

# Final Rule – Part 2: 2022 Payment Notice

Beth Deines & Molly McClurg



# Notice of Benefit & Payment Parameters for 2022

- **Context**
  - Notice and Comment Rulemaking
  - Administrative Procedure Act
  - Final Rule
- **Timeline**
  - Comment Window End: Dec. 30, 2020
  - Part 1: Publication Date: Jan. 19, 2021
  - Part 2: Publication Date: May 5, 2021
- **Effective Date: July 6, 2021**

# Final Rule: Part 1

- Reduction of the FFE user fee to 2.25% (down from 3.0%) and further reduction of the SBE-FP user fee to 1.75% (down from 2.5%).
- A new option for Exchanges to satisfy ACA requirements through Direct Enrollment via private sector-operated websites.
- Codification of existing administration guidance on 1332 waiver applications and ongoing monitoring that relaxes ACA requirements.

- Reduction of the FFE user fee to 2.25% (down from 3.0%) and further reduction of the SBE-FP user fee to 1.75% (down from 2.5%).
  - CMS will propose a new FFE user fee rate of 2.75 percent of total monthly premiums; and a new SBE-FP user fee rate of 2.25 percent of monthly premiums.
- A new option for Exchanges to satisfy ACA requirements through Direct Enrollment via private sector-operated websites.
  - CMS will propose a new approach.
- Codification of existing administration guidance on 1332 waiver applications and ongoing monitoring that relaxes ACA requirements.
  - CMS will propose a new approach.



# Final Rule

- **Special Enrollment Period changes:**
  - The proposed requirement for all Exchanges to conduct SEP verification for at least 75% of new enrollments was not finalized due to widespread opposition.
  - Clarifications on SEP availability for COBRA enrollees where the employer ceases contributions.
  - Clarification on SEP availability for individuals who are unaware of experiencing a qualifying event.
- **Continued non-enforcement of Employer-Sponsored Coverage Verification requirements.**
- **Extension of CMS review authority to issuers in all states (regardless of FFE, SBE-FP or SBE status).**

# Final Rule

- Proposed changes to regulations around web-brokers were not finalized. The prior proposal included expanded flexibility to:
  - Display of on- and off-Exchange offerings on the same page in some circumstances,
  - Provide information in English only (without meeting translation requirements),
  - Allow assisters to use Direct Enrollment (DE) and Enhanced Direct Enrollment (EDE) websites
- Increased clarity on definitions for direct enrollment and enhanced direct enrollment entities to better codify the increasing role of tech vendors in this space, review how a single entity may fit multiple definitions, and how to comply with the plethora of regulations.

# Final Rule

- Premium Adjustment Percentage methodology reverted to prior approach (based on less volatility).
- Premium Adjustment Percentage updated to 1.3760% (down from proposed 1.4409%).
- Maximum Annual Limitation on Cost Sharing updated to \$8,700 for self-only coverage and \$17,400 for other-than-self-only coverage (down from \$9,100 for self-only coverage and \$18,200 for family coverage).
- Required Contribution Percentage update to 8.09% (down from proposed 8.47228%)

# Additional Changes

- Columbus v. Trump: 2019 rulemaking on network adequacy, standardized plans, income verification, and MLR quality improvement reporting
- CMS is now required to design and propose new standardized plan options, as well as provide differential display of these plans in 2023. We are closely monitoring these changes and how they may impact display of a standardized plan here in Colorado.



- **Implementation**
  - Limited technical impact, focus is operational
  - Positive trend on affordability for 2022
- **Spring Rulemaking**
  - User Fees, Direct Enrollment via Partner Website, 1332 Waiver Application
- **Exchange Program Integrity Rule**

# Questions