State Strategies to Compensate Beneficiary Advisory Council Members

Prepared by Manatt Health

STATE Health & Value STRATEGIES | *Driving Innovation Across States*

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Introduction

The Centers for Medicare & Medicaid Services (CMS) released the Ensuring Access to Medicaid Services final rule (the "Access Rule") on April 22, establishing new requirements for states to meaningfully engage individuals with lived experience of the Medicaid program. The rule directs states to replace the existing Medical Care Advisory Committee (MCAC) with a Beneficiary Advisory Council (BAC) and a Medicaid Advisory Committee (MAC), which together are intended to create a more formalized way for enrollees and interested parties to provide bidirectional feedback to the state about the Medicaid program.[1] The BAC must be comprised exclusively of Medicaid enrollees and their family members or caregivers, and will provide a dedicated forum for people with lived experience of the Medicaid program to (1) identify key issues to bring to the MAC, and (2) advise the state directly on Medicaid policy and administration.[2]

Under the Access Rule, states are required to provide financial, staffing, and other administrative support for the BAC and MAC. While the rule does not explicitly define financial support, CMS notes in the preamble that, "States will have the ability to reimburse all beneficiaries to facilitate Medicaid beneficiary engagement in the MAC and the BAC." Notably, as with multistakeholder MCACs, states can claim federal financial participation for BAC and MAC activities, including compensation for enrollee participation, at the standard administrative match rate of 50%. While fair compensation of BAC members' time and expertise aligns with CMS' goal of centering the Medicaid enrollee experience and perspective in Medicaid program design and decision making, more importantly it provides states the vehicle to shift from a transactional to a transformative relationship with the community served by the Medicaid program.

Making this pivotal shift from designing and developing programs *for* members to designing and developing programs *with* members based on their lived experience of the health system necessitates establishing a structure for the BAC and MAC rooted in respect for members. This requires that states take a comprehensive approach to ensure that members are supported in their participation including by providing childcare and meals, reimbursing members for out-of-pocket expenses they incur to participate, and compensating them for their time and expertise.

States have historically been reluctant to financially compensate Medicaid enrollees for their participation in advisory committees due to the complexities of ensuring such compensation does not compromise eligibility for Medicaid or other financial assistance programs like the Supplemental Nutrition Assistance Program, Supplemental Security Income, and Temporary Assistance for Needy Families. With few exceptions, compensating Medicaid enrollees for participation in member advisory bodies will be a new endeavor for states—one that requires a thoughtful approach in lead up to July 9, 2025 (the effective date for most BAC and MAC requirements).[3] To assist states with successful engagement of Medicaid enrollees in the BAC and MAC, this issue brief offers considerations for determining how to fairly compensate BAC members without adversely affecting their eligibility for Medicaid.

Considerations for Compensating Medicaid Members for BAC and MAC Participation

The BAC and MAC provide states with an opportunity to use Medicaid members' expertise navigating the complexities of eligibility and health system processes. Compensation provided to enrollees for participation in the BAC and MAC should acknowledge the time, input, and effort that individuals are contributing to advisory committee activities. It should also reflect the value of their expertise and the specific activities in which they are participating, such as meetings, surveys, experience journaling, and/or focus groups.

Fair compensation can help improve recruitment and retention of members. In determining the compensation approach for BAC members, states will want to consider the type and amount of compensation they will offer, the enrollee activities that will qualify for compensation, and the federal funding available to bolster state compensation efforts. States may engage with Medicaid members regarding how compensation is structured. For example, the Massachusetts Medicaid Policy Institute funded MassHealth member focus groups to inform a comprehensive report on how MassHealth could more meaningfully engage members to inform policy making, including through the structure and operations of the BAC and MAC. This included soliciting member input on providing equitable compensation. MassHealth also partnered with a community-based organization to host brainstorming sessions with members, parents, and caregivers for their input on the guidelines for the MassHealth Member Advisory Committee, including compensation options.

