

February 28, 2013

**VIA ELECTRONIC SUBMISSION**

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
P.O. Box 8016  
Baltimore, MD 21244-8016

RE: Addendum Pertaining to Immigrant Families -- Comments by the Georgetown University Center for Children and Families

**Attention: CMS-10440**

**Appendix A: List of Questions in the Online Application to Support Eligibility Determinations for Enrollment through the Health Insurance Marketplace and for Medicaid and the Children's Health Insurance Program**  
**Appendix C: Insurance Affordability Programs Paper Application**  
**Appendix D: Health Insurance Paper Application**

**Attention: CMS-10438**

**Appendix A: List of Questions in the SHOP Online Application for Employees**  
**Appendix B: SHOP Employee Paper Application**

Dear Sir/Madam:

Georgetown University's Center for Children and Families (CCF) is an independent, nonpartisan policy and research center whose mission is to expand and improve health coverage for America's children and families. CCF is providing this comment addendum on the PRA for CMS Form Numbers 10440 and 10438, the Single Streamlined Applications for the Health Insurance Marketplace, in hopes of ensuring that the unique needs of children in mixed-status immigrant and limited-English proficient families are addressed. Included in this document are the following comments:

Pages 3-15: CMS-10440, Appendix A: List of Questions in the Online Application to Support Eligibility Determinations for Enrollment through the Health Insurance Marketplace and for Medicaid and the Children's Health Insurance Program

Pages 15-25: CMS-10440, Appendix C: Insurance Affordability Programs Paper Application

Pages 25-32: CMS-10440, Appendix D: Application for Health Insurance

Pages 32-34: CMS-10438, Appendix A: List of Questions in the SHOP Online Application for Employees

Pages 34-35: CMS-10438, Appendix B: SHOP Insurance Application for Employees

We thank the Department of Health and Human Services for your consideration of these comments and recommendations. For more information, please contact Dinah Wiley at [dinahwiley@gmail.com](mailto:dinahwiley@gmail.com); 703 402 2665.

## GENERAL PRINCIPLES FOR ADDRESSING IMMIGRANT BARRIERS

Parents in many mixed-status immigrant households are afraid to apply for and enroll their family members in health coverage. Immigrants have experienced hostility, language barriers, harassment and threats when seeking services from federal, state, and local government agencies. At times benefits agencies have reported immigrants to immigration enforcement, resulting in deportation of a family member, separating families. Mixed-status families also face especially complex and confusing eligibility rules, may have difficulty completing the application process due to language barriers, and may be concerned about adverse “public charge” determinations.

To ensure that all eligible persons are enrolled, and that states comply with civil rights and privacy laws and reduce administrative errors and costs, the applications at minimum need to avoid creating obstacles to participation, and strive to create a gateway to health care that is welcoming, informative, credible, and secure.

Confidentiality concerns of parents in mixed-status families are paramount and should be addressed directly through messages in applications and supplemental forms or screens. A threshold requirement is to allow households to identify which family members are applicants and which are non-applicants early in the application process in order to gather needed information without deterring participation.

Messages for immigrants, presented at a timely point in the application process, should clearly communicate information such as the following:

- Only citizen and lawfully present members of immigrant families are eligible for services, but ineligible adults are encouraged to file applications on behalf of eligible family members.
- Ineligible, non-applicant family members will never be required to provide their citizenship or immigration status in order to apply for others in their family. No questions should be asked as a proxy for immigration status such as inquiring about a non-applicant’s place of birth.
- Requests for Social Security numbers (SSNs) are *always* optional for non-applicants and never required for determining the eligibility of family members who are

applying for benefits. The SSN of a non-applicant who chooses to provide the number, will be used only for the administration of the health care program and not for immigration enforcement purposes.

- Any information regarding immigration status and SSNs that is required of applicants will be used solely for administration of the health care program and not for immigration enforcement purposes.
- Questions about SSNs, race, ethnicity and primary language are best accompanied with explanations about the purpose for the question, whether the answer is optional or required, and how the information in the answer will and will not be used.

Again, these messages will only be effective if provided at key times when the application filer is proceeding through the application and deciding on whether or not to continue and/or to provide the requested information. It is not enough to include these messages in a long list of consumer rights and responsibilities. The relevant messages are needed when the question is asked in the application, or before the question is asked, in the case of a supplementary page of information specifically for immigrant families that they read at the beginning of the process.

### **INDIVIDUAL ONLINE QUESTIONNAIRE**

CMS-10440, Appendix A

#### **GENERAL COMMENTS**

The individual online application design, as published to date, features many thoughtful elements promoting as much ease as possible in working through the many eligibility questions that must be asked. These merits include screens prepopulated with information already provided by the application filer, thoughtful sequencing that minimizes unnecessary questions, some explanatory messaging that helps the filer to understand the process, some labeling that helps distinguish required from optional questions, and some offers of help in completing the application. Some of these merits partly address barriers faced by mixed-status immigrant families in completing an ACA application.

