(a) There is established a Drug Use Review Board, which shall be the board that is required by federal law to:

(i) Review and initiate retrospective drug use, review including ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists and individuals receiving Medicaid benefits or associated with specific drugs or groups of drugs.

(ii) Review and initiate ongoing interventions for physicians and pharmacists, targeted toward therapy problems or individuals identified in the course of retrospective drug use reviews.

(iii) On an ongoing basis, assess data on drug use against explicit predetermined standards using the compendia and literature set forth in federal law and regulations.

(b) The board shall consist of not less than twelve (12) members appointed by the Governor, or his designee.

(c) The board shall meet at least quarterly, and board members shall be furnished written notice of the meetings at least ten (10) days before the date of the meeting.

Code of Federal Regulations
Title 42. Public Health
Chapter IV. Centers for Medicare & Medicaid Services, Department of Health and Human Services (Refs & Annos)
Subchapter C. Medical Assistance Programs
Part 431. State Organization and General Administration (Refs & Annos)
Subpart A. Single State Agency

42 C.F.R. § 431.12

§ 431.12 Medicaid Advisory Committee and Beneficiary Advisory Council.

Effective: July 9, 2024
Currentness

(a) Basis and purpose. This section, based on section 1902(a)(4) of the Act, prescribes State Plan requirements for establishment and ongoing operation of a public Medicaid Advisory Committee (MAC) with a dedicated Beneficiary Advisory Council (BAC) comprised of current and former Medicaid beneficiaries, their family members, and caregivers, to advise the State Medicaid agency on matters of concern related to policy development, and matters related to the effective administration of the Medicaid program.

(b) State plan requirement. The State plan must provide for a MAC and a BAC that will advise the director of the single State Agency for the Medicaid program on matters of concern related to policy development and matters related to the effective administration of the Medicaid program.

(c) Selection of members. The Director of the single State Agency for the Medicaid program must select members for the MAC and BAC for a term of length determined by the State, which may not be followed immediately by a consecutive term for the same member, on a rotating and continuous basis. The State must create a process for recruitment and selection of members and publish this information on the State's website as specified in paragraph (f).

(d) MAC membership and composition. The membership of the MAC must be composed of the following percentage and representative categories of interested parties in the State:

(1) For the period from July 9, 2025 through July 9, 2026, 10 percent of the MAC members must come from the BAC; for the period from July 10, 2026 through July 9, 2027, 20 percent of MAC members must come from the BAC; and thereafter, 25 percent of MAC members must come from the BAC.

(2) The remaining committee members must include representation of at least one from each of the following categories:

(A) State or local consumer advocacy groups or other community-based organizations that represent the interests of, or provide direct service, to Medicaid beneficiaries.

(B) Clinical providers or administrators who are familiar with the health and social needs of Medicaid beneficiaries and with the resources available and required for their care. This includes providers or administrators of primary care, specialty care, and long-term care.

(C) As applicable, participating Medicaid MCOs, PIHPs, PAHPs, PCCM entities or PCCMs as defined in § 438.2, or a health plan association representing more than one such plans; and

(D) Other State agencies that serve Medicaid beneficiaries (for example, foster care agency, mental health agency, health department, State agencies delegated to conduct eligibility determinations for Medicaid, State Unit on Aging), as ex-officio, non-voting members.

(e) Beneficiary Advisory Council. The State must form and support a BAC, which can be an existing beneficiary group, that is comprised of: individuals who are currently or have been Medicaid beneficiaries and individuals with direct experience supporting Medicaid beneficiaries (family members and paid or unpaid caregivers of those enrolled in Medicaid), to advise the State regarding their experience with the Medicaid program, on matters of concern related to policy development and matters related to the effective administration of the Medicaid program.

(1) The MAC members described in paragraph (d)(1) of this section must also be members of the BAC.

(2) The BAC must meet separately from the MAC, on a regular basis, and in advance of each MAC meeting to ensure BAC member preparation for each MAC meeting.

(f) MAC and BAC administration. The State agency must create standardized processes and practices for the administration of the MAC and the BAC that are available for public review on the State website. The State agency must—

(1) Develop and publish, by posting publicly on its website, bylaws for governance of the MAC and BAC along with a current list of members. States will also post publicly the past meeting minutes of the MAC and BAC meetings, including a list of meeting attendees. States will give BAC members the option to include their names in the membership list and meeting minutes that will be posted publicly.

(2) Develop and publish by posting publicly on its website a process for MAC and BAC member recruitment and selection along with a process for selection of MAC and BAC leadership;

(3) Develop, publish by posting publicly on its website, and implement a regular meeting schedule for the MAC and BAC; the MAC and BAC must each meet at least once per quarter and hold off-cycle meetings as needed. Each MAC and BAC meeting agenda must include a time for members and the public (if applicable) to disclose conflicts of interest.

(4) Make at least two MAC meetings per year open to the public and those meetings must include a dedicated time during the meeting for the public to make comments. BAC meetings are not required to be open to the public, unless the State's BAC members decide otherwise. The public must be adequately notified of the date, location, and time of each public MAC meeting and any public BAC meeting at least 30 calendar days in advance of the date of the meeting.

