

**Patient Protection and Affordable Care Act
HHS Notice of Benefit and Payment Parameters for 2017**

Summary of Proposed Rules and Guidance,
Connect for Health Colorado's Comments, and
Finalized Rules and Guidance

March 03, 2016

A. Standards Applicable to Navigators			
	Proposed Rule and Guidance	C4HCO's Comment	Final Rule and Guidance
1.	<p>Navigators would be required to help consumers with newly added post-enrollment assistance topics (e.g. appeals, exemptions, APTC reconciliation, etc.).</p> <ul style="list-style-type: none"> - 45 CFR § 155.210(e)(9). 	<p>Support the spirit, but oppose the potential breadth. Post-enrollment assistance may turn into extensive case management and patient advocacy. Furthermore, it could become administratively burdensome and difficult without additional funding.</p>	<p>Amended in part, and finalized. SBEs may decide whether or not they will require or authorize Navigators to provide post-enrollment assistance on newly added topics.</p>
2.	<p>As a part of the new post-enrollment assistance provision (above), Navigators would be required to help consumers understand and apply for exemptions from the shared responsibility payment.</p> <ul style="list-style-type: none"> - 45 CFR § 155.210(e)(9)(ii). 	<p>Seek clarity regarding the scope of Navigator responsibility with exemptions. Oppose required, extensive Navigator support in the exemption process.</p> <p>Seek clarity regarding possible distinctions for Navigators under SBEs that defer exemption processing to the federal agency.</p>	<p>Amended in part, and finalized. SBEs may decide whether or not they will require or authorize Navigators to provide post-enrollment assistance on newly added topics.</p> <p>Want Navigators to understand general exemption information, and help customers access IRS and exemption resources (i.e. beyond simple education, short of providing tax advice).</p> <p>There is no difference whether the SBE processes exemptions itself, or defers processing to the federal agency.</p>
3.	<p>As a part of the new post-enrollment assistance provision (above), Navigators would be required to help customers obtain IRS Forms 1095-A and 8965, provide instructions for both, etc.</p> <ul style="list-style-type: none"> - 45 CFR § 155.210(e)(9)(iii). 	<p>Support a requirement that Navigators must disclose their inability to provide tax advice.</p>	<p>Amended in part, and finalized. SBEs may decide whether or not they will require or authorize Navigators to provide post-enrollment assistance on newly added topics.</p> <p>Requires that a Navigator must disclose that they cannot provide tax advice.</p>

4.	<p>As a part of the new post-enrollment assistance provision (above), Navigators' education efforts will include a few specific items (e.g. identifying in-network providers, making follow-up appointments, right to certain preventative services). Furthermore, "[w]e anticipate this would vary depending on each consumer's needs and goals." – 45 CFR § 155.210(e)(9)(iv).</p>	<p>Seek clarity regarding intent. Are these examples not required, and just examples? Or, must a Navigator cover the specific examples? Support the former.</p>	<p>Amended in part, and finalized. SBEs may decide whether or not they will require or authorize Navigators to provide post-enrollment assistance on newly added topics. The intent of Navigator assistance is to provide information and assistance with understanding basic concepts and rights related to health coverage and how to use it; it does not include patient advocacy or case management.</p>
5.	<p>Interpret current rules to state Navigators may help consumers obtain assistance with coverage claim denials. Seek comments whether this should be added, required, or permitted. – 45 CFR § 155.210(e)(4).</p>	<p>Seek clarity regarding intent. Post-enrollment assistance may turn into extensive case management and patient advocacy.</p>	<p>Not adding any other additional post-enrollment topics at this time.</p>
B. Ability of States to Permit Agents and Brokers to Assist Qualified Individuals, Employers, or Employees Enrolling in QHPs			
	Proposed Rule and Guidance	C4HCO's Position and Comment	Final Rule and Guidance
1.	<p>Considering an option where an applicant could remain on the web-broker's webpage to complete an application and enroll in coverage. – 45 CFR § 155.220(c)(1).</p>	<p>Seek clarity regarding whether the proposal is mandatory or applicable to SBEs. Oppose a requirement that would be overly demanding of time and financial resources.</p>	<p>Finalizing the proposal to enhance the direct enrollment process, applicable to the FFM and SBE-FPs for 2018. SBEs are not required to implement this new direct enrollment process.</p>