However, the application as presented does not go far enough to adequately address barriers that may otherwise be insurmountable, and fails at adequately encouraging such families to participate in the benefits of the ACA. An improved application will robustly address immigrant family concerns about privacy and confidentiality of personally-identifiable information (PII) and how such information will be used by the agency of the government. It will scrupulously avoid asking questions about immigration status of any family member not applying for coverage, and it will thoughtfully address the sensitivities around requests and requirements for Social Security numbers. On the positive side, the application will feature welcoming messages at appropriate points in the process that encourage confused and reluctant consumers to apply for themselves and/or their family members.

The draft is unfortunately incomplete, making it impossible to fully evaluate whether the single streamlined application has successfully addressed some of the immigrant participation barriers. The lack of opportunity to review help messages and explanations which have not yet been provided by HHS turns much of the comment process into guesswork. Some of our suggestions and recommendations may thus miss the mark, and we request that HHS provide another opportunity to review the Single Streamlined Application or at least the help messages and explanations before the application becomes operational.

- **Recommendation: Provide a meaningful opportunity for CCF and other stakeholders to review draft language and formatting of proposed help messages and explanations, including the opportunity to propose alternative language.**

## SPECIFIC COMMENTS

### **Home Page: “Important Information for Immigrants”**

In addition to the general comments above about messages which will encourage an immigrant family member to apply, are the following specific comments on omitted material which needs to be conveyed on the home screen before the immigrant consumer gets to the “My Account” screen.

Confusion over eligibility rules. Immigrants are often confused about the complex eligibility rules and assume that they are not eligible for any health coverage. There needs to be a message that immigrant families are encouraged to apply, since many immigrants and all citizen family members will be eligible for coverage, even if some family members are not eligible, and that a non-applicant parent is welcome to apply for a child.

Confidentiality of personal information. The application begins by asking the application filer to create an account. This beginning means that the consumer must make a commitment to reveal personally-identifiable information before receiving any assurances about how PII that is collected will be used and what data sources will be tapped for information. This design fails to address immigrant concerns about revealing certain PII.

Nonapplicant protections. Confidentiality is essential for ineligible adult immigrant family members who will often need to complete an application on behalf of eligible family members such as the children. To encourage them to apply, before they begin the application should provide assurance that no questions will be asked of non-applicants regarding immigration status nor will SSNs be required of any other non-applicant in the family.

Public charge determinations. The application provides no information about the effect of applying for health insurance on an individual’s chances of having a Lawful Permanent Resident (green card) application approved by DHS. Many immigrants are concerned that an application for help paying for health care costs may result in DHS deeming them inadmissible as “likely to become a public charge.”

Language assistance. There is no offer of language assistance to an application filer who does not speak English. This offer needs to be made at the outset to anyone who is limited-

English proficient (LEP), providing a phone number for interpretation in many languages where assistance completing the form is available, in English with taglines.

Assistance for ineligible family members. There is no information or enrollment assistance provided for family members who are ineligible for coverage under the ACA. The application should provide such assistance for any/all state and local health care options for individuals ineligible because of immigration status.

- **Recommendation: Provide information on the home screen that addresses all of the above application barriers faced by immigrant families, using messages such as the following examples:**

Families that include immigrants are welcome to apply for help with health insurance costs.

You may file applications for families that include some members applying for health coverage and others who are not. You do not have to provide a Social Security number (SSN) or citizenship or immigration status for those in your family who are not seeking coverage. We will not delay or deny health coverage because there are family members who are not seeking coverage. .

We will keep all the information you provide private and secure as required by law. We will use personal information only to check if you are eligible for health insurance. No information on this application will be used for immigration enforcement purposes.

To complete this application you only need to give SSNs of family members who are applying for health insurance and have SSNs. We use SSNs to check the amount of money you make (your income), to see if you and/or your family can get help with health insurance costs. Providing SSNs may speed up your application process. If you don't have an SSN, we can help you apply for one [call (XXX) XXX-XXXX].

For family members who do not apply, we can give you information about other ways to get health care. You do not have to give an SSN or immigration status for anyone who is applying for Emergency Medicaid or [state funded program].

Applying for health insurance or getting help with health insurance costs will not make you a "public charge"\* and won't affect your immigration status or chances of becoming a lawful permanent resident (getting a "green card") on that basis. Applying for health benefits won't prevent you from becoming a citizen, as long as you tell the truth on the application.

\*People receiving long-term care in an institution may face barriers getting a green card. If you have concerns or questions about this, you should talk to an agency that helps immigrants with legal questions.

If you do not speak English, we will get an interpreter to help you for no cost to you. Please call (XXX) XXX-XXXX .

