

February 28, 2013

Marilyn Tavenner
Acting Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services

Re: CMS–10440, CMS–10438, and CMS–10439

Dear Administrator Tavenner:

The undersigned organizations, dedicated to the health of children and pregnant women, appreciate the opportunity to comment on the model single, streamlined application for health insurance and the SHOP applications, released on January 29, 2013:

- [Data collection and application for individuals](#) for Medicaid, CHIP and Exchange (CMS-10440)
- [Data collection and application for employees](#) in the Small Business Health Option Program (CMS-10438)
- [Data collection and application for employers](#) in SHOP exchanges (CMS-10439)

These applications will be the primary vehicles through which individuals and small businesses will apply for health insurance through Medicaid, CHIP and the new health insurance marketplaces. We would like to thank CMS for accepting many of the general principles and recommendations we provided in our September 4, 2012 letter in response CMS' July 6, 2012 Proposed Data Elements for the Single, Streamlined Application. In particular, we commend CMS for the following:

- Adding a privacy statement that will appear at the beginning of the application
- Working with other agencies to reduce duplication of data collection
- Ensuring that the application collects only as much information as needed to determine eligibility without burdening applicants
- Minimizing burden by asking questions only of people for whom they are relevant, based on information the consumer has already shared about their household, and asking certain questions only to people applying for insurance
- Creating an online application featuring a dynamic or “smart” process that poses questions to the applicant based on the response to previous questions and available verification information.
- Working with CMS to craft income questions that minimize burden and modernize income data reporting but still elicit information about types of income that are countable as Modified Adjusted Gross Income
- Adding a date of application submission to the application.
- Identifying which questions are required and which are optional on the application
- Intending to undertake further consultation, conduct additional consumer focus groups, and engage experts in simplifying language, and promoting a positive user experience based on response to this 30-day public comment period.
- The application directs applicants to seek assistance through multiple avenues, including online, by telephone, and in person.
- The application informs applicants that they may be asked to cooperate with Child Support Enforcement in order to obtain medical support, unless applicant can establish

good cause for not cooperating (i.e., it could cause harm to themselves or their children), but it does not include any questions about absent parents.

To improve the single, streamlined application further, we would like to make the following recommendations:

Screen applicants for disability-based Medicaid eligibility

Today, Medicaid provides coverage to 9.5 million people with disabilities, including 1.4 million children with disabilities. Currently, there are two primary ways in which people with disabilities can qualify for Medicaid. First, people with disabilities can qualify for Medicaid based on their low income if they fit into an existing coverage group, such as parents, pregnant women, or children. Second, people with disabilities can qualify for Medicaid based on specific disability-related eligibility criteria. For example, states generally must provide Medicaid coverage to people who receive Supplemental Security Income (SSI) benefits, which require people to have low incomes, limited assets, and a significant disability that impairs their ability to work at a substantial gainful level.

Under the ACA, Medicaid eligibility rules will change for most groups, so that their income is determined based on Modified Adjusted Gross Income (MAGI). However, disability-based eligibility rules will not change and eligibility for these groups will continue to be determined on a “non-MAGI” basis. Medicaid agencies will be required to collect additional information to determine eligibility on a non-MAGI basis, and to provide Medicaid on that basis if eligible, for anyone who requests such a determination and for anyone whom the agency identifies as potentially eligible on a non-MAGI basis through the single streamlined application, a renewal form, or other information available to the state. Whether someone is determined eligible on a non-MAGI basis could have important impacts on the scope of their covered benefits. As such, effectively identifying people who may be eligible on a non-MAGI basis through the streamlined application will be extremely important for helping to ensure that people with disabilities can access the most appropriate benefit package for their needs.

The proposed streamlined application includes two questions, for each person listed on the application, asking about disability status and whether the individual needs help with activities of daily living. However, it does not include any information to help applicants identify conditions that might be considered a disability or ask any questions to identify the nature or scope of a condition. Currently, only a handful of state Medicaid and CHIP applications specify that individuals should consider mental health or developmental conditions as disabilities. We strongly recommend the single, streamlined applications be required to include a list of specific information about the type, nature, duration, and scope of conditions that are considered a disability for the purpose of Medicaid eligibility.

