



Children's Health Fund

215 West 125th Street
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September 28th, 2011

BY ELECTRONIC TRANSMISSION

The Honorable Kathleen Sebelius
United States Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Re: Proposed Rule on the Establishment of Exchanges and Qualified Health Plans;
CMS 9989-P

Dear Secretary Sebelius,

The Children's Health Fund (CHF) is submitting the following comments in response to the Request for Comments on the Proposed Rule on the Establishment of Exchanges and Qualified Health Plans issued on July 15, 2011.

CHF is a non-profit organization and designated as a 501(c)(3) by the Internal Revenue Service. Since its inception in 1987, CHF has supported the delivery of comprehensive health care to medically underserved children and families in rural and urban areas. Located throughout the country, CHF's twenty-five pediatric programs provide care that is consistent with the medical home model, ensuring care that is accessible, continuous, comprehensive, family-centered, coordinated, compassionate, and culturally effective.

Section §155.110(c) – Entities Eligible to Carry our Exchange Functions

CMS has requested comment on how to implement or construct a partnership model consistent with section 1311 of the Affordable Care Act and has proposed standards on the membership of an Exchange governing board. CMS further proposes that the Exchange governing board ensure that a majority of members have relevant experience in health benefits administration, health care finance, health plan purchasing, health care delivery system administration, public health, or health policy issues related to the small group and individual markets and the uninsured.

Comment: CHF strongly supports existing and future efforts to include pediatricians, as well as any other pediatric specialists, on Exchange governance boards. Children are not little versions of adults, and experienced pediatricians and pediatric specialists are those best educated and trained to understand and treat a child's unique physical and developmental needs. Pediatric healthcare professional participation on state Exchange governance boards will ensure that the health care needs of children and their families, many of whom will purchase insurance through the Exchanges or move between Exchange and Medicaid/CHIP coverage, are appropriately met.

CHF further urges HHS to promulgate rules barring conflicts of interest of all members serving on exchange boards, instead of a “majority” as stated in the proposed rule to ensure that all exchange boards accomplish the goal of increasing access to insurance while controlling costs.

CHF also urges HHS to consider the inclusion of consumer advocates to inform the exchange board of on the ground issues and concerns with accessibility. Consumer advocates should be individuals who gain insurance through the exchange or non-profit organizations that research and advocate for increased access to insurance.

Section §155.210 – Navigator Program Standards

Section 1311(i)(2)(B) of the Affordable Care Act identifies entities which may be eligible to serve as Navigators, including “other entities” pursuant to section 1311(i)(2)(B) insofar as they meet the requirements of section 1311(i)(4). CMS proposes that the Exchange include at least two of the types of entities listed in Section 1311(i)(2)(B) as Navigators.

Comment: CHF recommends that at least one of the two types of entities serving as Navigators should be a community and consumer-focused non-profit organization with experience in enrolling individuals in public insurance plans or linking individuals to health care. Experience with Medicaid and CHIP has demonstrated how important community-based outreach and application assistance, through facilitated enrollment, are in reaching and enrolling eligible children.

The role of the Navigator is critically important, as they must provide information that is fair, accurate, and impartial, facilitate enrollment in qualified health plans, provide referrals; and do so in a manner that is culturally and linguistically appropriate. HHS should consider rules that identify community based non-profit organizations without ties to commercial insurance or conflicts of interest. HHS should consider rules for state based training of Navigators and require insurance plans participating on the exchange to comply with information requests by Navigators, so they can effectively assist individuals making crucial health insurance decisions. CHF recommends that HHS allow states to establish “third party” access to a user’s exchange account to allow designated Navigators to aid the enrollment process.

In addition, we would urge the Department to encourage Exchanges to take into account the needs of children and youth with special health care needs as they award grants to Navigators.

Section §155.230- General Standards for Exchange Notices

CMS proposes all applications, forms, and notices must be provided in plain language and meet other consumer-friendly standards

Comment: CHF recommends that the Department codify the examples mentioned as requirements in the final rule. We would also suggest HHS require that all applications, forms and notices be offered in languages that represent the ethnic population profile of each state. For example if in New York, Chinese speakers make up 5% of the population, the Exchange and all related notices must be offered in their native tongue. In addition we recommend that notice language is presented at a fifth grade reading level.