## **I. My account**

The “my account” function is a critical function and we appreciate HHS incorporating this into the design for the online application. However, some of its benefits are lost to application filers who are concerned about privacy and confidentiality and unsure whether they will want to complete the application. To address this, there needs to be an explanation for why the consumer would want to create an account, and who may create an account. This information needs to be conveyed before any personal information is asked of the consumer. It is especially helpful to communicate the following information:

- **Recommendation: Provide information about the “my account” function such as the following:**
  - The “my account” function has been created to help the consumer, and the person creating the account will control the information in the account.
  - The application information may be saved at any point and returned to later, and information entered can be later deleted and/or replaced with different information.
  - The government will not have access to the information until the consumer submits the application at the end.
  - Throughout the application, information will be entered for the consumer that is gathered from various data sources, and these sources are protected by privacy laws and only the application filer will be able to see this information until the application is submitted at the end.
  - After the application is submitted, privacy will continue to be protected and information provided will be used only for health coverage eligibility determinations.

The screen asks for Social Security number. Many consumers, not just immigrants, object to providing SSNs, and the inquiry could result in an ineligible person deciding not to continue with the application. We see no need to collect SSNs in order to create an account, the function can be created with a password and/or a unique identifier. While the request says the SSN is “optional,” this term is not understood by many and in any event this message alone is insufficient to comply with the spirit of the regulations, which strictly prohibit collecting SSNs of non-applicants. The application filer entering data could be an applicant or a non-applicant.

- **Recommendation: Delete the request for a Social Security number for creating an online application account.**

## **II. Privacy**

We support a strong privacy statement at the beginning of the application process. Here, the privacy statement is either not provided for review or, if it is, is not a privacy statement at all

but rather a consent. Nothing shown here is adequate to overcome barriers to participation by immigrant families because the application does not assure immigrants that their confidentiality concerns will be addressed. Immigrants need to know that the application will not ask non-applicant family members questions about immigration status, and that provision of SSNs is truly optional. They need to know how information will be used, and specifically that personally-identifiable information provided on the application will not be used for immigration enforcement purposes. See sample messages above that accomplish these goals.

The consumer must agree to allow PII to be “used and retrieved from data sources.” This statement should be accompanied by information about the types of data that will be prepopulated such as income and employer, and a statement that the confidentiality of this data will be protected as is the rest of the information on the application.

- **Recommendation: Amend the privacy statement to clearly explain to consumers how information will be shared, what entities will have access to the information and for what purpose the information will be shared, and include reassuring language that information collected in this application will be used only for purposes of making health insurance coverage determinations.**
- **Recommendation: Amend the statement that information will be “used and retrieved from data sources,” to provide examples of the types of information that will be obtained and to reassure that there will be no information obtained from immigration enforcement authorities.**

### III. Getting Started

This section introduces the term “contact” by asking for “contact information,” “contact home/ mailing address,” “contact phone,” and “contact preferences.” This word is not defined, and if used in Section III, it should be introduced in Section I – My Account, accompanied by the guarantees of confidentiality and the types of information that will be required. In mixed status immigrant families, the role of the application filer must be understood as one that can include a non-applicant who is not applying for coverage for themselves.

We support the collection of preferred language in the section on “Contact preferences.” The draft does not show what languages will appear on the drop-down menu, making comment on this difficult. Generally, we recommend 15-30 languages be listed and there be an option for “other.” It may be possible eventually for states to list the languages most common in that state. It is important to accompany this question with information that services are available in a non-English language at no cost to the consumer, and provision of a phone number to speak to someone in a non-English language.

Authorized representative (subsection “F”): If the application filer names an authorized representative, it is not clear what the relationship between this person and the filer or “Contact” will be, i.e., whether the representative if named will then become the Contact or

an additional contact. The use of the word “contact” in the second question asking for “contact information” confuses the issue, as the term is now being used as an adjective rather than a noun. If an authorized representative can be named without providing a “company name” and “organization ID” then that should be clarified. In addition, the application solicits a signature designating the authorized representative first, pre-populating the name of the “household contact” and second, collecting the signature of the “applicant”. Clarification is needed since the household contact may be a non-applicant. If only an applicant can designate an authorized representative, will the household contact be presumed to have the consent of an applicant to sign on their behalf, based on the consent statement under Privacy?

- **Recommendation: Introduce the term “contact” in Section I where the contact will create an account and learn about privacy protections and implications of being a non-applicant contact.**
- **We support collection of preferred language of the Contact. We recommend that the question include an offer of language services available at no cost.**
- **Recommendation: Clarify whether an Authorized Representative becomes the Contact, and do not use the word “contact” in this section as an adjective.**

## **VI. Family & Household**

In the sections that follow “Tell us about your household”, there should be an inquiry for each person about their preferred language. It is not sufficient to collect preferred language information only about the household contact. Preferred language of every applicant and non-applicant will be needed at some point in the future, making it imperative to collect at the application stage. For applicants, the data will become a permanent part of the basic information that is provided to a QHP and for all family members the data can be provided to health care providers, to facilitate the provision of language services at every stage of the health care and coverage process. In addition, if the computer systems are not programmed to capture this information at the outset, it will be extremely expensive to add it later. The data is important for enforcing civil rights laws and promoting non-discrimination, under ACA §1552, and for crafting policies that address racial and ethnic disparities in health care.

