

# **Patient Protection and Affordable Care Act Market Stabilization**

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Summary of Final Rule with Operational and Strategic Impacts

May 17, 2017

Section of Regulation Affected	Proposed Rule	C4HCO's Position and Comment/Finalized as Proposed?	Does C4HCO have flexibility to implement?	Operational impacts and strategies
45 CFR §147.104 – Guaranteed Availability	<p>Assuming State law does not prohibit the proposed action, this proposed rule will modify the guaranteed availability rules with respect to non-payment of premiums. Carriers will be able to apply a premium payment made for new coverage, either under the same or a different product, to the outstanding debt associated with the non-payment of premiums for the same issuer enrolled within the prior 12 months.</p> <p>Individuals with past due premiums would generally owe no more than one to three months of past-due premiums. For individuals on whose behalf the carrier received APTC, the past premium owed would be net any APTC paid on their behalf to the carrier.</p>	<p>Neutral.</p> <p>Connect for Health Colorado will defer to the DOI's interpretation of State law regarding this proposal. Dependent upon that interpretation and carriers' decisions to implement this change, Connect for Health Colorado will need to work with carriers to make necessary system changes and updates.</p> <p>Finalized as proposed.</p>	<p>The decision regarding whether or not to implement these types of payment policies does not rest with Connect for Health Colorado. Connect for Health Colorado will defer to the DOI and to carriers regarding this issue.</p>	<p>For plan year 2019 and onwards, C4HCO may need to make system changes and updates that relate to how information passes between C4HCO and carriers.</p>
45 CFR §155.410(e) – Shortened Open Enrollment Period (OE)	<p>This proposed rule changes the Open Enrollment Period (OE) from November 1, 2017 through January</p>	<p>Oppose.</p>	<p>Comments from CMS would allow State-based Marketplaces</p>	<p>Connect for Health Colorado is working to</p>

	<p>31, 2018 to November 1, 2017 through December 15, 2017 for the 2018 coverage year. This would align with the OE for what was already established for coverage year 2019 and beyond.</p> <p>HHS believes this will have a positive impact on the risk pool by reducing the risk of adverse selection.</p>	<p>Connect for Health Colorado opposes shortening the dates for Open Enrollment (OE) for plan year 2018. Shortening OE for plan year 2018 would negatively impact customer, broker and issuer experience because shortening OE would force extremely high volumes of individuals seeking eligibility and enrollment through the Exchange's, brokers' and the carriers' systems.</p> <p>The issues surrounding these increased volumes and possible overloads would require substantial investment in order to support system capacity and the capacity of all other resources.</p> <p>Finalized as proposed for the FFM and SBM-FPs with flexibility for SBMs.</p>	<p>the flexibility to supplement OE with an SEP to relieve pressure on technology and operational systems.</p> <p>The commentary text that was released with the final rule states that State-based Exchanges may use their existing authority to supplement OE with a Special Enrollment Period (SEP). This should lessen the operational difficulties of the shortened OE.</p> <p>Connect for Health Colorado will work with the Division of Insurance (DOI) and our carrier partners to make this supplemented OE run smoothly for all stakeholders.</p>	<p>strengthen existing technology in an attempt to accommodate the shortened OE period.</p> <p>Connect for Health Colorado is also assessing possible options to utilize an SEP to supplement OE, thereby addressing operational and technical challenges that would be created by a shortened OE.</p> <p>Supplementation of OE aligns with guidance from CMS.</p>
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<p>45 CFR §155.420 – Pre-enrollment Verifications for Special Enrollment Periods (SEPs)</p>	<p>This proposed rule would require the FFE and State-Based Exchanges using the federal platform (SBE-FPs) to conduct pre-enrollment verification for all categories of SEPs for all new consumers. HHS is encouraging, but not requiring, SBEs to follow the same approach.</p> <p>As written, the customer can submit their application and select a plan. Before the Exchange releases enrollment information to the carrier, the enrollment will be “pending” for 30 days until the verification of the SEP is completed.</p>	<p>Support State flexibility.</p> <p>While Connect for Health Colorado supports access to Special Enrollment Periods (SEPs) for all individuals who are legitimately eligible for such enrollment periods, Connect for Health Colorado also supports reasonable measures to reduce adverse selection. Connect for Health Colorado supports flexibility for states to defer to State law on this point.</p> <p>Finalized as proposed with State flexibility.</p>	<p>The final rule supports State flexibility. State-based Marketplaces (SBMs) maintain flexibility to determine whether and how to implement a pre-enrollment verification of eligibility for special enrollment periods. For example, an SBM could consider allowing issuers to conduct the verification, if the SBM itself is unable to implement pre-enrollment verification.</p>	<p>The operational impacts will vary based on whether or not we decide to implement pre-enrollment verifications.</p> <p>At this time, the likely strategy will be to forgo implementation due to the high costs to consumers and to the Exchange.</p> <p>Carriers may decide to implement.</p>
<p>45 CFR § 155.420(a)(4) and 45 CFR § 155.420(a)(4)(iii) Alternative to Pre-enrollment Verification for Existing Enrollees (Limiting Metal Level Changes for Certain Special Enrollment Periods (SEPs))</p>	<p>This proposed rule would provide an alternative to pre-enrollment verification for existing enrollees (as opposed to new applicants), which would limit the ability of existing Exchange enrollees to change plan metal levels during the coverage year.</p> <p>This proposed rule states that for existing enrollees eligible for certain SEPs (see below), the Exchange must</p>	<p>Support State flexibility, but also have concerns.</p> <p>Connect for Health Colorado believes that this proposal should be optional for State-Based Marketplaces (SBMs). States should be allowed to innovate custom solutions to the issues presented by requiring verifications of SEP eligibility for</p>	<p>The final rule does not support State flexibility. States must implement this portion of the SEP changes. However, States will be given time to implement these changes and are not expected to</p>	<p>The operational impacts will be significant.</p> <p>Strategically, we can spread these costs over time as we work toward compliance.</p>

