

the full scope of services and State monitoring of health outcomes in other women's health areas for enrollees with restricted access to reproductive health care services, and comparison of these rates to those of MCO/PIHPs without restrictions is beyond the scope of the protocol.

#### 7. Emergency Services

*Comment:* One commenter suggested that the interview questions concerning inappropriate use of emergency rooms emphasize a comparison of their inappropriate use with access to routine and urgent care.

*Response:* We agree with the commenter and have therefore expanded the relevant interview questions in Appendix B of the protocol (Attachment B of the final protocol) under § 438.210 that addresses coverage and authorization of services to inquire about the potential relationship between inappropriate emergency room use and enrollee access to routine and urgent care.

#### 8. Delivery Network

*Comment:* One commenter recommended that the protocol, in reviewing the MCO's/PIHP's network of appropriate providers, consider specifically the providers needed to meet the needs of pregnant women, children and individuals with special needs, particularly those targeted for enrollment.

*Response:* In the Medicaid managed care final rule at § 438.206, we require the MCO/PIHP to establish a network of appropriate providers that considers the "expected utilization of services, considering Medicaid enrollee characteristics and health care needs." We intend and expect that MCOs and PIHPs that serve pregnant women and individuals with special health care needs will consider their characteristics and needs. However, we do not explicitly identify them in this protocol because they are not explicitly mentioned in the regulation in this provision and because not all MCOs and PIHPs may serve pregnant women and individuals with special health care needs.

#### 9. Access

*Comment:* One commenter suggested that the review address transportation services to network providers and out-of-network providers for enrollees without access within established time and distance standards, and for enrollees with disabilities and special needs.

*Response:* The regulations do not contain standards for the provision of

transportation services to network or out-of-network providers, or for enrollees with disabilities and special needs. In addition, transportation is a service that may or may not be included under the MCO/PIHP contract. Therefore, in the protocol's document review and interview questions, we include only those transportation issues addressed in the regulation.

*Comment:* One commenter recommended that the monitoring of access to out-of-network providers include a review of the procedures for determining when in-plan access is unavailable and out-of-network services are appropriate; obtaining access to out-of-network services; and for providing in-plan services for enrollees denied out-of-network access.

*Response:* The protocol specifies a review of the MCO's/PIHP's administrative policies and procedures pertaining to the use of out-of-network providers. Although we reference documents by generic name or title, we explain that what is important is the presence or absence of evidence to determine compliance with the specified regulatory provision. We anticipate reviewers will use the relevant documents to determine compliance with all aspects of the regulatory provision regarding out-of-network access including those identified by the commenter.

*Comment:* One commenter suggested that the document review include policies, procedures, and criteria for determining that second opinions are rendered by qualified providers.

*Response:* We agree with the commenter. The protocol specifies a review of the MCO's/PIHP's administrative policies and procedures for providing enrollees with a second opinion from a qualified health care professional. As previously indicated, although the documents are referred to by generic name or title, we explain that what is important is the presence or absence of evidence to determine compliance with the regulatory provision. We anticipate reviewers will use the relevant documents to determine compliance with all aspects of the regulatory provision requiring that second opinions are rendered by qualified providers.

*Comment:* One commenter recommended that the document review related to direct access to women's health services be expanded to include materials produced by the State to inform MCOs and by MCOs to inform providers. The commenter suggested further that the review include policies and procedures for implementing direct access to these services.

*Response:* Within the review of enrollee rights, the protocol specifies a review of staff and provider orientation, education, and training curricula and materials, and other provider and staff communication tools for evidence that staff and providers consider, among the enrollees' rights, direct access to women's health services. We also specify the review of the results of MCO/PIHP monitoring of complaints and grievances, enrollee survey or other MCO/PIHP sources of enrollee information to detect violations of enrollee rights, including the provision of direct access to women's health services. However, we do not include in the protocol a review of materials produced by the State because the protocol is a review of MCOs or PIHPs, not State Medicaid agencies. Review of State compliance with Federal requirements is carried out by our regional office staff through a separate process.

*Comment:* One commenter recommended that the reviewer monitor the time it takes for enrollees to obtain appointments with network providers.

*Response:* We agree with the commenter. Our protocol directs the reviewers to obtain the State Medicaid agency's standards for timely access and to review documents showing how the MCO/PIHP ensures compliance and continuously monitors its network providers for compliance with the timely access standards. The protocol lists some acceptable mechanisms the MCO/PIHP may use for monitoring compliance.

*Comment:* One commenter suggested that inappropriate use of emergency rooms be evaluated according to the "reasonable lay person" standard. The commenter also recommended that the monitoring of emergency room use consider access to nonemergent care and follow-up outreach and education for enrollees using emergency rooms for nonemergency care.

*Response:* The protocol monitors MCO/PIHP application of the prudent layperson standard in the regulation at § 438.114. As we indicated in our response to a previous comment on emergency room use, we have added an interview question to inquire about the potential relationship between inappropriate emergency room use and enrollee access to routine and urgent care. However, MCO/PIHP follow-up outreach and education for enrollees using emergency rooms for nonemergency care is not a regulatory requirement, and it would be inappropriate to include it in the protocol.