



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

May 21, 2014

Sister Carol Keehan
President and Chief Executive Officer
Catholic Health Association of the United States
1875 Eye Street NW, Suite 1000
Washington, DC 20006

Dear Sister Keehan:

Thank you for your letter about qualified health plan (QHP) issuers accepting premium and cost-sharing payments from third-party payers.

As noted in your letter, in October 2013, the Department of Health and Human Services (HHS) responded to a letter from Representative Jim McDermott regarding whether QHPs that are offered through the Federally-facilitated Marketplaces (FFMs) are plans or programs within the meaning of the definition of “federal health care program” under section 1128B(f) of the Social Security Act (42 U.S.C. 1320a-7b(f)). After carefully reviewing the definition of “federal health care program” and assessing aspects of each program under Title I of the Affordable Care Act in consultation with the Department of Justice, HHS concluded that it does not consider QHPs, other programs related to the FFM, or other programs under Title I of the Affordable Care Act to be federal health care programs.

To provide further guidance in this area, on November 4, 2013, the Centers for Medicare & Medicaid Services (CMS) released a Frequently Asked Questions (FAQ) document regarding third-party payment of premiums and cost-sharing obligations on behalf of QHP enrollees in the Marketplaces. Through this FAQ, CMS expressed its concern regarding support of enrollee premium and cost sharing amounts by hospitals, other health care providers, and other commercial entities, as this practice could skew the insurance risk pool and create an uneven competitive field in the Marketplaces. CMS stated that it discourages this practice and encourages issuers to reject such third-party payments. This guidance also clarified HHS’s intent to monitor this practice and, if necessary, take action.

On February 7, 2014, CMS released further guidance to clarify that the November 4, 2013, FAQ document does not apply to payments for premiums and cost sharing made on behalf of QHP enrollees by Indian tribes, tribal organizations, urban Indian organizations, and state and federal government programs or grantees (such as the Ryan White HIV/AIDS Program), and that QHP issuers and Marketplaces are encouraged to accept such payments. Additionally, this guidance clarifies that the concerns addressed in the November 4, 2013, FAQ would not apply to payments from private, not-for-profit foundations if:

(a) They come from Indian tribes, tribal organizations, urban Indian organizations, state and federal government programs or grantees (such as the Ryan White HIV/AIDS Program); or

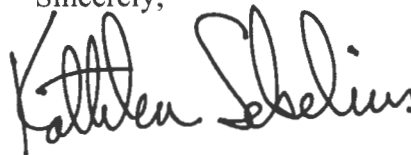
(b) The payments are made by private, not-for-profit foundations on behalf of QHP enrollees who satisfy defined criteria that are based on financial status and do not consider enrollees' health status. In this situation, CMS would expect that premium and any cost-sharing payments cover the entire policy year.

Lastly, on March 19, 2014, CMS published an interim final rule with comment period that requires issuers of QHPs, including stand-alone dental plans (SADPs), to accept premium and cost-sharing payments made on behalf of enrollees by the Ryan White HIV/AIDS Program, other federal and state government programs that provide premium and cost sharing support for specific individuals, and Indian tribes, tribal organizations, and urban Indian organizations. The interim final rule was effective as of March 14, 2014 with comments due on May 13, 2014.

We believe that existing guidance related to third-party payments of premiums and cost sharing made on behalf of Marketplace QHP enrollees by private, not-for-profit foundations is sufficient to put the public on notice that as a general matter, such payments are not prohibited by HHS's rules to the extent they are provided in a manner consistent with the February 7, 2014 FAQ. Therefore, we do not intend to issue additional guidance in this area at this time.

Thank you for your comments and for your interest in the implementation of the Affordable Care Act. I will also provide a copy of this response to Mr. Richard Umbdenstock.

Sincerely,

A handwritten signature in black ink that reads "Kathleen Sebelius". The signature is written in a cursive, flowing style.

Kathleen Sebelius