Throughout the application, name and date of birth is requested of any family member or dependent who is “someone else not seeking health insurance.” We support the opportunity for non-applicants to be clearly identified so that they can be protected against requests for unnecessary and inappropriate information, which would discourage participation of any eligible members of the family. However, given that this is the first time the application asks for personal information about a non-applicant who may also be eligible for coverage, it is important to provide context for the application filer by communicating what additional information may later be asked about non-applicants once their identity has been revealed. If there will be no additional information asked later in the process, this should be explained.

- **Recommendation: Collect preferred language of all family and household members, applicants and non-applicants.**



- **Recommendation:** Before asking for non-applicant family members to be identified, inform the application filer what personal information will and will not be asked about non-applicants.

## **VII. Personal information**

### **VII.A. [FNLNS] personal information**

The “Note to reviewers” says “This section is for additional household members.” This is not clear, whether it means all household members besides the household contact. In the collection of Social Security numbers, we appreciate that there are different messages being provided depending on whether the person is an applicant or a non-applicant. With regard to the applicant message, the first sentence switches voice from third to second person, which could raise concerns in a non-applicant application filer that s/he is now being required to provide his/her SSN. This can be clarified by using “the contact” or “the household contact” instead of the word “you”, or it could be changed to ask for “[FNLNS]’ SSN,” or “SSN for [FNLNS]” instead of “a SSN.” A website is provided for the applicant, presumably for information on assistance in obtaining the SSN though this is not specified, but some applicants will need to talk to someone on the phone rather than navigate over the computer, especially LEP applicants. Also, the purpose for collecting the SSN is “to check income and other information to see if [FNLNS] can get help paying for health insurance.” Given the concern many people have with providing their SSN, it would be helpful to specify what “other information” will be verified using the SSN. With regard to the non-applicant message about the use of the SSN, it would be helpful to add “only” to the sentence, “We’ll use this SSN *only* to check [Name]’s income.” It would also help clarify the use, to add that “SSNs are not used for immigration enforcement.”

Questions 3 and 4 ask for clarification if there is a mis-match between the name being provided on the application and the name that appears on the Social Security card. If a household member has a Social Security card bearing a different name, for whatever reason, there may be reluctance to complete the application given that low-wage immigrant workers have been adversely affect by SSA “no-match” letters sent to employers. It is important to provide reassurance that there will be no immigration enforcement consequences for answering questions 3 and 4.

- **We support providing different messages about collection of SSNs depending on whether the person is an applicant or a non-applicant, to address different concerns and needs.**
- **Recommendation:** At the beginning of the application message about collection of SSNs, delete the word “you” and/or add “*for [FNLNS]*” after “SSN”.
- **Recommendation:** After “Visit [www.placeholder.gov](http://www.placeholder.gov)”, provide a toll-free phone number in addition, stating that help will be available in non-English languages.

- **Recommendation:** In the sentence, “We only use SSNs to check income and other information. . . “ delete “and other information” and specify what other ways the SSN will be used.
- **Recommendation:** In the non-applicant message, add the word “only” after “We’ll use this SSN *only* to check [Name]’s income.”
- **Recommendation:** Add at the end of the message for a non-applicant: “SSNs are not used for immigration enforcement.”
- **Recommendation:** On questions #3 and #4, add an explanation for why the information is being sought and how it will be used, such as the following:

If you answer “no,” we will not share your answer with any employer or with immigration enforcement. We will ask you for the name that appears on the Social Security card, and we will use that name only to help check income to see if applicants in your household can get help paying for health insurance.

## **VII.B. Citizenship/immigration status**

In question B.1.: “U.S. national” is not a commonly-understood term, so it may be helpful to provide a short definition. In question B.4., we appreciate the general approach taken to screening for eligible lawfully present status. It provides an opportunity for the consumer to know what status is eligible and what is not. It provides them with the information they need to ascertain their status (by looking at a document or inquiring of someone) if they are unsure what it is. This is an essential reason why it is important to let the application filer know at the outset that the application can be saved and returned to later. The note to reviewers says, a. “Display checkbox,” but does not inform the reviewer if the checkbox says merely “yes/no” or if the application filer must check one of the eligible statuses. Also, the list of eligible statuses is not included. To comment, it would be necessary to know how this will be set up. Finally, it has come to our attention that the term “eligible immigration status” can be misinterpreted to mean “eligible for immigration,” rather than the intended meaning: “list of immigration statuses conferring non-citizen eligibility for health care.” For clarity, perhaps this should be re-phrased.

