



REGULATIONS UPDATE

Connect for Health Colorado Board of Directors Meeting
November 19, 2018

Recent Proposed and Final Regulations

- Proposed
 - Public Charge Regulation – (comments due 12/10/18)
 - HRA Regulation – (comments due 12/28/18)
 - Exchange Program Integrity Rule – (comments due 1/8/19)
- Final
 - 1332 Guidance – Final (seeking comments, due 12/24/18)

Green: Connect for Health Colorado commenting on proposed regulation

Public Charge Comments

- Draft Comments reviewed by Board of Directors and Board Advisory Group
- Additional ‘concern’ language drafted, as requested by Board:

Public Health and Access to Care for Marginalized Communities

In addition to the concerns noted below on the ways that this proposed regulation specifically impacts Exchanges, we would also like to comment on the impact that this proposed regulation may have on the larger community in Colorado and across the U.S.

Non-citizens who are most likely to utilize the programs in question are already facing economic uncertainty, and rely on these programs to empower them to focus on education and employment. By removing access to these stabilizing forces, this proposal further marginalizes communities that already face substantial barriers to success. We encourage the Department to consider the long term impact of this proposal on success in migrant communities, and the ideals of fairness and inclusivity that many migrants seek in entering the United States.

We also request that the Department consider the economic impact of removing access to Medicaid and CHIP for families who are otherwise eligible. Without access to these important programs, families will be forced to forego care until an emergency situation arises, at much higher cost to the federal government, care providers, and families. By shifting care from traditional Medicaid programs into emergency ones, not only will costs be significantly higher, but long term health outcomes will also suffer.

In light of the substantial health, financial, and social impacts of this proposal, we request that the Department not move forward with any aspect of the proposed changes. Should the Department move forward with some elements of the existing proposal, we then request that the Department take into account the Exchange-specific comments noted below. Thank you for your consideration.

Exchange Program Integrity Proposed Rule

On November 7, 2018, CMS released the “Exchange Program Integrity” proposed rule. Highlights of the proposed rule include:

- **New auditing/compliance requirements**
 - Expands the scope of eligibility and enrollment (E&E) audits. SBMs must show compliance with all regulations in 45 CFR part 155 – not just general E&E reporting
 - Applies to SMART audit and annual programmatic audits conducted by independent auditors
 - Allows CMS to target scope of audits to address specific Exchange functions/requirements
 - Aligns SMART and financial reporting submissions (one date for both)
- **New checks to prevent dual Medicare enrollments**
 - Specific to FFM – allows FFM to get new eligibility and enrollment data and end coverage for consumers found eligible for other qualifying coverage (specifically targeting Medicare)
 - Extends verification requirements for non-subsidized individuals to check for Medicare enrollment
 - Consumers can request that FFM automatically terminate QHP coverage if consumer is enrolled in Medicare
 - SBMs are encouraged to implement the same process
- **Mandates twice-yearly data verification checks for Medicare, Medicaid, and CHIP coverage**
 - Exchanges must perform periodic data matching (PDM) – eligibility and enrollment checks – for Medicare, Medicaid, and CHIP two times per calendar year starting in 2020
 - Medicaid/CHIP checks are for enrollees receiving APTC/CSR
- **Separate billing and payment for non-Hyde abortion services**
 - Requires issuers to send a separate bill to consumers who receive abortion coverage for which federal funds are prohibited
 - Requires consumer to send a separate payment (separate transaction) to pay for these services