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GOVERNOR

**State of California**  
**DEPARTMENT OF HEALTH CARE SERVICES**  
**MANAGED RISK MEDICAL INSURANCE BOARD**

May 7, 2012

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
200 Independence Ave. SW  
Washington, D.C. 20201

*Submitted electronically via: [www.regulations.gov](http://www.regulations.gov)*

**Re: "Medicaid Program; Eligibility Changes under the Affordable Care Act of 2010" - State of California Comments on Interim Final Provisions (CMS-2349-F; RIN 0938-AQ52)**

Thank you for the opportunity to comment on the additional regulatory changes proposed as interim final provisions as part of the publication entitled "Medicaid Program; Eligibility Changes under the Affordable Care Act of 2010." (Federal Register Vol. 77, No. 57 (March 23, 2012).)

On behalf of the State of California, the above designated entities submit the following comments for your consideration where such input has been solicited. In the spirit of federal-state partnership and collaboration, we look forward to continuing our contributions towards the realization of meaningful reform as embodied in the Affordable Care Act (ACA) and applaud the substantial progress already made by our federal partners in implementation thus far.

**Timeliness and performance standards for Medicaid (§435.912)**

As requested in the State's comments to the notice of proposed rulemaking for ACA-Medicaid eligibility changes, we appreciate the additional treatment offered in the immediate rulemaking regarding the standards for assessing timeliness and performance under the integrated and modernized MAGI eligibility framework. In crafting the policies and systems to support such a framework, clarity regarding the ultimate expectations for compliance remains a vital component for successful federal-state implementation, and we look forward to the opportunity to further contribute to the work on this front upon the release of subsequent federal guidance. It is imperative that this undertaking continues to balance the laudable goals of the ACA with the fiscal, administrative and technological realities faced by states in overhauling the infrastructure of affected programs.

California supports the interim final approach in calling for state-specific standards for the evaluation of timeliness and performance as distinct matters. With respect to §435.912(c)(3), the State fully agrees with the retention of the existing 45-day and 90-day maximum bounds for the completion of eligibility determinations. While we are cognizant and supportive of the aim to strive for “real-time” adjudication of program eligibility and enrollment where feasible and appropriate, there is an equal need to account for the numerous complex scenarios that do not lend themselves to immediate and definitive placement, particularly in the initial years of operation for such a substantial and multifaceted overhaul. As a more general matter, we request that future guidance in this area continues to emphasize a flexible and adaptable approach to oversight of state timeliness and performance standards in light of the uncharted paths on which states advance.

### **Coordinated eligibility and enrollment among insurance affordability programs (§435.1200)**

California fully supports the significant emphasis placed on synergy and integration in program administration across the continuum of insurance affordability programs. Not unlike our sister states, California is well under way in efforts to identify and build the necessary bridges amongst insurance affordability programs in furtherance of the aim to offer Californians the most seamless and consumer-friendly model as is possible.

In order to maximize the efficiency and comprehensiveness of such endeavors, we request that model agreements be made available as soon as practicable and ask that such templates account for the various governance-structural options from which states have to choose in coordinating across programs. We also ask that future guidance in this area outline any federal expectations as to the timing for execution of these inter-program agreements leading up to the all-important date of January 1, 2014.

As to the interim-final regulatory language for §435.1200, we request clarification regarding the below language at subparagraph (b)(3)(iii):

“Ensure prompt determinations of eligibility and enrollment in the appropriate program without undue delay, consistent with timeliness standards established under §435.912, **based on the date the application is submitted to any insurance affordability program.**” (emphasis added)

The above bolded language could be read as potentially conflicting with the timeliness treatment at §435.912(c)(1) which contemplates a tolling of the relevant time period “from the date of application **or transfer from another insurance affordability program....**” (emphasis added) We ask that any finalized regulatory language regarding timeliness is clarified so as to not rely exclusively on the initial date of application in evaluating promptness under a coordinated rubric.

## Conclusion

Again, thank you for the opportunity to contribute towards the formulation of vital ACA policy. We look forward to future opportunities to collaborate in collective pursuit of effectuating health reform in California and nationwide.

Sincerely,



Toby Douglas  
Director  
California Department of Health Care Services



Janette Casillas  
Executive Director  
Managed Risk Medical Insurance Board