We appreciate and support that this question includes a message about availability of health care for an ineligible immigrant family member. It says: “if check box isn’t selected, show message explaining that this person might be eligible for services if he/she has an emergency or is pregnant, and encourage applicant to review list of eligible statuses available through help text and select an option, if applicable.” However, the explanation is confusing. It may be saying an ineligible immigrant will be asked to select an option among eligible statuses, which does not make sense. The message indicating services may be available only in event of emergency or pregnancy is too restrictive; at a minimum there could be provided information about a Federally-Qualified Health Center (FQHC) nearest the person’s home zip code. The form could be pre-populated with a comprehensive list of options for health care for immigrants regardless of status. The application should also go beyond informing an

ineligible immigrant that s/he may be eligible for some health care, it should also afford an opportunity to enroll in any health care service available regardless of status: emergency Medicaid, state-funded program, community health center, public hospital clinic, Ryan White program, etc. See ACA §1311(d)(4)(F). At the end of the process, HHS should also make a notice available to these persons of their eligibility for Emergency Medicaid, CHIP for pregnant women, FQHC, a state or local program serving immigrants regardless of status.

We appreciate the approach taken in questions 5 and 6, displaying documents used to verify eligible immigration status, as a reference for the application filer to use in comparing to the family member's document. In the lists of eligible immigration statuses, it is important to avoid acronyms to make the list consumer-centric. For example, the acronym "EAD" is used with no explanation of what that is, and the acronym "SEVIS" is used without a definition.

On question 9, asking those with a birth date before August 22, 1996, if they have lived in the U.S. since 1996: this question can be skipped for children and pregnant women in states that have taken up the option under CHIPRA section 214. This can also be skipped for an immigrant with a lawfully present status who is not subject to the five-year bar under the 1996 welfare law.

- **Recommendation: Provide a short definition of "U.S. national."**
- **We support this general approach to ascertaining eligible lawful present status, by referring the application filer to a list of eligible statuses and documents to be used for verification.**
- **Recommendation: For clarity, consider changing the term, "eligible immigration status" to "immigration statuses eligible for health care."**
- **Recommendation: Provide information on the checkbox for declaring immigration status, to allow for stakeholder review, analysis, and comment.**
- **Recommendation: Provide comprehensive information on health care options for ineligible immigrants including enrollment information and offers of assistance, and a notice of eligibility at the end of the application process.**
- **We support providing a list of documents verifying immigration status as a reference for the application filer.**
- **Recommendation: Provide the list of eligible immigration statuses, and on that list and the document list, avoid the use of undefined acronyms; define "EAD" and "SEVIS."**
- **Recommendation: Ensure that the question asking if the immigrant has lived in the U.S. since 1996 is not asked of persons whom the online logic can identify do not need to answer the question because they are not subject of the federal five-**

**year waiting period or because they can be covered in their state under the CHIPRA §214 option.**

#### **VII.D. Ethnicity and race**

We appreciate collection of ethnicity and race data and believe it should be collected for all family/household members, whether applicant or non-applicant. It is not clear from the draft questionnaire whether the data will be requested for everyone in the household. The inclusion of words like “Optional information” at the beginning of the help explanation is required, but research shows the word “optional” is not universally understood. The message communicating how the information will be used is also critical to include, but as written it is too vague to adequately address concerns that the information will be used to discriminate based on race and/or ethnicity. Data on gender identity and sexual orientation is also important to collect to aid in reducing disparities and in enforcing civil rights.

- **We support collection of race and ethnicity data for all family and household members (applicants and non-applicants), for use in reducing health disparities and enforcing civil rights.**
- **Recommendation: If language data is not requested in Section VI—Family & Household, then it should be added to Section VII.D—Ethnicity & Race and collected for all family and household members (applicants and non-applicants).**
- **Recommendation: Provide clear explanations that race/ethnicity data is not required in order to apply, and explain that the data will be used to protect civil rights, not to discriminate, such as in the following example.**

We ask for your race and ethnicity so that we can review application information to make sure that everyone gets the same access to health care. This information is confidential and it will not be used to decide what health program you are eligible for. You do not have to provide your race and ethnicity to complete the application.

- **Recommendation: Collect data on gender identity and sexual orientation in addition to race and ethnicity.**

#### **XI. Current/monthly income**

#### **XII. Discrepancies**

In Section XI (current/monthly income), question 2a. the list of income types do not include farm work. Fishing and Farming income, a(x), refers to farm owners, but the list does not clarify that. A farmworker may mistakenly select farming and fishing because it is not clear in that question what farming and fishing refers to. Job, (ai) only lists wages by hourly, daily, weekly, etc. For farmworkers and other seasonal workers, this does not describe their income circumstances. Most farmworkers work on a piece rate, which may or may not be equivalent to hourly and daily wages.

The only place in the online application where the questionnaire asks about seasonal work is in the next section—XII (discrepancies), and that question applies only if the applicant meets certain circumstances.

- **Recommendation: Add seasonal work to the list of income types in question 2a of Section XI. Once you select seasonal work, follow-up questions can include: “what kind of seasonal work?”; “do you work in agriculture?”; “how many months did you work last year?”; “how many months do you expect to work this year?”**
- **Recommendation: Provide help text on the types of income which explains what the different income types mean.**
- **Recommendation: Delete seasonal work under Section XII, Discrepancies, question 6.**

## **XVII. Tax filer & other information**

Question 1 is an SSN request of a tax filer who has not entered an SSN. The instructions do not explain that the SSN is not required if it is not available. We appreciate the additional message to the application filer that providing a SSN will help determine eligibility for help with costs. We also appreciate the inclusion of the important message that the SSN will not be used to verify immigration status. Since the tax filer may file with an ITIN, it may be helpful to suggest that if that is the case, there is no need to provide the number, but ITIN filers should keep a copy of their income taxes in case documentation of income is needed in the future.

