

June 30, 2011

Honorable Kathleen Sebelius
Secretary
US Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Honorable Hilda Solis
Secretary
US Department of Labor (DOL)
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Sebelius and Secretary Solis:

We are pleased to provide you with items to consider as you develop criteria for a uniform enrollment form for individuals, employees and employers enrolling into qualified health plans offered through health insurance Exchanges.

Section 1311 of the Patient Protection and Affordable Care Act (PPACA) requires you to establish criteria for the certification of qualified health plans to include certification that the plan utilize a uniform enrollment form that takes into account criteria that the National Association of Insurance Commissioners (NAIC) develops and submits to the Secretary. We understand that your Departments intend to design a single streamlined eligibility and enrollment process to include the requirements of Section 1413. Section 1413 directs you to establish a streamlined procedure for applicants to receive eligibility determinations and enroll in state Medicaid, CHIP, and health subsidy programs, including individuals applying to an Exchange.

The suggested criteria below were developed by the NAIC's Consumer Information Subgroup. This Subgroup was originally created to work with HHS and DOL to implement Section 1001 of PPACA (adding Section 2715 of the Public Health Service Act) and is comprised of NAIC members as well as a working group of health insurance-related consumer advocacy organizations, health insurance issuers, health care professionals, patient advocates and other qualified individuals.

We do not intend for this to be an exhaustive list of criteria to consider in the complicated task of creating and implementing the eligibility and enrollment processes. Rather, these are some initial issues to consider based on the experience of state regulators and other Subgroup members. These issues should be considered for both the electronic platform as well as paper applications.

We appreciate this opportunity to raise issues for you to consider during this early stage of development. As we all learn more about implementation of the eligibility and enrollment processes, as well as about implementation of the health insurance Exchanges, we may have additional comments and criteria to suggest at a later time. In addition, we understand that HHS has entered into a public-private partnership for the development and design of the online application and uniform enrollment form. Our Consumer Information Subgroup would like to continue to offer its experience and expertise as you move forward. As the Subgroup is made up of a cross-section of state regulators, individuals, and organizations with health insurance expertise, we offer a unique perspective that can continue to be helpful. We look forward to having the opportunity to provide additional guidance in the future.

MAINTAIN STATE FLEXIBILITY AND RECOGNIZE STATE SPECIFIC NEEDS:

While the statute calls for the use of a uniform enrollment form, states will have a central role in the planning, establishment, design and administration of the state Exchanges and the overall process to allow consumers to enroll into qualified health and dental plans sold through the Exchange. To the extent that the development of the eligibility and enrollment processes overlap and interact with these important aspects of state Exchanges, it is critical that the Departments maintain state flexibility and preserve the ability of states to address state-specific needs within the constraints of the federal law.

DESIGN A CONSUMER-FRIENDLY USER EXPERIENCE:

While combining eligibility determination and enrollment processes will provide a more streamlined process for the consumer than requiring multiple separate applications, it may still be a very confusing process for the average consumer. Not only do the eligibility determination and the enrollment processes need to be well-designed to ensure the proper collection of information, but they must also be designed with consumer needs in the forefront. To this end, the Departments should consider the following:

1. **Recognize That Individuals Will Need Assistance Throughout the Process:** During the processes of education, plan comparison, eligibility determination, and enrollment, it is likely that many consumers will need assistance from assistors such as friends, families, community and consumer-focused nonprofit groups, unions, small business development centers, and others who will assist with eligibility, enrollment and retention. The Departments should consider the important role of such assistance, including the role of agents, brokers, navigators and other assistors during the eligibility and enrollment processes.
2. **Integrate Design Features That Assist and Educate the Consumer:** The electronic enrollment format should be designed to provide consumers with as much assistance as possible. Features that may be considered for the electronic enrollment form could include: allowing assistors to enter information and view dispositions; providing links to definitions of terminology and visual tips to provide explanations to the consumer; and providing the ability to use telephone assistance, online chat and other real-time supports. However, such design features should not be considered a substitute for clear terminology, communication and design used throughout the eligibility and enrollment processes.
3. **Provide Rapid Feedback and Transfer of Information:** To the extent possible and in a manner that accommodates state needs and systems, when using electronic enrollment platforms it would be beneficial for consumers to be able to receive eligibility determinations and move between public and private eligibility and enrollment processes in real-time with minimal wait-times.
4. **Consider the Interaction Between the Plan Selection Process and the Eligibility and Enrollment Processes:** The consumer's user experience in the eligibility and enrollment processes will be highly impacted by the design and features of the plan selection process. While we are not commenting on the plan selection process within the scope of this letter, we recognize that the plan selection process will have a significant impact on the consumer's overall experience with enrollment, including whether the plan selection process accommodates certain consumer preferences, such as the ability to narrow down plan choices within a certain geographical area or that include an individual's providers.
5. **Consider Consumer-Testing of the Eligibility and Enrollment Processes:** Once the Departments have designed a proposed format for these processes, consider the feasibility of conducting consumer testing and including consumers of different cultural backgrounds and health insurance literacy levels.
6. **Consider How Non-Electronic Information Will Be Obtained From Consumers:** In developing a process for applying for coverage on paper, the Departments will have to work with states to consider the optimal process for consumers to submit supporting documentation non-electronically.