	<p>only allow the enrollee and/or his/her dependents to make changes to their enrollment in the same QHP or to change to another QHP within the same metal level of coverage, if available.</p> <p>This includes enrollees who are on an application where a new applicant is enrolling in coverage who qualifies for an SEP.</p> <p>This affects the following SEPs:</p> <ul style="list-style-type: none"> <li>• Loss of MEC (d)(1);</li> <li>• QHP violated a material provision of its contract (d)(5);</li> <li>• Permanent move (d)(7);</li> <li>• Affected by material plan or benefit display error (d)(12).</li> </ul>	<p>existing enrollees (as opposed to new applicants). Making this alternative optional would allow States to evaluate costs associated with implementing changes that would correspond to this proposal and then make an appropriate decision based on organizational needs. States should also retain the ability to defer to State law.</p> <p>Connect for Health Colorado supports availability of SEPs to individuals who are legitimately eligible. Connect for Health Colorado also supports reasonable measures which limit adverse selection.</p> <p>Connect for Health Colorado would incur costs to make necessary system changes to implement this proposal.</p> <p>Finalized as proposed.</p>	<p>implement during 2017.</p>	<p>Please note that if a customer's CSR level changes, they may choose a Silver level plan regardless of the metal level of their previous plan.</p>
<p>45 CFR §155.420(d)(2)(i) – Marriage Special</p>	<p>This proposed rule would impact only the individual Market and would require a new enrollee to demonstrate that, in the case of</p>	<p>Neutral.</p> <p>This change applies the same changes to the marriage SEP that</p>	<p>No State flexibility here. States must implement this rule as finalized.</p>	<p>There will be IT changes and an investment to implement.</p>

<p>Enrollment Period (SEP) Changes</p>	<p>marriage, at least one spouse either had MEC or lived outside of the U.S. for one or more days during the 60 days preceding the date of marriage.</p>	<p>were applied to the permanent move SEP and finalized in the last round of rulemaking.</p> <p>This will require IT changes and investment to implement.</p> <p>Finalized as proposed.</p>	<p>CMS expects Exchanges to implement the requirement as soon as technically feasible.</p>	
<p>45 CFR §155.420(d)(9) – Significant Limitations on Exceptional Circumstances Special Enrollment Period (SEP)</p>	<p>This proposed rule will significantly limit the use of “exceptional circumstances” and require supporting documentation showing the consumer was directly impacted by the circumstance.</p>	<p>Opposed.</p> <p>Connect for Health Colorado supports availability of Special Enrollment Periods (SEPs) to individuals who are legitimately eligible. If circumstances occur which are out of a customer’s control, Connect for Health Colorado supports facilitating the enrollment for such individuals.</p> <p>Connect for Health Colorado also supports reasonable measures which limit adverse selection.</p> <p>Connect for Health Colorado would incur costs to make necessary system changes to implement this proposal.</p>	<p>No State flexibility. CMS finalized the rule as proposed. CMS will be providing guidance on what will constitute an “exceptional circumstance” in the future.</p>	<p>We will be watching for guidance from CMS on this topic and implement accordingly.</p>

		Finalized as proposed.		
45 CFR §156.140(c) – Actuarial Value	<p>This proposed rule will amend the definition of de minimis to a variation of -4/+2 percentage points. For example, a silver level plan could have an Actuarial Value (AV) between 66 to 72 percent. This is applicable for each metal level.</p> <p>This proposal would change the de minimis range for bronze plans to +5/-4 percentage points.</p> <p>This proposed rule change will not impact §§156.400 or 156.420 – meaning that no modifications will be done with the de minimis range for silver level plan variations (the plans with an AV of 73, 87 and 94 percent, otherwise known as cost-share reduction (CSR) plans’).</p>	<p>Neutral.</p> <p>Connect for Health Colorado supports flexibility for carriers to design a range of plans that fit the unique needs of each carrier. However, decreasing AV ranges of Silver metal level plans could also lead to consumer confusion and less APTC availability for consumers because APTC is calculated based on the Second Lowest Cost Silver Plan (SLCSP).</p> <p>Finalized as proposed.</p>	<p>CMS recognizes that States are the enforcers of AV policy and nothing under the final rule precludes States from applying stricter standards, consistent with Federal law.</p> <p>We will work with the DOI to determine AV levels that will be offered on-Exchange.</p>	<p>Operational impact and strategy will depend upon our decision regarding the AV levels at which we will certify plans on the Exchange.</p>