- **We support the message that providing a SSN will help determine eligibility for help with costs.**
- **We support the message that the SSN will not be used to verify immigration status.**
- **Recommendation: Inform ITIN filers that their number is not needed but that it is important for them to retain a copy of their income taxes which may be needed to prove income.**

## **XIX. Medicaid & CHIP specific questions**

Question XIX.A.3 asks if a potentially Medicaid-eligible individual who is a non-citizen in a state which requires 40 work quarters, and the applicant’s own SSN hasn’t provided enough quarters to meet the requirement, to provide the SSN of a parent or spouse so the agency can determine whether the applicant can be credited with work quarters earned by that parent or spouse. We appreciate the collection of this important eligibility information and appreciate that an explanation for the question is also provided. The way the first sentence is written, however, is too complicated to easily understand at the first reading (“[FNLNS] could get

free or low-cost health coverage if he/she has enough of a work history in the U.S. on his/her own or through a family member.”). This sentence might be easier to understand at first reading if the “or” is in all caps or otherwise emphasized.

- **We appreciate the question asking the immigrant who needs 40 work quarters for eligibility but has fewer than 40 quarters, whether a parent or spouse may have quarters that can be credited to the applicant as is allowed by statute.**
- **Recommendation: Re-word the explanation so it is easier to understand.**

## **XX. Review & sign**

### **XX.A. Review application**

Question XX.A.2. says, for [FNLNS1], “Display if the person has identified to have an immigrant status”, and for [FNLNS2], “Display if the person has identified to have an eligible immigration status.” The difference between these two displays is confusing, given that both are followed by asking if there is a satisfactory immigration status (Y/N), and for the date of entry.

- **Recommendation: Clarify why both a household member who has an immigrant status (not eligible?), and another who has an eligible immigration status could display a satisfactory immigration status and a date of entry.**

### **XX.C. Required documents**

We appreciate the option to upload documents or to mail them. If mailing, a photocopy should not only be acceptable, the application should recommend that only photocopies should be mailed. In addition, the household should be provided with the option of hand-delivery, in cases where health coverage is needed ASAP.

- **Recommendation: Recommend that only photocopies be mailed, and provide an option for hand-delivery of documents to speed up eligibility determination when documents cannot be uploaded.**

### **XX.D. Eligibility results**

We appreciate the inclusion in XX.D.1.f. of Emergency Medicaid, which is essential for immigrants who are eligible for emergency Medicaid but not full-scope Medicaid.

- **Recommendation: Provide that a person eligible only for emergency Medicaid be issued an ID card or at a minimum a notice of eligibility.**
- **Recommendation: Add another field for programs/clinics available regardless of status, including FQHCs, CLCs and public hospitals.**

- **Recommendation: Ensure that an eligibility notice is provided to these “ineligible immigrants” that they have been determined to be eligible for emergency Medicaid, FQHCs, and other programs available regardless of status.**

## **XXII. Non-financial assistance**

This part of the questionnaire is solely for those households who do not need help with the costs of health insurance. It is not clear what assistance is being offered to those who are paying out-of-pocket. All recommendations that apply to the preceding questions also apply to those in section XXII and the sections that follow.

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### **PAPER SINGLE STREAMLINED APPLICATION FOR INSURANCE** **AFFORDABILITY PROGRAMS**

CMS-10440, Appendix C

#### **Page 1. THINGS TO KNOW: Why do we ask for so much information?**

Here the application displays a privacy statement: “We’ll keep all the information you provide private, as required by law.” This privacy statement should go further to address immigrant family concerns about privacy and confidentiality. Failure to address these concerns has been shown to discourage participation by eligible members of these families, especially mixed-immigration status families. The average person does not know what privacy the law requires, so there is no detail in the statement regarding what information will be requested and required, from which family members, and how information such as immigration status and Social Security numbers will be used, including with whom it will be shared. Since one primary concern is that identifying information on a family member who is not eligible for health insurance will be shared with USCIS for immigration enforcement purposes, this concern should be addressed directly, with a statement such as, “None of the information you provide will be used for immigration enforcement.”

- **Recommendation: On page one, add a box titled “Families that include immigrants are welcome to apply,” or “Important information for immigrants.” We recommend that the box contain a message like that quoted below.**

You may file applications for families that include some members applying for health coverage and others who are not. You do not have to provide a Social Security number (SSN) or citizenship or immigration status for those in your family who are not seeking coverage. We will not delay or deny health coverage because there are family members who are not seeking coverage. For those who do not apply, we can give you information about other ways to get health care.

