



February 9, 2022

The Honorable Xavier Becerra  
Secretary of U.S. Department of Health & Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Mr. Secretary:

As you are well aware, the United States spends much more on health care than other developed countries, yet our outcomes are not better. Health care costs to businesses, government, and families continue to rise faster than general inflation and incomes. In addition, the COVID-19 pandemic has highlighted the significant disparities and inequities in health outcomes and costs. Comprehensive health care data is essential to inform efforts to improve the quality, affordability, and equity of health care for the American people.

Many states have implemented or are developing programs to collect valuable data at the state level into All-Payer Claims Databases (APCDs). Recently, Congress specifically recognized the value of APCDs in Section 115 of the No Surprises Act, enacted as part of the Consolidated Appropriations Act of 2021 by creating a federal grant program to support states operating or developing APCDs and establishing the State All-Payer Claims Database Advisory Committee (SAPCDAC) to advise the federal government on improving the collection of data. The recommendations of the SAPCDAC highlight specific actions that the federal government can take to assist state APCDs and generate the evidence needed to drive delivery system reform.

As leaders of state APCD programs and organizations evaluating the development of state APCDs, we see the impact of APCDs and their potential every day. We need federal leaders to take an active role in maximizing the utility of these valuable data. There are two major areas of focus: taking action to address challenges with assembling complete, actionable data, including some that are under the control of federal agencies; and supporting or partnering with APCDs, including through federal funding opportunities. Specifically:

- **Support the submission and use of claims data for federal employees.** Recent guidance from the Office of Personnel Management indicated that contracted insurance companies do not have to provide data to APCDs. This has been detrimental to state APCDs because federal employees are a critically important population to represent in

the data. Not having transparency on those populations impacts states' ability to improve the quality and cost of care.

- **Support the inclusion of ERISA-governed employer data.** Many states were receiving all fully insured and self-funded data until the 2016 Supreme Court opinion in *Gobeille v. Liberty Mutual* indicated that submission of ERISA covered plans could not be mandated by states, as ERISA assigned the oversight role to the federal government. In the opinion, the Supreme Court laid out options for action by the federal government; however, to date, no action has been taken to restore the submission of that data to APCDs. Recently, there has been a significant trend toward self-funded coverage, amplifying the impact of this provision. As the SAPCDAC recommendations indicate, there is a clear need, role, and opportunity for the federal government to enact regulations and create processes to support data from self-insured, large employers to be included in state APCDs.
- **Issue clarification and additional guidance on how substance abuse treatment data that is protected by 42 CFR Part 2 regulations can be provided and used by APCDs.** While the current rule includes language that these data can be submitted to state APCDs under certain circumstances, health plans have raised challenges that could easily be addressed by clarifying language from SAMHSA that removes any question that disclosure by a plan to an APCD is allowed.
- **Improved timely access to Medicare data.** Many states have benefitted from receiving claims data on Medicare enrollees through the contracted data servicing entity (RESDAC) and have experienced recent improvements in the process. However, it would be even more helpful to have a streamlined process to make that data available in a more timely and simplified manner, including revamping the process to become a Qualified Entity.
- **Improved access to data on veterans and Native Americans.** There is an opportunity to improve the process for submission of data from the Veterans Administration and the Indian Health Service. Beneficiaries covered under all federal programs are valued residents of our states whose health and outcomes deserve to be considered in proposed reform activities.
- **Expanding the use of Medicaid data.** Agencies collecting APCD data that are compliant with the Medicaid Confidentiality Rule are severely restricted on the uses of Medicaid data and how it can be disclosed. CMS should stipulate that the administration or analysis of APCD data can be considered as a directly connected purpose that satisfies the rule.

Because so much of the value in APCD data is for the public benefit, it is difficult for APCDs to be financially sustainable purely through revenue generation. Congress has indicated their intent that APCDs be supported by federal funds. There are several opportunities for federal involvement that could benefit state APCDs:

- **Section 115 grant funding.** As mentioned previously, Section 115 of the No Surprises Act authorized a grant program to support state APCDs in development or operation. However, the program still does not exist nearly one year later, awaiting an appropriation.
- **Medicaid matching funds.** Many states have qualified and are receiving federal matching funds through the Medicaid program. However, it would be very helpful to have a streamlined, simple formula and process for state APCDs to request approval for the matching funds. It would also be helpful to expand the availability of matching funds eligibility to include support for developing benchmarks and other multi-payer analyses.
- **Other funding opportunities.** APCD data can be valuable tools in meeting the goals of many Federal agencies. As such, there are several opportunities within the existing programs of a variety of Federal agencies to develop grants to leverage these data sources (e.g., AHRQ, ASPE, and PCORI).

We welcome the opportunity to discuss these and other state health data and policy issues with you and members of your team.

The National Association of Health Data Organizations (NAHDO) is a membership organization representing our interests and would be happy to coordinate meeting times. Please reach out to Norm Thurston, Executive Director, [nthurston@nahdo.org](mailto:nthurston@nahdo.org), or 801-477-5348.

Sincerely,



Norm Thurston  
Executive Director

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