

Overview

New Federal Regulations and Guidance

David Panush

Director, Government Relations

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California Health Benefit Exchange Board Meeting

Regulations and Guidance Released

Date	Subject
February 24	Actuarial Value and Cost-Sharing Reductions Bulletin
March 12	Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers
March 16	Student Health Insurance Coverage
March 16	Standards Related to Reinsurance, Risk Corridors and Risk Adjustment
March 17	Medicaid Program; Eligibility Changes under the Affordable Care Act of 2010
March 18	Certain Preventive Services Under the Affordable Care Act (Contraception)

Governance and Administration

- Clarifies the process for states to make “significant” changes to the Exchange plan, now called the “Blueprint.” 60-day expedited review and changes become effective upon approval or within 60 days. Rejects Medicaid state plan and state plan amendment process. (§155.105)
- Allows Exchanges to contract with other state agencies for Exchange functions. (§155.110)
- Requires at least one voting member of Exchange boards to be a consumer representative (§155.110)
- Adds the requirement that Exchange communications be in plain language and specific other requirements to more fully define meaningful access in Exchange programs and consumer assistance services (§155.205)

Exchange Regulation Highlights

Eligibility Determination

Interim final rule open for comment (155.302)

- Options for Modified Adjusted Gross Income (MAGI) eligibility determination
 - Exchange determines eligibility directly
 - Exchange contracts with Medicaid and/or CHIP agency (***new option***)
- Options for premium tax credit/cost sharing subsidy determination
 - State Exchange determines
 - Federal HHS determines under agreement with the state Exchange (***new option***)
- Options for MAGI Medicaid eligibility determination
 - State Exchange determines eligibility and forwards information to Medicaid agency
 - State Exchange assesses potential MAGI Medicaid eligibility and forwards application to state Medicaid agency for final determination (***new option***)

Exchange Enrollment

- Extends the initial open enrollment period of the Exchange for one month – October 1, 2013 to March 31, 2014 (§155.410)
- Modifies the proposed cutoff date for Qualified Health Plan (QHP) selection from the 22nd to 15th of the month for an effective date the 1st of the following month, with an option for earlier effective dates under specified conditions (§155.410)
- Clarifies that for individuals receiving an advanceable premium tax credit who lose coverage due to non-payment, the issuer must cover the claims for the first month of the three month grace period (§156.270)

Navigators, Agents and Brokers

- Requires the Exchange to develop and disseminate conflict of interest and training standards for Navigators (§155.210)
- At least one Navigator must be a community or consumer-focused nonprofit (§155.210)
- Navigators cannot receive compensation from issuers for products inside or outside of the Exchange (§155.210)
- Exchanges may allow agents and brokers to enroll individuals in Exchange coverage under specified conditions (§155.220)
Interim final rule open for comment.
- Gives the Exchange the ability to allow private insurance market websites to enroll individuals in Exchange coverage but the web sites must have all of the information about QHPs that are on the Exchange web site (§155.220)

Small Business Health Options Program (SHOP)

- Affirms that Exchanges have the latitude to determine the extent to which employers may frame choice for their employees (§155.705)
- Adds a definition of minimum participation requirements (percent of employees that must participate) (§155.700) and permits the SHOP to impose such rules (§155.705) SHOP QHP issuers cannot impose minimum participation rules (§156.285)
- Adds requirement that SHOP develop and offer a premium calculator (§155.705)
- Adds a standard that SHOP must report employer participation and employee enrollment to the IRS (§155.720)
- Requires SHOP to use the same special enrollment periods as the individual Exchange with a few exceptions (§155.110), offer newly qualified employees coverage outside of open enrollment and ensure that employers have an annual enrollment period of at least 30 days (§155.725)
- Removes requirement that SHOP continue coverage if an employer fails to take action during an election period (§157.205)

Exchange Regulation Highlights

QHPs and QHP Issuers

- Clarifies and emphasizes in numerous sections that multi-state plans and Co-ops are exempt from state exchange oversight in many areas and will be evaluated and monitored by the U.S. Office of Personnel Management. For example, they are exempt from:
 - State Exchange certification, recertification and de-certification
 - Rate review and rate justification
- Prohibits QHP benefit designs that have the effect of discouraging higher need individuals from enrolling (§156.225)
- Describes in preamble language that licensed in good standing means no outstanding sanctions from regulator (§156.200)

Exchange Regulation Highlights

QHPs and QHP Issuers

- Requires stand-alone dental plans to meet QHP certification standards except for those that cannot be met because the plan only covers pediatric dental benefit (§155.1065)
- Adds more detail to network adequacy requirement, defined as a sufficient number and type of providers, including providers specializing in mental health and substance abuse (§156.230)
- Clarifies the requirement for QHP issuers to offer essential community providers, to ensure reasonable and timely access for low-income and medically underserved individuals (§156.235)
- Allows for QHP issuers and federally qualified health centers to mutually agree on a rate that is less than the Medicaid prospective payment system if the rate is at least equal to the issuer's generally applicable rate (§156.235)

Next Steps

1. More regulations are expected in the near term
2. Continue to review and analyze multiple sets of regulations
3. Work with state partners to understand the impact and alignment opportunities across state agencies and state programs
4. Evaluate the need for the Exchange to comment with state partners on those elements that are proposed as interim final rules
5. Work with state partners and seek stakeholder input to identify the program implications and operational implementation issues related to complying with the regulations