We will keep all the information you provide private and secure as required by law. We will use personal information only to check if you are eligible for health

insurance. No information on this application will be used for immigration enforcement purposes.

## **“THINGS TO KNOW”: PAGE ONE MESSAGING FOR IMMIGRANT FAMILIES**

Given the significant barriers immigrant families often face to enrolling in coverage, it is important to actively encourage participation by directly addressing barriers at the beginning of the application form. We note that there is nothing on Page One of the form communicating welcoming and reassuring messages to these families, which include millions of potential applicants. We believe it is critically important to fill this gap by including a box to the Page One category called “Things to Know.” The box title needs to clearly identify the offering of “Important Information for Immigrants.” The primary goal is to assure mixed-status immigrant families that they are welcome to apply for eligible persons in their families, and that only necessary information about ineligible family members will be requested and confidentiality will be protected.

In addition, it is important to address concerns that an application will have a negative impact on immigration status or an application to adjust status or to naturalize as a U.S. citizen. This concern is that USCIS will deny an immigration application because they find that a family who has applied for benefits is inadmissible as a “public charge.” However, federal guidance states that receipt of Medicaid or CHIP is not considered in public charge determinations, unless it is for long-term care. We note that nowhere on the entire application is this concern of immigrant families addressed.

We suggest that several current boxes could be deleted to make room for these critical messages, including “Apply faster online,” “What you may need to apply” (this will only scare people off, perhaps it should be split up and placed in the introduction to the relevant sections), and “What happens next?”.

- **Recommendation: Amend the section on Page 1, “Things to Know” by adding a box or subsection of “Important Information for Immigrants,” to include crucial messages that address common access barriers faced by immigrant families, including privacy and confidentiality, confusion over eligibility, and public charge, from examples provided earlier in these comments.**
- **Recommendation: Include on Page 1 a message for immigrants that mixed-status families are welcome to apply and information about ineligible family members will be protected, such as the following:**

Immigrant families are welcome to apply. Please do not let fear about immigration status keep your family from seeking benefits for eligible family members.  
Immigration information you give us is private and is not shared with USCIS.

- **Recommendation: Include on Page 1 information communicating to immigrant families that applying for health insurance, including help with costs, will not result in denial of immigration status or citizenship, such as the following:**



Applying for health insurance or getting help with health insurance costs will not make you a “public charge”\* and won’t affect your immigration status or chances of becoming a lawful permanent resident (getting a “green card”) on that basis. Applying for health benefits won’t prevent you from becoming a citizen, as long as you tell the truth on the application.

\*People receiving long-term care in an institution may face barriers getting a green card. If you have concerns or questions about this, you should talk to an agency that helps immigrants with legal questions.

## **Page 1. THINGS TO KNOW: Get help with this application**

We appreciate that the application offers help in Spanish. Also, in small print at the bottom, it says in Spanish that the application has been translated and the Spanish language application can be used instead of the English language application. This is very important for encouraging participation of millions of potential applicants whose preferred language is Spanish. However, many immigrant and LEP families speak a non-English language other than Spanish. To comply with non-discrimination protections, HHS must provide meaningful access to ACA programs for all who are limited-English proficient, and the application form is the gateway to program access. We also note that the Spanish version communicates that language assistance is available at no cost to the LEP person, and we believe that fact is important to communicate in the English version and in all other languages.

- **Recommendation: Translate the paper application into other languages, making translated applications available for downloading and printing from the internet.**
- **Recommendation: Offer toll-free interpretation assistance in any non-English language, through a language line.**
- **Recommendation: Provide taglines in at least 15 languages if not more.**
- **Recommendation: Communicate in the English version and all languages in addition to Spanish, that help is available for free/at no cost.**

## **FOOTER: NEED HELP WITH YOUR APPLICATION?**

We greatly appreciate that at the bottom of page 1 and every succeeding page, is a footer providing a toll-free number and a website to visit for help completing the application. The message is in English and in Spanish. We strongly encourage that the cover sheet include taglines in multiple languages or a website that directs limited English proficient individuals to translated versions of the application and how to access assistance completing the application (e.g. call center phone number or local assisters, navigators, or certified application counselors who can provide in-language assistance).

- **We support the offer of help, with phone number and website address, at the bottom of every page of the application, in both English and Spanish.**
- **Recommendation: Include on the cover sheet either the following statement in at least 15 languages or a language portal that directs LEP individuals to a webpage for information on how to obtain further assistance.**

If you do not speak English, we will get an interpreter to help you for no cost to you. Please call (XXX) XXX-XXXX .

It is also important for HHS to translate the application into multiple languages. This will assist applicants as well as applicant filers, navigators, and others who will provide application assistance to LEP individuals.

