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May 29, 2008

Elizabeth M. Duke, Ph.D.
Administrator
Health Resources and Services Administration
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Proposed Rule: Designation of Medically Under-served Areas/Populations and Health Professional Shortage Areas

Dear Dr. Duke:

On behalf of our membership, the Healthcare Association of New York State (HANYS) appreciates the opportunity to comment on the Health Resources and Services Administration (HRSA) proposed rule, "Designation of Medically Under-served Areas/Populations (MUA/Ps) and Health Professional Shortage Areas (HPSAs)." HANYS represents 550 not-for-profit and public hospitals, health systems, nursing homes, home care agencies, and other health care providers throughout New York State.

New York currently has 87 areas designated as HPSAs and 134 areas designated as MUA/Ps. These designations are critically important, as we believe the problem of recruiting and retaining primary care providers in urban and rural safety net areas is growing, not diminishing. It is problematic, therefore, that our preliminary analysis indicates that the proposed changes appear to reduce the number of areas eligible for a variety of benefit programs, rather than expand the number of potential eligibles. Moreover, even for those areas that retain eligibility under the new definitions, there is insufficient information to determine how the designations affect access to specific benefit programs.

HANYS has identified and shares many of the same concerns that have been expressed by the American Hospital Association. Specifically:

- Based upon available information, it is impossible to determine with any certainty what designation or funding level a health center, clinic, population or area will receive under the index of primary care service.

- The rule’s analysis uses data from 1999 that are now almost ten years old. Data reflective of current conditions must be utilized to accurately calculate the impact of the proposed changes.
- The analytical model that HRSA developed has not been widely distributed, making it difficult for communities and facilities to adequately assess the impact of the proposed rule.
- HRSA fails to exclude certain physicians when counting primary care physicians and determining an area’s adjusted population-to-physician ratio for the Tier 2 shortage areas.
- HRSA must test and refine its “safety net facility” designation before moving forward.

Our overarching concern is that it is not clear how the allocation of resources will change under the designation system outlined in the proposed rule. While we can estimate the number of HPSAs and MUA/Ps retained in the state, and we know that the number of eligible areas would decrease in spite of growing problems, there is insufficient information on impacts relating to the allocation of resources. Adoption of this rule should be postponed until there is fuller understanding of its implications and the linkage to benefit programs is better defined.

HANYS’ Analysis

HANYS contracted with the State University of New York, School of Public Health, Center for Health Workforce Studies (CHWS) to study the impact of this proposed rule on New York State. That analysis identified numerous negative impacts that will jeopardize the designation status of many currently certified HPSAs and MUA/Ps in New York. We emphasize that this analysis is incomplete. Moreover, the impact on providers in areas that would continue to meet some level of shortage designation remains unclear because the linkage to various benefit programs has not yet been defined. On its face, however, the projected loss of designated status does not correspond to the continued and growing difficulty providers are experiencing in recruiting and retaining primary care providers across New York State.

- **Impact on existing HPSA designations:** Currently designated primary care underserved areas in some regions of New York State would be disadvantaged by the proposed methodology. There are currently 87 HPSAs across the state. New York State would lose 16% of its currently designated HPSAs, and less than 70% of HPSAs in the Central and Western New York regions would qualify for designation under the proposed rule.

Impact on Existing HPSAs

HSA Region	Currently Designated HPSAs	Tier 1	Tier 2	Special Populations	Total Designated Under Proposed Rule	Percent of Existing HPSAs That Would Be Retained
Central NY	19	4	0	9	13	68%
Finger Lakes	5	1	1	2	4	80%
Hudson Valley	9	3	5	1	9	100%
New York City	23	12	3	8	23	100%
Northeastern NY	16	8	3	2	13	81%
NY-Penn	2	0	0	2	2	100%
Western NY	13	1	0	8	9	69%
Total State	87	29	12	32	73	84%

- Impact on MUA/Ps:** There are 134 designated MUA/Ps in the state. New York State would lose 15% of its currently designated MUA/Ps under the proposed rule. Less than 80% of the currently designated areas in the Central New York, Finger Lakes, and Hudson Valley regions would qualify for designation under the proposed rule.

Ninety-three percent of MUA/Ps served by the federally qualified health centers (FQHCs) in New York State qualified for a designation under the proposed rule, while less than 80% of the MUA/Ps of FQHCs in the Hudson Valley and Northeastern regions of the state qualified.