C. Standards Applicable to Certified Application Counselors			
	Proposed Rule and Guidance	C4HCO's Position and Comment	Final Rule and Guidance
1.	CAC organizations would be required to provide the Exchange with information and data related to the performance and services provided by the CACs, in the form and manner specified by the Exchange. – 45 CFR § 155.225(b)(1).	Support, with flexibility. Seek clarity to confirm that the SBE may establish frequency and time periods of reports. Such flexibility would allow the SBE to pursue and review reports within its own resources.	Amended in part, and finalized. Finalizing the proposal for CAC organizations to provide information regarding performance and services in the form and manner specified by the Exchange. SBEs are not required to establish reporting standards from CAC organizations.
D. Eligibility Process			
	Proposed Rule and Guidance	C4HCO's Position and Comment	Final Rule and Guidance
1.	The Exchange would be required to notify an employer that an employee has been found eligible for financial assistance, only if the individual employee enrolls in a QHP. – 45 CFR § 155.310(h).	Support. Current form requires the Exchange to notify the employer simply when the individual is found eligible for financial assistance. This change would ease administrative burden.	Finalized as proposed.
2.	The Exchange may choose the manner in which they notify an employer (i.e. either a notice for each employee, or one notice for multiple employees). – 45 CFR § 155.310(h).	Support. This flexibility would ease administrative burden.	Finalized as proposed.
E. Verification Process Related to Eligibility for Insurance Affordability Programs			
	Proposed Rule and Guidance	C4HCO's Position and Comment	Final Rule and Guidance
1.	Allow the Exchange to establish a reasonable threshold at which the Exchange must follow the alternate verification procedure for income fluctuations between applicant's attestation and the computed projection. Subject to HHS approval, the threshold must be no less than 10% or could be a threshold dollar amount. – 45 CFR § 155.320(c)(3)(vi).	Support. This flexibility would allow the Exchange to meet the needs of its unique customer base and ease administrative burden.	Finalized as proposed. HHS will continue to review what thresholds may be appropriate.

F. Medicare Notices			
	Proposed Rule and Guidance	C4HCO's Position and Comment	Final Rule and Guidance
1.	<p>Seek comment on whether and how to implement a notification that an enrollee may have become eligible for Medicare.</p> <ul style="list-style-type: none"> – <i>“Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2017; Proposed Rule,” 80 Fed. Reg. 231, 75488, 75530 (Dec. 02, 2015).</i> 	<p>Seek clarity regarding whether this would apply to SBEs.</p>	<p>No official rule adopted. HHS will work to incorporate additional online content to help customers who may be Medicare eligible, and how they may transition into Medicare coverage.</p>
G. Enrollment of Qualified Individuals into QHPs			
	Proposed Rule and Guidance	C4HCO's Position and Comment	Final Rule and Guidance
1.	<p>The deadline for a binder payment related to prospective coverage with a prospective special effective date would have to be no earlier than the coverage effective date and no later than 30 calendar days from the date the issuer receives the enrollment transaction or the coverage effective date, whichever is later.</p> <ul style="list-style-type: none"> – <i>45 CFR § 155.400(e).</i> 	<p>Seek clarity regarding whether the issuer is required to institute a uniform requirement, or may set a date within the given window on a case by case basis.</p>	<p>Finalizing as proposed. The final rule guidance emphasizes issuer flexibility.</p>
H. Annual Open Enrollment Period			
	Proposed Rule and Guidance	C4HCO's Position and Comment	Final Rule and Guidance
1.	<p>Define the OEP for 2017 as November 01, 2016 through January 31, 2017. Also, seek comment for the 2018 OEP.</p> <ul style="list-style-type: none"> – <i>45 CFR § 155.410.</i> 	<p>Recommends the 2018 OEP to be October 01, 2017 through December 15, 2017.</p>	<p>Finalizing the 2017 and 2018 OEPs as November 01 through January 31, respectively. Furthermore, finalizing all subsequent OEPs to be November 01 through December 15.</p>

I. Appeals Coordination			
	Proposed Rule and Guidance	C4HCO's Position and Comment	Final Rule and Guidance
1.	Allow the appeals entity more flexibility in obtaining documentation and information; specifically, allowing the appeals entity to ask for the document even if the appellant may have submitted it elsewhere (e.g. Medicaid agency for another purpose). – 45 CFR § 155.510.	Support. This flexibility would help expedite the appeals process.	Amended in part, and finalized. The appeals entity is permitted to request documentation from the appellant if the entity does not have access to such documentation and cannot reasonably obtain it.
J. Eligibility Determination Process for SHOP			
	Proposed Rule and Guidance	C4HCO's Position and Comment	Final Rule and Guidance
1.	Specify that the termination of an employer group's enrollment through the SHOP, is not inherently a termination of a group's coverage. – 45 CFR § 155.715(g)(1).	Oppose. Would likely introduce complexity regarding data and payment methods. Additionally, would likely create an incentive for an employer to attempt to make enrollment changes directly with the carrier.	Finalizing as proposed.
K. Enrollment Process for Qualified Individuals			
	Proposed Rule and Guidance	C4HCO's Position and Comment	Final Rule and Guidance
1.	Considering an option where an applicant could remain on the issuer's webpage to complete an application and enroll in coverage. – 45 CFR § 156.265(b).	Oppose to developing this functionality in the short-term. Development would divert resources from addressing and improving core functionality, and unanticipated financial resources. Seek clarity regarding whether this is applicable to SBEs.	Finalizing the proposal to enhance the direct enrollment process, applicable to the FFM and SBE-FPs for 2018. SBEs are not required to implement this new direct enrollment process.