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CPEHN
California Pan-Ethnic Health Network
Building on 20 years as a champion for health equity

October 29, 2012

Peter Lee, Director
California Health Benefit Exchange Board
2535 Capitol Oaks Drive, Suite 120
Sacramento, California 95833
Submitted electronically to info@hbex.ca.gov.

Re: Initial QHP Solicitation – Compliance with CA Language Access laws

Dear Peter Lee and Members of the Board:

On behalf of the California Pan-Ethnic Health Network (CPEHN), we write to underscore a concern about the ***California Health Benefit Exchange – Initial Qualified Health Plan Solicitation.***

California's population is one of the most diverse in the country, with almost 60% comprised of communities of color and over 100 different languages spoken. In California, over 2.60 million non-elderly adults will be eligible to receive federal tax credits to purchase affordable health coverage in the Exchange in 2013.[1] Of these, 67% (approx. 1.73 million) will be people of color and 40% of the adults (roughly 1.06 million) will speak English less than very well. The California Health Benefit Exchange has a stated mission to reduce health disparities. If it is to achieve its mission, the Exchange must take appropriate steps to ensure diverse communities including Limited-English-Proficient (LEP) consumers are able to access culturally and linguistically appropriate health care services in the Exchange.

DMHC and CDI Review – Definition of Good Standing:

CPEHN is gravely concerned by the Exchange's omission of "Language Access" from the list of items for regulatory review by the California Department of Insurance (CDI) and the Department of Managed Health Care (DMHC) for preliminary QHP certification (Initial Solicitation, page 13). Language Access regulations go beyond "Network Adequacy" and thus should be listed as a separate category under "Definition of Good Standing." Under California's landmark language access law SB 853 and subsequent regulations, §1300.67.04 of Title 28 California Code of Regulations:

[1] Gans D, Kinane CM, Watson G, Roby DH, Graham-Squire D, Needleman J, Jacobs K, Kominski GF, Dexter D, and Wu E. Achieving Equity by Building a Bridge from Eligible to Enrolled. Los Angeles, CA: UCLA Center for Health Policy Research and California Pan-Ethnic Health Network, 2012.

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1. Health plans must conduct a needs assessment to calculate threshold languages and collect race, ethnicity, and language data of their enrollees.
2. Health plans must provide quality, accessible, and timely access to interpreters at all points of contact and at not cost to the enrollee.
3. Health plans must translate vital documents into threshold languages.
4. Health plans must ensure interpreters are trained and competent, and that translated materials are of high quality.
5. Health plans must notify their enrollees of the availability of no cost interpreter and translation services.
6. Health plans must train staff on language access policies and procedures, as well as how to work with interpreters and limited English patients.

Inclusion of Language Access as a separate category in the list "Definition of Good Standing" is necessary and as such will send an important message to carriers that they must demonstrate compliance with language access requirements under existing California law in order to gain preliminary QHP certification for the Exchange through CDI or DMHC. The Exchange should require plans to translate written documents using either the SB 853 thresholds or the Medi-Cal Managed Care thresholds, whichever is lower. The thresholds are:

SB 853:

- 1,000,000 members or more, top two non-English languages plus a threshold of 0.75% or 15,000 of the enrollee population
- 300,000 members or more, top non-English language plus a threshold of 1% or 6,000 of the enrollee population
- Less than 300,000 members, 5% or 3,000 of the enrollee population

Medi-Cal Managed Care:

- A population group of Medi-Cal beneficiaries residing in the Service Area who indicate their primary language as other than English, and that meet a numeric threshold of 3,000.
- A population group of Medi-Cal beneficiaries residing in the Service Area who indicate their primary language as other than English, and that meet the concentration standards of 1,000 in a single ZIP code or 1,500 in two contiguous ZIP codes.

Thank you for the opportunity to provide input on the Health Benefit Exchange's Initial Solicitation. We look forward to continuing to work with the Exchange Board and staff to realize its mission of reducing health disparities and improving the health of all Californians.

Sincerely,

Caroline B. Sanders, MPP
Director Policy Analysis/CPEHN