MINIMIZE REQUIREMENTS TO SUBMIT OVERWHELMING INFORMATION:

Since the uniform enrollment form will be combined with the eligibility process for Medicaid, CHIP, tax credits, and subsidies, the Departments should be mindful that requiring individuals to submit large quantities of information could become a barrier to participation and may overwhelm the consumer. In addition to these screenings, state Exchanges will also be required to meet other requirements of the law including verification of citizenship or lawful presence in the United States, for example. Therefore, the Departments should consider allowing the following suggestions:

1. **Work With States and Federal Agencies to Keep the List of Questions Required for Medicaid, CHIP, Tax Credit and Subsidy Eligibility to a Minimum:** The Departments should work to keep the number of these questions to a minimum, and consider providing consumers (with his/her informed consent) and interested states with the option of pre-populating or pulling information from existing databases where appropriate (combined with an opportunity for enrollees to verify accuracy of such data and/or provide additional eligibility information). This would make it simpler for all individuals to respond and quickly determine eligibility.
2. **Explore a Quick-Screening Tool:** To the extent practicable, the Departments should work with states to explore the possibility of providing consumers with a tool that would allow them to learn about their options for public and private coverage through a quick-screening process without having to enter personally identifiable data into the system.
3. **Consider Giving Individuals the Choice to Bypass Eligibility for Public Programs, Tax Credits or Subsidies:** To the extent that such a recommendation is practicable, giving individuals the choice to bypass such eligibility determinations would make the process simpler for individuals who are confident they are not eligible for public programs, subsidies, or tax credits. At the same time, the system should be designed to preserve the ability for individuals to change their minds and return to the eligibility determination screen.
4. **Allow Individuals Who Are Found Ineligible for Medicaid, CHIP, Tax Credits or Subsidies to Bypass Enrollment Questions for These Programs:** If an individual is determined to be ineligible for public programs during the eligibility determination, then they should be able to proceed directly to the enrollment process for qualified health and dental plans without having to submit information for purposes of enrollment into public programs for which they are ineligible.
5. **Eliminate Duplicate Requests for Information:** To the extent practicable, the Departments should consider providing consumers with the ability to not have to re-enter information from one part of the eligibility process into an enrollment form. Additionally, for purposes of the eligibility and enrollment processes, the Departments may want to consider a method by which consumers can save profile information to use during subsequent open enrollment periods.
6. **Provide For Interruptions:** For electronic formats, recognize that consumers may not be able to complete eligibility determination information and/or enrollments in one sitting. Therefore, the system should be designed to accommodate interruptions while assistance or more information is sought, and allow for the capability to save in-process applications and revisit the incomplete application at a later time.

ENSURE EFFICIENT HANDLING OF COMPLEX ELIGIBILITY SITUATIONS:

The eligibility and enrollment processes should be able to smoothly and efficiently handle families with mixed eligibility and immigration statuses. This might include situations where a family member may be eligible for the SHOP Exchange or to purchase individual coverage through the Exchange, while other members of the family are eligible for public programs or subsidies. This might also include situations where different members of the

family have different immigration statuses. Another complicated mixed eligibility scenario may include situations where grandparents or non-biological parents are caring for children.

1. **Assurance of Purpose and Confidentiality:** In order to prevent a deterrent effect, applications should explicitly identify the purpose of collecting information, such as immigration status, and clearly identify bounds of confidentiality and privacy. It should be noted that Section 1411(g) requires that only essential information be collected for the purposes of establishing eligibility.
2. **Design Appropriate Screenings for Families with Mixed Eligibility and Immigration Status:** It is anticipated that applications will need to account for income and lawful presence for all individuals. The eligibility and enrollment systems should be sophisticated enough to make proper determinations for families with mixed eligibility and immigration status, and should consider the following:
 - The eligibility and enrollment processes should accommodate the fact that some lawfully present individuals may not have Social Security numbers but may have other identifiers that can be used for verification.
 - The eligibility and enrollment processes should be able to accommodate families with mixed eligibility without requiring ineligible household members to complete unnecessary immigration status information.
 - The processes should reflect differing eligibility rules for Medicaid and the Exchanges with regard to access for legal immigrants.
 - Applications for mixed-immigration status families should account for the formula that could result in potential adjustments in income and household size for purposes of calculating health care benefits.
3. **Consistent Identifiers to Track Across Programs and Families:** States interested in utilizing a consistent identifier should be able to do so for individuals across programs. This would provide consistency and would allow states, Exchanges, qualified health plans and qualified dental plans to track individuals as they may shift between programs and eligibility categories.