Section §155.405 – Single Streamlined Application

CMS proposes that the Exchange use a single streamlined application to collect information necessary for QHP enrollment, and for other purposes.

Comment: CHF is pleased that the proposed rule is consistent with the ACA and requires that the Exchange use a single streamlined application to apply for the premium tax credit, cost sharing reductions, Medicaid and CHIP, as well as for enrollment in the basic health plan where applicable. Furthermore, if a state does not use the form developed by the Secretary, the Secretary must approve an alternative that is consistent with HHS goals.

CHF strongly supports the “no wrong door” concept and use of a single, streamlined application that provides access to all coverage options: Medicaid, CHIP, the Basic Health Plan, and the Exchange. CHF supports the use of both paper-based and web-based forms to ensure access for low income communities with limited computer and internet access. In addition, families should be able to file an application on-line by telephone, by mail or in person, to facilitate the enrollment of children in families with low literacy and limited English proficiency. However, technology should be employed to the greatest extent possible and explicitly enabled for mobile devices (which are often more available than computers to low-income families and/or minority groups)..

HHS should consider requiring state exchanges to have a “personal account” for users of the exchange. This would enable users to return to their application if they cannot finish it in one sitting, collect paperwork, think about options available on the exchange and check the status of insurance coverage.

Section §155.1050 – Network Adequacy Standards

To ensure that Exchange network adequacy requirements are appropriate for QHP issuers and reflect local patterns of care, CMS proposes that each Exchange ensure that enrollees of QHPs have a sufficient choice of providers.

Comment: CHF respectfully urges that the Proposed Rule be strengthened to ensure that the needs of children, including children with special health care needs who often require a full array of ancillary services, are appropriately addressed. CHF also recommends that the term “sufficient” be more precisely defined.

Ideally, HHS will encourage state Exchanges to set pediatric network adequacy standards for QHPs that overlap with Medicaid and CHIP. Common or overlapping provider networks would allow children to maintain continuity of care and providers if shuttling occurs between public and private coverage. If a state does not choose to establish common network standards with Medicaid and CHIP, it is critical that the Exchange establish specific standards under which QHP issuers would be required to maintain: (1) sufficient numbers of pediatricians and pediatric subspecialists, including mental health providers, to assure that services are accessible without unreasonable delay; (2) arrangements to ensure reasonable proximity of participating providers, including providers accepting new patients; (3) an ongoing monitoring and evaluation process to ensure sufficiency of the network for enrollees; and (4) a process to ensure that an enrollee can obtain a covered benefit from an out-of-network provider at no additional cost if no network provider is accessible for that benefit in a timely manner.

QHPs should also be required to publicly disclose data related to their network adequacy to both the state and users of the Exchanges. In addition, individuals enrolling in QHPs should have information regarding network adequacy and have access to specific provider information before enrolling in a plan, including the address of providers, and wait times for appointments. To support and reinforce consumer protections, QHPs should be rated according to consumer satisfaction surveys and quality of care measurements.

Section §156.235 – Essential Community Providers

CMS requires that QHP issuers include in their provider networks a sufficient number of essential community providers, where available, that serve low income, medically-underserved individuals.

Comment: CHF is pleased that HHS recognizes the important role of essential community providers in meeting the needs of various communities throughout the country and, in particular, the needs of those individuals who are the most underserved. Essential community providers play a particularly critical role in the care of low-income and critically or chronically ill and disabled children. These children require a broad and diverse range of medical, habilitative, and rehabilitative services throughout their lives. The essential community provider provision in the ACA is targeted to address this circumstance. To ensure that children have access to quality services when required, we strongly recommend that HHS require QHPs to specifically contract with pediatric-appropriate providers, including pediatric subspecialists, children’s hospitals, and all essential community providers, including community health centers, identified within section 340B (a)(4) of the Public Health Service Act. Those providers should also include other federally-recognized health care models that are solely dedicated to the needs of children, such as school-based health centers.

For more information please contact:

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