Operationally, state agencies should review federal and state requirements for issuing and tracking compensation to members to ensure eligibility for federal matching funds and issuance of Internal Revenue Service (IRS) 1099 forms in circumstances when payments exceed $600. Agencies that already compensate stakeholder participants in committees and workgroups should review how those payments are issued, ensure that they comply with federal and state requirements, and determine if additional payment options may be offered to meet BAC members' needs.

In addition to direct compensation for BAC members' expertise and time, states can reimburse members for out-of-pocket expenses incurred because of their participation in the BAC. To promote health equity, states should consider offering a combination of compensation types and mechanisms for compensation, allowing for flexibility to meet enrollees' needs and preferences. (For example, some BAC participants may not have an easy way to deposit checks or receive electronic transfers.)

Direct monetary stipends for enrollee participation in advisory groups generally take the form of checks or prepaid gift cards (e.g., to grocery stores), and range from hourly rates to standard payments per meeting (e.g., California developed their payment rate recommendations, $50 to 100 per meeting, based on a national literature review, interviews with individuals who have served on or convened member advisory groups, and a survey of managed care plan representatives in the state).[4] Compensation may include travel time in addition to meeting participation. Under current IRS rules, states are required to complete a 1099 tax form when direct stipends (including gift cards) total $600 or more per person in a given calendar year. Even if a BAC participant does not receive a 1099 form from the state (e.g., because the direct stipend totaled less than $600), the participant must report all compensation as taxable income on their tax filing.[5]

For enrollees eligible for Medicaid on the basis of Modified Adjusted Gross Income (MAGI), higher taxable income may affect their eligibility for Medicaid. As such, states will want to carefully approach compensation in the form of direct monetary stipends for MAGI enrollees serving on the BAC and the MAC. For non-MAGI Medicaid enrollees (generally seniors and people with disabilities), states may submit a state plan amendment to CMS to disregard financial stipends under section 1902(r)(2) of the Social Security Act, mitigating the countable income concerns for these individuals.

To ensure BAC members are prepared to make informed decisions prior to accepting monetary stipends, states should consider creating a tool like the Community Compensation Guidelines developed by the state of Washington Office of Equity for staff to advise Medicaid members of impacts that stipends could have on other financial assistance benefits. Since the acceptance of a stipend may impact Medicaid members differently, states will need to ensure there is adequate flexibility for BAC members to choose a compensation package that is best for them.

Given the expansive number of areas and issues touched by the Medicaid program, an additional opportunity for more equitable recognition of BAC members' expertise may be for state Medicaid agencies to partner with other agencies to financially compensate BAC members. For example, BAC members could be asked to evaluate health-related services provided by other agencies (e.g., housing, nutrition, and mental health and substance-use) or weigh in on Medicaid functions housed across multiple agencies (e.g., in instances where Medicaid policy, operations, and administrative appeals are housed in different agencies). Washington state has employed this approach—enacting legislation in 2022 to allow various agencies to provide a stipend of up to $200 per day per individual as compensation for participation on boards, commissions, councils, committees, and other groups.

Compensating MAGI enrollees in the form of direct monetary stipends without jeopardizing Medicaid eligibility due to increased taxable income:

The most straightforward way to avoid negative eligibility impacts of paying direct monetary stipends is for state eligibility workers to meet with prospective BAC members to ensure that monetary stipends will not increase the member's annual income above the MAGI eligibility level or impact their eligibility for other means-tested programs in which the member is enrolled. States can also craft a BAC compensation structure tailored for MAGI members that recognizes their contributions, while ensuring they do not lose eligibility for Medicaid and other benefits. For example, states can supplement direct monetary stipends for BAC activities with other forms of compensation, such as in-kind reimbursement, discussed below.