Include messages intended to reduce fears among immigrant families:

We thank CMS for including in the application a link to an explanation of eligible immigration statuses as well as a list of the various eligible immigration statuses in the paper application. Research shows that immigrant families often face significant barriers, including fear and confusion about eligibility rules, to enrolling in coverage. The proposed streamlined application emphasizes that providing Social Security Numbers (SSNs) for people not applying for insurance (non-applicants) is optional, but does not include language or messages to encourage non-citizens or mixed-status families to apply for coverage for eligible family members. We would like to reiterate our recommendation that information accompanying the application provide

potential applicants with information about who may qualify for coverage and the value of the coverage. The application should use simple reassuring language to encourage individuals who may have concerns or misperceptions to apply. In order to connect immigrants and their family members to coverage and care, the applications must overcome immigrant concerns about privacy and the heightened complexity of eligibility rules pertaining to mixed-status families. It is also important to inform consumers that they may currently qualify for coverage even if they did not qualify in the past. Finally, it is crucial to reassure consumers that all information provided in the application will be used solely for the purpose of determining eligibility for health insurance. We urge CMS to add to the first page of the application (in bold, capitalized, or highlighted text) a notice stating that applying for health care coverage cannot be used for public charge determinations, immigration enforcement, ability to obtain legal permanent residency or citizenship, etc., and that any information provided in the application, such as immigration status and SSNs, will be used solely for the purpose of making health care coverage eligibility determinations. This language should be simple, clear, and non-technical (i.e., not cite sections of federal laws and regulations).

Further, taxpayers without SSNs may pay taxes using Individual Tax Identification Numbers (ITINs). IRS confidentiality rules apply to taxpayer information shared with the state, especially if income information provided on the application is from a non-applicant family member. CMS may need to address privacy challenges in the delivery of tax credits and subsidies to ITIN filers.

The lawfully present immigration status of some applicants may not be verifiable by the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) program (which will be accessible through the data hub), but only by submission of documentary evidence. The agency must accept any documentation that establishes eligibility—an essential protection for immigrants and others who have evidence of eligibility that is not verifiable electronically. In the online application, there should be the capability of uploading such documents, and in paper, phone, and online applications, the filer will need the opportunity to deliver such documents by hand, mail, fax, or e-mail.

Translate the application into at least fifteen languages

The proposed streamlined application includes language directing applicants to a Spanish language version of the application and telephone assistance in Spanish. However, it does not note availability of the application in languages other than Spanish or other language services. We recommend that CMS commit to translating the application into at least fifteen languages and creating corresponding translation glossaries of key ACA terms that all enrollment stakeholders can access. Federal translations would save money and resources, improve access for Limited English Proficient (LEP) individuals, ensure compliance with federal law, and truly implement the no wrong door philosophy at the heart of creating a single, streamlined application.

Continue consumer testing for families with complex coverage situations

We appreciate CMS for taking into consideration all of the proposed suggestions and for continuing to undertake further consultation, conduct additional consumer focus groups, and engage experts in simplifying language and promoting a positive user experience. We recommend that additional focus groups include families at all income levels and language abilities, as well as those living in complex coverage situations. It is very important to test the application for families in which the parents have Exchange coverage and the children are covered by Medicaid or CHIP. We also recommend field testing translation of instructions,

welcome messages, and application language to ensure that applicants clearly understand what is being conveyed.

We also ask HHS to ensure that alternative applications developed by states and approved by the Secretary meet the same consumer-friendly standards. States should also be required to perform consumer testing and a public process to ensure that the application meets the standards required of the model application.

Key Data Elements:

Social Security Number (SSN): The CMS-10440 Individual Application Supporting Statement states that per statute, a Social Security number and information about citizenship or immigration status are needed to help verify eligibility for coverage. However, as we noted in our September 4th comments on data elements, some applicants may not be eligible for an SSN. Making this exception clear on the application is important for mixed status immigrant families who may have members eligible for health coverage but not eligible for SSNs, or only eligible for non-work SSNs. While we thank CMS for stating on the application that SSNs are required for everyone applying for health insurance “*who has one*,” we believe that this point should be made much more explicit, for instance by adding to the note: “individuals who do not have SSNs can still apply for health insurance.”

Additionally, some applicants who are eligible for emergency Medicaid or for prenatal care under CHIP may not be eligible for an SSN, and regulations specify that they may enroll with a unique identifier. As such, we recommend that the application make mention of these programs and include information about how an individual may apply for emergency Medicaid or CHIP prenatal care. Some states assign certain Medicaid or CHIP applicants with a unique identifier if required by the program for enrollment in coverage. We would be interested to know if the unique identifier could be used on the application in such cases. We thank CMS for including in the application that assistance is available in obtaining an SSN if the applicant does not have one. We also thank CMS for making clear that SSNs are used to check income and to verify attestation of citizenship, and that inclusion of SSNs for non-applicants, while optional, could speed up the income verification and eligibility determination processes. Lastly, in the paper application, we recommend adding an asterisk in the Social Security Number box to direct the eye to an (added) asterisk in the Social Security Number explanation box for further clarity. In the online application, alerts could advise the applicant about how the data fields will be used before the applicant completes that field.