COLLECT APPROPRIATE INFORMATION FOR PLAN ENROLLMENT:

Implementation of the Exchanges and other new changes in law will bring changes in the way enrollment information is provided for health insurance and dental carriers. The following issues should be considered:

1. **Collect Appropriate Information from Enrollees:** The information collected for enrollment into qualified health plans and qualified dental plans should be based on widely-used common data standards so that qualified health and dental plans can ensure proper enrollment and transfer of information between public and private insurance programs. Since 2003, standard HIPAA transactions have been used to enroll consumers into public and private health coverage programs. Section 1561 of PPACA requires the development of standards to facilitate electronic enrollment, and more information on these recommendations can be found at <http://healthit.hhs.gov/portal/server.pt?open=512&mode=2&objID=3161>
2. **Consider How Ancillary Products Will Be Included in the Enrollment Process:** PPACA provides that stand-alone dental plans shall be allowed to provide pediatric dental benefits through health insurance Exchanges. Additional enrollment questions may be needed to collect the appropriate information for this purpose.
3. **Consider How Non-Electronic Information Will Be Transferred to Qualified Health Plans and Qualified Dental Plans:** Individuals will be able to continue to complete enrollment online, in person, by mail, or by telephone. As exchanges are being implemented, the process by which health and dental plans will receive the submitted information from non-electronic submissions will need to be considered.

4. **Consider Changes to Collection of Medical Information:** As of 2014, medical questions will no longer be required for purposes of medical underwriting. These questions had previously made up of the bulk of the questions in uniform enrollment forms currently used by states. The Departments should consider that insurers and states will no longer have access to this type of information through the enrollment process, and whether the collection of additional information should be considered during the enrollment process or during other points in the process (such as post-enrollment).
5. **Develop Operational Requirements for Plan Enrollment:** While these issues may not directly impact the consumer-experience in the eligibility and enrollment processes, the Departments and states will need to work with health and dental plans to address numerous operational issues to ensure proper enrollment of individuals into qualified plans. These will include:
 - Verification that enrollment information is complete and the individual is eligible for enrollment in the selected option. Processes may be needed to prevent duplication of applicants and for individuals to check the status of an application.
 - Method for consumers to receive confirmation of enrollment and learn where to go for future information and services.
 - Method for consumers to convey any post-enrollment changes in status that may affect eligibility for enrollment in a plan.
 - Method for individuals to communicate information such as decisions to drop or change coverage.
 - Other issues related to plan membership maintenance and retention processes.

CONSIDER OTHER IMPORTANT CONSUMER CONCERNS:

The Departments should consider these additional consumer concerns:

1. **Address Privacy Concerns:** Individuals have raised privacy concerns that should be considered as they apply to the enrollment process including:
 - The need to collect only the minimally appropriate amount of information necessary to determine eligibility and enrollment.
 - The need to safeguard the privacy and security of information required, and limiting its use to the purposes required by law.
 - Recognition that some types of plans, such as dental insurers, etc., will need to receive less information than comprehensive health insurance plans will need to receive for purposes of enrollment.
 - Concerns about being required to provide financial information if individuals believe they will not qualify for public programs, subsidies, or tax credits.
 - Concerns that private insurers should not have access to private financial information that may be provided earlier in the eligibility and enrollment processes but is not necessary for enrollment into private insurance plans.
 - Concerns regarding the use of Social Security numbers, including the need for disclosures to consumers at the time of the request for Social Security numbers is made, as required by the Privacy Act. Some suggestions for consideration might include: the limitation of the collection of Social Security numbers as part of a stand-alone aspect of the eligibility and enrollment processes, the encryption and storage of Social Security numbers separate from other information on the applicant's file, and the use of non-Social Security number identifiers.
 - In addition to standards for privacy and security of online enrollment and electronic data exchange, paper forms should also provide maximum privacy and security.
2. **Recognize Health Insurance Literacy Concerns:** While health literacy varies among the U.S. adult population, many Americans lack the skills needed to fully assess their health care options. Vulnerable populations (the elderly, minorities, immigrants, low-income individuals, and people with chronic mental and/or physical health conditions) are especially at risk, in part because many of these populations also

have limited literacy skills. Many of the principles set forth elsewhere in this letter will assist those with lower health literacy skills. These include designing a transparent and consumer-friendly user experience and minimizing information requirements. However, segments of the population with low literacy skills still will need in-person and/or online assistance to understand medical and insurance terms and to correctly complete the enrollment forms. In addition, language should be written in a way that it is accessible to the largest number of people, the design should be created in a way to make the forms easy to read, and questions should be kept simple and provide definitions and examples.