(5) Offer a rotating, variety of meeting attendance options. These meeting options are: all in-person attendance, all virtual attendance, and hybrid (in person and virtual) attendance options. Regardless of which attendance type of meeting it is, States are required to always have, at a minimum, telephone dial-in option at the MAC and BAC meetings for its members. If the MAC or BAC meeting is deemed open to the public, the State must offer at a minimum a telephone dial-in option for members of the public;

(6) Ensure that the meeting times and locations for MAC and BAC meetings are selected to maximize member attendance and may vary by meeting; and

(7) Facilitate participation of beneficiaries by ensuring that that meetings are accessible to people with disabilities, that reasonable modifications are provided when necessary to ensure access and enable meaningful participation, and communications with individuals with disabilities are as effective as with others, that reasonable steps are taken to provide meaningful access to individuals with Limited English Proficiency, and that meetings comply with the requirements at § 435.905(b) of this chapter and applicable regulations implementing the ADA, Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act, and section 1557 of the Affordable Care Act at 28 CFR part 35 and 45 CFR parts 80, 84 and 92, respectively.

(g) MAC and BAC participation and scope. The MAC and BAC participants must have the opportunity to advise the director of the single State Agency for the Medicaid program on matters related to policy development and matters related to the effective administration of the Medicaid program. At a minimum, the MAC and BAC must determine, in collaboration with the State, which topics to provide advice on related to—

(1) Additions and changes to services;

(2) Coordination of care;

(3) Quality of services;

(4) Eligibility, enrollment, and renewal processes;

(5) Beneficiary and provider communications by State Medicaid agency and Medicaid MCOs, PIHPs, PAHPs, PCCM entities or PCCMs as defined in § 438.2;

(6) Cultural competency, language access, health equity, and disparities and biases in the Medicaid program;

(7) Access to services; and

(8) Other issues that impact the provision or outcomes of health and medical care services in the Medicaid program as determined by the MAC, BAC, or State.

(h) State agency staff assistance, participation, and financial help. The single State Agency for the Medicaid program must provide staff to support planning and execution of the MAC and the BAC to include—

(1) Recruitment of MAC and BAC members;

(2) Planning and execution of all MAC and BAC meetings and the production of meeting minutes that include actions taken or anticipated actions by the State in response to interested parties' feedback provided during the meeting. The minutes are to be posted on the State's website within 30 calendar days following each meeting. Additionally, the State must produce and post on its website an annual report as specified in paragraph (i) of this section; and

(3) The provision of appropriate support and preparation (providing research or other information needed) to the MAC and BAC members who are Medicaid beneficiaries to ensure meaningful participation. These tasks include—

(i) Providing staff whose responsibilities are to facilitate MAC and BAC member engagement;

(ii) Providing financial support, if necessary, to facilitate Medicaid beneficiary engagement in the MAC and the BAC; and

(iii) Attendance by at least one staff member from the single State Agency for the Medicaid program's executive staff at all MAC and BAC meetings.

(i) Annual report. The MAC, with support from the State, must submit an annual report describing its activities, topics discussed, and recommendations. The State must review the report and include responses to the recommended actions. The State agency must then—

(1) Provide MAC members with final review of the report;

(2) Ensure that the annual report of the MAC includes a section describing the activities, topics discussed, and recommendations of the BAC, as well as the State's responses to the recommendations; and

(3) Post the report to the State's website. States have 2 years from July 9, 2024 to finalize the first annual MAC report. After the report has been finalized, States will have 30 days to post the annual report.

(j) Federal financial participation. FFP is available at 50 percent of expenditures for the MAC and BAC activities.

(k) Applicability dates. Except as noted in paragraphs (d)(1) and (i)(3) of this section, the requirements in paragraphs (a) through (j) of this section are applicable July 9, 2025.

Credits

[89 FR 40861, May 10, 2024; 89 FR 53501, June 27, 2024]

SOURCE: 43 FR 45188, Sept. 29, 1978; 51 FR 41338, Nov. 14, 1986; 75 FR 48852, Aug. 11, 2010; 77 FR 29028, May 16, 2012; 85 FR 25634, May 1, 2020; 87 FR 66510, Nov. 3, 2022, unless otherwise noted.

AUTHORITY: 42 U.S.C. 1302.

Notes of Decisions (40)

Current through August 26, 2024, 89 FR 68534. Some sections may be more current. See credits for details.

End of Document

Process for Recruitment and Selection of Medicaid Advisory Committee (MAC) Members

8/28/2024 Version 1

In July 2024, the federal Centers for Medicare and Medicaid Services finalized a regulation to rename and reconstitute the Medical Care Advisory Committee (MAC) established in 42 CFR 431.12. Under the revised regulation, the state Medicaid agency director must appoint members of the Medicaid Advisory Committee. The regulation sets out that membership must include representatives of at least one individual from four categories.

Category	Selection Method
(A) State or local consumer advocacy groups or other community-based organizations that represent the interests of, or provide direct service, to Medicaid beneficiaries.	Initial appointee will be made from individuals who have previously expressed interest in helping to facilitate a beneficiary working group or advisory council.
(B) Clinical providers or administrators who are familiar with the health and social needs of Medicaid beneficiaries and with the resources available and required for their care. This includes providers or administrators of primary care, specialty care, and long-term care.	TBD. The Medical Care Advisory Committee currently contains appointees of Governor, Lt. Governor, and Speaker who satisfy these requirements.
(C) As applicable, participating Medicaid MCOs, PIHPs, PAHPs, PCCM entities or PCCMs as defined in § 438.2, or a health plan association representing more than one such plans; and	The state agency director selected a representative of each managed care entity who is currently providing services to Medicaid members under the contract.
(D) Other State agencies that serve Medicaid beneficiaries (for example, foster care agency, mental health agency, health department, State agencies delegated to conduct eligibility determinations for Medicaid, State Unit on Aging), as ex officio, non-voting members.	The state agency director initially will select the statewide Coordinator of Mental Health Accessibility.

This information will be updated to include additional information regarding Beneficiary Advisory Council (BAC) participation on the Medicaid Advisory Committee. By July 9, 2025, BAC members must comprise at least 10% of the MAC.