Income:

The ACA envisions a process through which states will use electronic data matching to verify information to the maximum extent feasible and may request paper documentation only when unable to secure reliable electronic information. As such, the proposed streamlined application asks applicants to list employment and income information for each household member but does not request paper documentation of income. We thank CMS for this streamlined process and ask that states and state applications be required to modernize and comply with this model. Self-employed individuals are required to note their type of work and their net income. Additional instructions for self-employed workers are listed separately, on an instructions page at end of the application.

Even more so than determining their tax-filing household, reporting income information will likely be the most difficult section for applicants. As such, job and income questions should be straightforward and require reporting of only what is available to the applicant, for example, by allowing them to report their income as it appears on their paystub, regardless of how frequently they are paid. Additionally, it will be vital to provide clear guidance to applicants regarding what wage information (i.e., pre-tax) is required, perhaps by referencing common terms such as “gross income” or “income before taxes.” Technical terms should be avoided if at all possible and concise, easy to understand definitions should accompany any technical or accounting terms.

We recommend that the application provide information that clearly indicates that the taxpayer may have to pay back a portion of the premium credit if their income ends up being higher than projected. It will be important that this information is conveyed in a reassuring but cautionary manner that does not discourage applicants from seeking financial assistance to pay for health insurance coverage. Conversely, if income is below what was projected, the taxpayer could incur higher premiums, which will be refunded but could discourage enrollment.

Comments Specific to Paper Application

Paper applications should be designed with individuals who have low literacy levels and/or difficulty completing forms in mind. Use of plain language, white space, and clear and specific instructions are critical to the success of the paper application. Minimal data requirements should be highlighted in such a way as to enable applicants to provide only the necessary information for a valid application. We would recommend that under “Step 1: Tell us about yourself,” it be made clear that “yourself” means the “applicant filer,” who is not necessarily the individual applying for coverage for him/herself and/or his/her family. It is currently confusing. “Under Step 2: Person 1,” we ask that the last sentence, “Start with yourself!” be placed at the beginning of the introductory paragraph, and that it be modified to say: “Start with yourself if you are applying for coverage for yourself.” We also ask that the first page of the application specify and explain information about privacy, immigration questions, and Social Security Number questions so that individuals and families, particularly immigrant and mixed-status, are reassured at the outset and encouraged to start and proceed with the application.

Comments Specific to Online Application

Of all the application modes, online applications have the greatest potential to simplify, streamline, and speed the eligibility determination and enrollment process through the use of dynamic questioning and online verification. We thank CMS for designing the online application to feature a “smart” process for collecting necessary applicant information.

CMS also plans to inform applicants about ways to submit an application right away, even if an applicant does not have the information available to answer questions that appear as mandatory. Allowing consumers to complete an application to the best of their ability and to sign and submit the application with missing information is an important consumer protection. We thank CMS for this provision and for designing the online system such that it will be able to catch inadvertent errors in real time, as well as immediately verify information in many cases. We also thank CMS for designing the online system to allow individuals to save information through a unique user account and obtain access to immediate help resources. Applicants should have the ability to start, stop, return to, and update an application because the amount of information that is sometimes needed to complete an application or to report changes that impact eligibility is substantial, complicated, and in some cases, will require consumers to track down documents or other information not readily available to them.

Additionally, the online application system could be designed to “ping” various data sources throughout the process and provide applicants with helpful hints along the way. Alternatively, the system could inform applicants of the information on file by automatically pre-populating parts of the application and then asking for verification. Such approaches would likely speed the application process and minimize the amount of follow-up required to resolve inconsistencies that may arise, especially if the verifications are done in real-time. The federal data hub and states sources of data will allow states to provide income information, as well as accelerate the pace of other verification requirements, such as citizenship, through the data match with the Social Security Administration. We recommend that as much as is feasible, verification of available data should be done as the application proceeds, providing the applicant with feedback and pre-populated data when available. We would further recommend that the submission of a partially completed application (whether or not all of the data necessary to establish an official application date is provided) should trigger follow-up procedures to assist the applicant in gathering missing information and to provide a set timeframe for providing such information. Additionally, if an eligibility determination can be made without missing data, or while verification is pending when allowed by law (i.e., citizenship), we believe that it should proceed, and coverage should begin during this period.

Thank you for considering these comments and recommendations as you continue your challenging work to provide a gateway to health insurance coverage that works for our nation’s children and families.

Sincerely,

American Academy of Pediatrics
Children’s Defense Fund
Children’s Hospital Association
Family Voices
First Focus
Georgetown University Center for Children and Families
Voices for America’s Children