In-kind reimbursement typically refers to compensation for out-of-pocket expenses incurred by an enrollee due to participation in advisory activities, such as in-person meetings. CMS is clear in the preamble to the Access Rule that for both MAGI and non-MAGI Medicaid enrollees, "reimbursements (such as meals eaten away from home, mileage, and lodging) do not count as income." Virginia and Colorado currently offer in-kind reimbursement to Medicaid enrollees serving on existing committees—including reimbursement for the cost of transportation, hotel stays, and meals in Virginia, and reimbursement for the cost of childcare in Colorado. States can offer full in-kind reimbursement to both MAGI and non-MAGI Medicaid BAC participants and are encouraged to do so by CMS. In-kind reimbursements are not considered direct stipends or taxable income for MAGI budgeting.

Non-financial compensation, such as employment recommendation letters and recognition through patient story videos posted on the state website, is another way in which states may acknowledge the value of enrollee participation in a Medicaid advisory group.

Looking Ahead

With most BAC and MAC requirements taking effect July 9, 2025, states will want to begin planning sooner rather than later for how they will offer appropriate compensation to participating Medicaid enrollees, without jeopardizing their eligibility for Medicaid and other means-tested health and human service programs. Once the BAC compensation approach has been decided upon, states will want to memorialize their method and develop clear written guidelines. It will also be critical for states to discuss BAC compensation with enrollees prior to acceptance of a BAC appointment; doing so will help ensure that enrollees can make informed decisions. States should consider discussing with potential BAC members the type(s) and amount of compensation that will be offered, the types of BAC activities for which enrollees will be compensated, potential impacts on coverage if compensation is accepted, and flexibility to modify compensation to maintain coverage. It will also be important to inform members that they may need to consider impacts on other benefits they receive before deciding on the type(s) of compensation they would like to receive. Thoughtful design and dialogue on compensation will further promote partnership between states and community members that will serve to strengthen and improve the Medicaid program for all enrollees.

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ABOUT MANATT HEALTH

This issue brief was prepared by Lisa Sbrana, Kaylee O'Connor, Morgan Cooper, and Patti Boozang. Manatt Health, a division of Manatt, Phelps & Phillips, LLP, is an integrated legal and consulting practice with over 160 professionals in nine locations across the country. Manatt Health supports states, providers, and insurers with understanding and navigating the complex and rapidly evolving healthcare policy and regulatory landscape. Manatt Health brings deep subject matter expertise to its clients, helping them expand coverage, increase access, and create new ways of organizing, paying for, and delivering care. For more information, visit *www.manatt.com/health*.

ENDNOTES

1. 42 C.F.R. § 431.12. 2024. https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-C/part-431/subpart-A/section-431.12.
2. The MAC is a larger advisory group comprised of a diverse group of stakeholders (including a portion of BAC members) intended to represent a wide range of perspectives and experiences and serve in an advisory capacity to the state (including through the submission of an annual report).
3. Smith, Julia and Sally Mabon. 2024. "Engaging Medicaid Members: New Requirements in the Medicaid Access Rule." State Health and Value Strategies. https://www.shvs.org/engaging-medicaid-members-new-requirements-in-the-medicaid-access-rule/.
4. See Everette, Tekisha Dwan, Dashni Sathasivam, Karen Siegel. 2023. "State Examples of Medicaid Community Engagement Strategies: Two Case Studies." State Health and Value Strategies. https://www.shvs.org/resource/state-examples-of-medicaid-community-engagement-strategies-two-case-studies/;

   The California Health Care Foundation (CHCF). 2023. "Medi-Cal Member Advisory Committee: Design Recommendations for the California Department of Health Care Services." CHCF. https://www.chcs.org/media/Medi-CalMemberAdvisoryCommittee_FINAL.pdf;

   Oregon Health Authority (OHA). 2023. "Community Advisory Council Handbook of Best Practices, Version 15 – December 2023." OHA. https://www.oregon.gov/oha/HPA/dsi-tc/Documents/CAC%20Handbook%20of%20Best%20Practices%20v15.pdf.
5. Internal Revenue Service. 2023. Taxable and Nontaxable Income. Publication 525. 1099-MISC, Page 34. https://www.irs.gov/pub/irs-pdf/p525.pdf.