



A Passionate Voice for Compassionate Care

October 31, 2011

Donald M. Berwick, M.D., M.P.P.
Administrator
Centers for Medicare & Medicaid Services
Department of Health & Human Services
Room 445-G
Herbert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

REF: CMS-9974-P

Re: Patient Protection and Affordable Care Act: Exchange Functions in the Individual Market: Eligibility Determinations; Exchange Standards for Employers

Dear Dr. Berwick:

On behalf of the Catholic Health Association of the United States (CHA), the national leadership organization of the Catholic health ministry representing more than 2,000 Catholic health care sponsors, systems, hospitals, long-term care facilities, and related organizations, I am pleased to provide comments on the referenced notice of proposed rulemaking (NPRM) on the eligibility determination functions of Exchanges under the Patient Protection and Affordable Care Act (ACA).

CHA supports establishing Health Insurance Exchanges that enable individuals and small businesses to more easily compare and purchase health insurance policies in a context of information transparency and consumer choice. A key role for the Exchanges will be determining who is eligible to purchase health care through the Exchanges and who is eligible to receive insurance affordability assistance, that is, premium tax credits, cost-sharing reductions, Medicaid, the Children's Health Insurance Program (CHIP) and the Basic Health Program. In particular, it is important to make sure individuals eligible for Medicaid and CHIP, those in greatest need of assistance, are identified and enrolled in these programs.

CHA strongly supports and appreciates the overall approach taken by CMS to streamline eligibility and to use one application to determine eligibility and collect enrollment information for Exchange participation, QHPs, and insurance affordability program. This will make it much easier for people seeking insurance to find the right program for them, especially those who may be unaware of their eligibility for Medicaid or CHIP.

As a general comment, we urge CMS to design the Exchange eligibility processes to ensure there is clear, consistent and timely communication with enrollees and potential enrollees. We have commented separately on the proposed Exchange consumer assistance tools and use of navigators. It is essential that individuals who are or may be eligible for insurance affordability programs understand clearly what is required of them and when. CHA appreciates the many ways CMS has reduced the burden on individuals to provide information, by relying as much as possible on existing electronic data sources. But when applicants and enrollees are asked to provide information and to meet filing deadlines, they must understand clearly what is being asked of them. All communications should be designed in a way that is accessible by, or provides alternative sources of assistance for, people with disabilities, limited English proficiency individuals, and people of diverse racial and ethnic backgrounds.

We would like to offer the following additional comments on the proposed rule.

Outreach to Non-Citizens

Many non-citizens who are in this country legally are not eligible for Medicaid if they have been here for less than five years. However, they are eligible to participate in the Exchanges and qualified health plans and to receive premium tax credits and cost-sharing reductions. In addition, the ACA allows such individuals with incomes below 100% of the federal poverty level (FPL) to be eligible for premium tax credits and cost-sharing reductions, an exception to the general rule denying eligibility to those with incomes below 100% FPL. This is an instance where effective communication, outreach and education will be essential. The immigrant community is well aware of the five-year bar for Medicaid and may mistakenly assume it applies to the new Exchanges as well. Culturally and linguistically appropriate outreach and education to the immigrant community on eligibility will be essential, especially given that many in the community may be wary of dealing with the government.

Information Collection from Non-applicants

CHA is very supportive of the proposal to prohibit the Exchanges from requiring non-applicants to provide information regarding their citizenship, nationality or immigration status or to provide a Social Security number (unless there is an attestation that the primary taxpayer has a Social Security number and has filed a tax return). Asking for unnecessary

information could deter parents and caretakers from seeking coverage for eligible family members.

Notices of Eligibility

The proposed rule requires the Exchange to give timely notice to applicants of eligibility determinations and to employers that an employee is eligible for advance payments of the premium tax-credit or cost-sharing reductions. While the preamble indicates that additional information on notices will be included in future rulemaking, we would like to make two comments at this time. First, we suggest these sections cross-reference proposed section 155.230 on general standards for Exchange notices. Second, the Exchange should be required to make sure the employee is informed of the notice provided to the employer and its contents.

Coordination with Medicaid, CHIP, the Basic Health Program and the Pre-existing Conditions Insurance Program

CHA supports the proposed regulations intended to ensure seamless coordination among the Exchange and the state agencies that administer the other insurance affordability programs. Such coordination is absolutely essential to ensure that individuals are enrolled into the best program for which they are eligible in a timely manner. Initial applications may be submitted to the Exchange or to the state agencies. It is crucial to ensure that eligibility determinations for QHP enrollment and insurance assistance programs be uniform; outcomes must not vary by application entry point.

For that reason, we strongly support the requirement that Exchanges screen applicants for Medicaid eligibility on factors other than MAGI, such as disability, and promptly transmit the application information to the state Medicaid agency and, pending that agency's determination, provide applicants with premium tax credit advance payments and cost-sharing reductions if they meet the eligibility requirements. We suggest that the Exchange be required to make sure applicants are informed about such referrals, and the state Medicaid agency be required to contact the individual promptly.

We also support the requirement that the Exchange must establish procedures so that applications submitted directly to state agencies responsible for Medicaid, CHIP and the Basic Health Program and found not to qualify for those programs based on MAGI are assessed for eligibility for a QHP, premium tax credit and cost-sharing. The proposed rule requires that these procedures ensure the use the same eligibility determination processes are used regardless of which agency received the application.

Similarly, we suggest that the final rule should require the Exchange to make eligibility determinations for Medicaid and CHIP in compliance with the state plan and any relevant state policies.

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Thank you for the opportunity to comment on the proposed rule. We look forward to continuing to work with the Administration to ensure that the promise of the ACA – affordable, accessible health care available to all – is achieved. If you have any questions about these comments, please do not hesitate to contact me or Kathy Curran, Senior Director, Public Policy, at 202-721-6300.

Sincerely,

A handwritten signature in black ink that reads "Michael Rodgers". The signature is written in a cursive style with a long horizontal flourish at the end.

Michael Rodgers
Senior Vice President
Public Policy and Advocacy