Twenty-five percent of MUA/Ps of FQHC satellite sites in the Hudson Valley region would lose their designation under the proposed rule.

Impact on Existing MUA/Ps

HSA Regions	Currently Designated MUA/Ps	Tier 1	Tier 2	Special Population	Total Number Designated Under Proposed Rules	Percent of Existing MUA/Ps That Would Be Retained
Central NY	18	7	2	5	14	78%
Finger Lakes	10	5	1	1	7	70%
Hudson Valley	19	3	4	8	15	79%
Nassau-Suffolk	2	1	0	1	2	100%
New York City	49	29	3	14	46	94%
Northeastern NY	20	7	3	6	16	80%
NY-Penn	1	1	0	0	1	100%
Western NY	15	6	0	7	13	87%
Total State	134	59	13	42	114	85%

- Mid-level data:** There are limitations on the data used to estimate the number of mid-level practitioners in the state. To estimate the primary care capacity of non-physician clinicians, including physician assistants, nurse practitioners, and nurse midwives in New York State, CHWS likely over-counted primary care capacity. The only data that are available for this analysis is the practitioner's home address; and do not include practice patterns or place of practice.
- High-need indicators:** The data that were used for the analysis of health status information were not available below the county level. Consequently, this raises concerns that county level data may mask the health disparities in sub-county rational service areas. We know that there are small pockets of poverty within some counties that are surrounded by more affluent areas.
- Contiguous area analysis:** Due to time constraints, CHWS was unable to perform a contiguous area analysis, but it is likely that a contiguous area analysis could further reduce the number of geographic designations on the total number of designations.
- There would be fewer geographic designations in the state under the proposed methodology.** Currently, 66% of HPSAs in the state are geographic; this would be

reduced to 47%. Similarly, geographic MUA/Ps currently represent 88% of all MUA/Ps in the state and would be reduced to 61% under the new rules.

- **Overlapping HPSAs and MUA/Ps:** Because of merging the two methodologies (HPSA and MUA/Ps), states are required to choose between overlapping HPSAs and MUA/Ps when identifying the boundaries for the rational service area (RSA) that will be considered for designation. Competing interests of different providers would greatly complicate the decisions. Providers within the RSA of the HPSA may seek to maintain the HPSA boundaries, while providers in the MUA/P may support using the smaller boundaries. This is highly likely in the event that the MUA/P RSAs qualify for Tier 1 designation, while larger HPSA RSAs qualify for special population designation.
- **Lack of data on practice patterns on non-physician providers:** The limitations on the data for mid-levels have already been stated, but there are also concerns about the actual practice patterns of the mid-levels. The new methodology proposes that mid-levels be counted as .5, yet we have no way of knowing the number of hours that they are actually working.
- **The contiguous area analysis creates an uneven playing field for shortage area designations:** This could adversely impact either the number or type of designations in New York. Consequently, there are likely to be more areas that qualify for higher level designations (e.g., geographic compared to special populations) in states with a system of RSAs, regardless of whether primary care services are actually available in contiguous areas. In contrast, states without a statewide system of RSAs would be required to conduct contiguous area analyses for all proposed designations and, as a result, may see a reduction in the number of geographic designations or in the number of designations overall.

Recommendation

Without a clear understanding of the allocation of resources by state and federal programs that use these designations, it is not possible to fully understand the implications of changing the methodologies. Our analysis suggests that key stakeholders need to work together on a more systematic assessment of New York to identify all areas that could benefit from improved access to primary care.

New York, like many other states with under-served areas, is experiencing a significant physician workforce shortage. Therefore, until complete and current data are available together with a clear definition of funding implications for categories of designations, HANYS must strongly oppose any change to the present designation methodology, especially a change that, based only on the level of initial analysis, negatively impacts New York State. We recommend that HRSA withdraw the current rule for more testing and analysis and convene a group of

stakeholders to assist in the development of a methodology that recognizes the growing problems of recruitment of primary care practitioners to under-served rural and urban safety net areas.

If you have any questions about these comments, please contact Sherry Chorost, Director of Workforce, at (518) 431-7726 or schorost@hanys.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Sisto". The signature is fluid and cursive, with the first name "Daniel" written in a larger, more prominent script than the last name "Sisto".

Daniel Sisto
President

DS:do