

# **Issues to Watch within the HHS Notice of Benefit and Payment Parameters for 2017**

## **For use by Connect for Health Colorado Policy and Regulations Committee**

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### **Voluntary Standardized Plan Designs**

For the 2017 year, in addition to the required actuarial values or metal tiered plans, HHS will allow carriers in the Federally Facilitated Exchange (“FFE”) to submit standardized or non-standardized plan designs. HHS has proposed the creation of a standardized plan for each of the bronze, silver and gold tiers with additional options at the silver level for persons eligible for cost sharing reductions. Some benefits, such as generic drugs and primary care visits, will not count toward a deductible. Additionally, the plans would only allow one tier networks of providers who are in-network and would place an emphasis on copayments rather than coinsurance.

HHS is considering providing a means of highlighting the standardized plans on the Healthcare.gov site in an effort to simplify the shopping experience. HHS left open the possibility that standardized plans might be required in future years. State Based Exchanges (“SBES”) will have the option of aligning with the federal rules on standardized plans.

### **Mechanism for SBEs that use the federal platform (SBE-FPs)**

A handful of states with SBEs transitioned to federal technology in the first two years. The proposed rules are encoding this arrangement as SBE-FPs, or State Based Exchange – Federal Platforms. For states that want to operate an SBE-FP in 2017, a declaration letter and blue-print will need to be submitted in 2016. In the SBE-FPs, the federal government will operate the electronic eligibility application and enrollment functions in addition to the SBE-FPs call center operations. The SBE-FP would need to maintain a hotline and a web site, train navigators and keep responsibility for plan management. In exchange for providing t services the FFE proposes a user fee of 3 percent in 2017. The entirety of the fee would be collected by the FFE to pay for the SBE-FP operations.

Notable as a condition for transitioning to an SBM-FP, is the requirement that carriers largely conform to federal standards for FFE plans. Issues such network adequacy and provider directory requirements would need to conform to the FFE rules.

### **FFM Carrier Admin Fee**

The FFE fee charged to FFE QHP plans will continue to be 3.5 percent of premiums. Worth noting is that health law scholar Timothy Jost has commented on the proposed rules that 3.5 percent “continues to be less than the actual full cost of providing FFE services.”

### **Rating Areas**

Although states must conform to HHS rules for rating areas, which require a rating area to be “based on counties, three-digit zip codes, or metropolitan statistical areas and nonmetropolitan statistical areas,” HHS has nevertheless noted that there is a great deal of variation between states. Apparently some states have rating areas that are compact to the point of potentially causing discrimination against high-risk groups contained within those rating areas. CMS has asked for comment on requiring larger rating areas as well as whether products must be offered throughout the entirety of a rating area. In Colorado, there are several large rating areas but carriers may choose to offer coverage only in select counties. A change to this rule would require Colorado carriers to offer coverage to all counties within a rating area.

### **Web-based Brokers**

CMS is also soliciting comment on whether web-based brokers should be allowed to operate on the FFE. The proposed rule does not apply to SBMs, but the proposal does solicit comments on whether web-brokers be allowed to expand direct enrollment by allowing them to incorporate the FFE single streamlined application in exchange for “increased monitoring and oversight activities.” Increased oversight could include “more robust privacy and security requirements, requiring adoption of cyber security best practices, additional web-broker reporting requirements and specificity as to the collection and use of consumer information.”