Department of Social Services  
Legal Services Division - Rulemaking  
P.O. Box 1527  
Jefferson City, MO  65102-1527

To Whom It May Concern:

On behalf of the 5,000 physicians of the Missouri State Medical Association (MSMA), I write to comment on the following proposed rule, published in the September 4, 2018, edition of the Missouri Register:

13 CSR 65-3.010 Participant Lock-In Program

We applaud the Department’s efforts in combating the opioid epidemic. Battling this public issue will require non-conventional thinking. We have no general disagreement with the purpose of the program.

We have two concerns with the proposed rule. Both can be found in 13 CSR 65-3.010(5)(A).

The first concern is the practice of requiring the MO HealthNet participant to provide the Medicaid Audit and Compliance Unit (MMAC) with the name of a single physician, which they must see for the next 24 months. If the participant fails to do so, MMAC will select a participating physician for the patient. This will work well, as long as the physician is given the opportunity to decline a particular participant.

The AMA Code of Medical Ethics only requires a physician to see a patient in an emergency situation. Absent that, physicians are - and should be - allowed to not see patients when appropriate. This can occur for any reason, including compromising the health care of other patients, or a bad prior history with that particular participant.

We ask the department to amend the rule so that the physician selected by the patient or the MMAC under 13 CSR 65-3.010(5)(A) is allowed the opportunity to decline to be the patient’s sole treating physician for the following 24 months.

Our second concern surrounds the use of the phrase, “MMAC approved physician.” We would appreciate addition clarification on how a physician becomes “MMAC approved,” for purposes of this section. Is there a process physicians must go through to receive approval? Will MMAC use this authority to steer MO HealthNet participants to particular physicians and/or pharmacies? Will there be a list of MMAC approved physicians available to the public or to MO HealthNet participants? We urge you to include precise definitions of the terms, “MMAC approved physician,” and, “MMAC approved pharmacy,” in the definition section of the rule.

Again, we appreciate the role the DSS and MHD are taking in fighting the opioid epidemic, and we thank you for addressing our concerns.

Sincerely,

Jeffrey S. Howell  
General Counsel & Director of Government Relations