3. **Recognize Digital Divide Concerns:** The eligibility and enrollment processes should recognize the fact that there are varying levels of access and comfort with technology, as well as varying community technological practices. Individuals will continue to be able to complete enrollment forms in ways other than online, including in person, by mail, or by telephone.
4. **Address Cultural and Language Needs of Applicants:** The eligibility and enrollment processes should address the language and cultural needs of consumers. Resources should also be identified that provide easily-accessible assistance to applicants with language or cultural barriers. However, the Departments should balance the goal of ensuring that applications and materials present information in a culturally appropriate manner with the need to avoid requesting unnecessary information about a person's culture or background that could be considered offensive by some. In addition, translations of uniform applications in the most prominent languages, and collection of primary language data should also be conducted in accordance with existing laws and regulations (including Section 1557 non-discrimination provisions). Obligations to provide translation and interpretation services, including translations of key health terminology, and other facilitated enrollment as required by current laws and regulations should be clearly outlined.
5. **Address the Needs of Applicants with Disabilities:** This should include the needs of people with disabilities who rely upon assistive technology.

ADDRESS UNIQUE NEEDS OF ENROLLMENT INTO SHOP EXCHANGES:

The enrollment of small employers and employees into the SHOP exchange poses a unique set of design challenges. In order to establish a smooth enrollment process and minimize confusion, the Departments should consider the following:

Employee Enrollment Issues:

1. **Clearly Differentiate Enrollment Through the Individual Market Versus the SHOP Exchange:** Near the beginning of the user experience, it should be clear to individuals whether they are enrolling through the individual market or whether they are enrolling through their employer's umbrella in the SHOP Exchange. Such clear designations will ensure that individuals do not end up inadvertently completing questions that do not apply to them.
2. **Display Relevant Plan Choices When Enrolling Through the SHOP Exchange:** PPACA permits employers to limit the number of plans available to their employees. Therefore, employees who are enrolling through their employer's umbrella in the SHOP Exchange should only be presented with the coverage offered by his/her employer, rather than presented with plans to which they may not be eligible.
3. **Design Appropriate Screenings for Individuals Enrolling Into the SHOP Exchange:** Some individuals may qualify for Medicaid or premium tax credits even if their employer offers coverage through a SHOP exchange. Also, in some cases dependents of an employee eligible for enrollment into a SHOP Exchange may qualify for Medicaid or other programs. The eligibility determination process should be able to accommodate these types of situations without requiring the completion of unnecessary information or failing to give dependents an opportunity to determine eligibility.

Employer Enrollment Issues:

1. **Ensure a Clear Process for Employer Applicants for the SHOP Exchange:** Just as there should be a clear process for employees enrolling through the SHOP exchange so that individuals do not inadvertently complete questions that do not apply to them, there should also be a clear and distinct process for employers enrolling in the SHOP Exchange.

2. **Collect Appropriate Information Required to Enroll Employers:** The enrollment of employers into the SHOP Exchange will require additional information to be collected. This should include:
 - a. Question identifying the broker, agent, navigator, business owner or other employee at the company responsible for enrollment.
 - b. Method for the employer to verify that the individuals being enrolled through the employer group are actually employees.
 - c. Question about whether the employer has had previous coverage, the effective dates of that coverage, and the most recent billing statement. Confidentiality of the wage information would also need to be addressed.
 - d. Other data elements that are currently being collected for the small group market such as location, employer identification number, etc.

3. **Properly Display Choice of Plan Selections:** PPACA permits employers to authorize one or more employee selections within a level of coverage (bronze, silver, etc), so there should be a listing of what those plan selections are, and the employer should be given an opportunity to make that selection. Not all plans may be available to every employee. Once the employer chooses the plan or plans they wish to make available to their employees, if presented with a choice among plans, employees who subsequently enroll should be presented only with those plan choices.

Thank you for the opportunity to provide you with these recommendations at this time. We look forward to continuing to work together as you continue to develop the eligibility and enrollment processes and other implementation of PPACA.

Sincerely,



Susan E. Voss
NAIC President
Iowa Insurance Commissioner



Kevin M. McCarty
NAIC President-Elect
Florida Insurance Commissioner



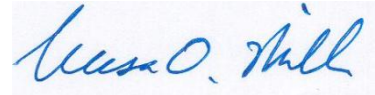
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