



TO: Board of Directors, Colorado Health Benefit Exchange
FROM: COHBE Staff
DATE: December 13, 2012
RE: Comments on Federal Guidance

This memorandum provides the Colorado Health Benefit Exchange's comments to the recently released federal guidance.

Proposed Rule on Insurance Market Reforms

The Division of Insurance (DOI) and the Colorado Health Benefit Exchange (COHBE) appreciate the Centers for Medicare & Medicaid Services (CMS) guidance on implementing the health insurance market rules of the Affordable Care Act (ACA). The DOI and COHBE support state flexibility to keep the state's health insurance rules the same inside and outside the Exchange to mitigate adverse selection. The DOI anticipates providing comments on this proposed rule. In an effort to not duplicate or contradict the DOI's comments, COHBE will provide blanket language in support of the DOI. The DOI is providing comment in the following areas:

- Support of flexibility in setting rating parameters,
- Support of the use of a single risk pool to minimize adverse selection,
- Support of aligning open enrollment periods inside and outside the Exchange market, and
- Support of aligning special enrollment periods with COBRA requirements

The DOI will provide COHBE with its comments prior to the submission deadline for review.

Proposed Rule on EHB, AV, and Accreditation

The Colorado Health Benefit Exchange (COHBE) has reviewed the information provided to date on the Proposed Rule on Essential Health Benefits, Actuarial Value, and Accreditation. COHBE appreciates the Centers for Medicare & Medicaid Services (CMS) guidance on implementing the essential health benefits (EHB) and actuarial value (AV) requirements of the Affordable Care Act (ACA).

Provision on Employer Contribution to HSAs and HRAs

COHBE supports CMS' approach of allowing employer contributions for HSA employee accounts and newly made available contributions to HRA plans into the small group plan actuarial value calculation. This provision will positively affect the ability of small employers to continue to offer coverage, and SHOP exchanges to effectively serve their marketplace and provide affordable, high quality coverage.

Provision on Determination of Minimum Value

COHBE believes that the basis for the minimum essential value for large employer and self-funded plans should follow closely with the actuarial value calculations to minimize the potential for adverse selection between fully insured and self-insured plans.

COHBE also recommends that the denominator of the allowable costs for a plan include coverage for all 10 essential health benefit categories. COHBE appreciates the flexibility offered in the proposed rule and acknowledges that employers are not required to provide the EHB categories,



however we feel that plans that do not provide all 10 EHBs should include additional safeguards to ensure that employees are offered comprehensive coverage.

COHBE also recommends that the federal government maintain an electronic database that Exchanges can access that identifies employers that meet the minimum value requirement. This database will help Exchanges verify individuals who are offered minimum value employer sponsored coverage, and therefore, ineligible for the premium tax credit on the Exchange.

Proposed Rule on the Multi State Plan Program

COHBE has reviewed the information provided to date on the Proposed Rule on the Multi State Plan Program and appreciates the guidance from the OPM. COHBE would like to emphasize the need to maintain a level playing field between multi state plans (MSP) and QHPs by requiring MSPs to comply with state insurance laws.

The state of Colorado has selected its EHB-benchmark based on broad stakeholder agreement. In the interest of its citizens, COHBE also would recommend that MSPs must meet the state EHB-benchmark requirements for the state with which they are operating in.

Notice of Benefit and Payment Parameter

COHBE has reviewed the information provided to date on the Notice on Benefit and Payment Parameters in 2014. COHBE appreciates the U.S. Department of Health and Human Services (HHS) guidance on implementing these provisions of the Affordable Care Act (ACA).

Provisions for the Advance Payment of the Premium Tax Credit and Cost-Sharing Reduction Payments

COHBE appreciates the guidance on the administration of advanced premium tax credit and cost sharing reduction payment. However, COHBE seeks additional guidance on the specific interactions between insurance issuers and the federal government to understand the Exchange's role in the administration of the premium tax credit and cost-sharing reduction payments.

Provisions for the Federally Facilitated SHOP Exchange

COHBE values the federal government's flexibility in allowing states to tailor employer contribution methods to meet its distinct needs. COHBE appreciates the guidance on how the federal facilitated SHOP will define minimum employee participation and employer contribution methodologies. COHBE envisions providing a variety of contribution methods to its qualified employers to meet the unique needs of Colorado citizens.