## **P.2 STEP 1: TELL US ABOUT YOURSELF**

The application filer in an immigrant family may be an ineligible immigrant parent who wants to apply on behalf of a citizen child. The phrase, “Tell us about yourself” is vague and can arouse concerns about personal information that will be asked of the ineligible parent. There is no accompanying reassurance about confidentiality of the information, the privacy message at the bottom of the page is too far away from the message “Tell us about yourself,” to prevent anyone from abandoning their application at the top of page 2 because they have privacy concerns. Also, the form does not communicate to such an application filer what questions will be asked (or not asked) on this page, and then whether additional personal questions will be asked of “yourself” at a later stage in the application. Clarification is needed about whether the application filer can complete the application without being an applicant him/herself. Clarification is needed regarding the role of “yourself”, i.e., that this person will be responsible for signing the application at the end under a listing of rights and responsibilities.

We appreciate that no SSN is asked for in Step 1, in accordance with regulation. We also appreciate the request for language data; this is imperative to gather in order to serve an LEP application filer. The parenthetical below the title, “(We will need to contact an adult member of the family.)” is ambiguous and confusing, further raising privacy concerns.

- **Recommendation: Clarify the role of the application filer and the information he or she must provide to complete the application. Delete the word, “yourself” in the title, and substitute clarity such as “the person completing the application.” Add an explanation such as the following:**
  - 1) A person may complete the application for others even if not applying for coverage for themselves. Are you applying on behalf of someone else? Yes/No
  - 2) Persons not seeking coverage do not need to provide a Social Security number or citizenship or immigration status information

3) We will keep all the information you provide private and secure as required by law. We will use it only to check if you are eligible for health insurance.

- **Recommendation: If there is more to the role of the “household contact” than that of completing and signing the application, describe what the future needs and responsibilities will be.**
- **We support NOT asking for an SSN in this block.**
- **We support asking for preferred non-English language spoken and written.**

## **Page 2. Step 2: TELL US ABOUT YOUR FAMILY**

In a scenario where the application filer is a citizen or eligible immigrant, who has a spouse or child who is an ineligible immigrant, the form neglects to inform or reassure the filer that there will be no need for that family member to provide SSN or immigration status. The section titled, “Here’s who you need to include on this application” lists spouse, children, partner, and tax dependent. At the bottom of the section there is a privacy message. We appreciate the inclusion of this privacy message. However, the application filer with an ineligible immigrant spouse, for example, may have abandoned the application before reading the privacy statement. Furthermore, the privacy statement is not sufficient information to address reluctance to continue completing the application because of concerns about what information will be asked about the family members.

- **Recommendation: Add the following message to this subsection:**

You may file the application for a family that includes some members applying for health coverage and others who are not. You do not have to provide a Social Security number (SSN) or citizenship or immigration status for those in your family who are not seeking coverage. We will not delay or deny health coverage because there are family members who are not seeking coverage. For those who do not apply, we can give you information about other ways to get health care.

- **Alternative recommendation: Add to the heading, “here’s who you need to include on this application. . .” information such as the following.**

. . . whether or not they may be applying for health insurance, but you do not have to provide information about citizenship, immigration status or SSNs of non-applicant family members.

- **Recommendation: Move the privacy message at the bottom of the page to the top of the Step 2 section, and amend the statement by adding: “or your family members” after “you” in the second bulleted message (“We’ll use the information on this form only to see if you or your family members qualify for health insurance.”).**

### Page 3. Step 2: PERSON 1

Pages 3 and 4 solicit detailed information on the application filer. The specification in the instructions to “Start with yourself” is helpful for its clarity, however this comes after a message saying to “Complete Step 2 for your spouse/partner and children . . .” It would be more clear to add the word “yourself” after “Person 1” in the page heading, and omit the message about spouse/partner and children in the page for Person 1. In the question, “Relationship to you?”, the pre-population of the answer with the word SELF in bold face is helpful to the application filer.

- **Recommendation: Replace the instruction to “Complete Step 2 for your spouse/partner and children ....” with the message, “Start with yourself.”**
- **Recommendation: Add “yourself” after “Person 1” in the page heading,**
- **We support the pre-population of the answer to the question, “Relationship to you?” as SELF in bold face, which avoids confusion for the application filer.**

### Pages 3-14. Step 2: PERSONS 1 – 6

Questions about each person in the family, including Person 1, are asked on separate sheets, each with two pages. The top half of the first page is answered by everyone, whether applying for coverage or not applying for coverage. This section includes a request for a Social Security number, followed by the word OPTIONAL in bold face caps. This is very important for encouraging an application filer who prefers not to provide the SSN for him/herself or for a family member, to continue completing the application. However, the information provided, as required by law and regulation, explaining that the SSN is voluntary for non-applicants, and how the SSN will be used, is not sufficiently connected with the request for the SSN to comply with the law. The explanation also fails to emphasize that the SSN is required only if the person has one. Most people would likely have to read it twice to understand that. The explanation is vitally important for mixed-status immigrant families and needs to precede the blank lines for writing in the SSN.

Finally regarding the SSN request, the last sentence of the explanation is an instruction to call a number or visit a website if the person does not have a SSN. But it doesn’t say the purpose, and an application filer without an SSN may wonder s/he is being directed to call a number for some punitive reason. In other words, it is not an offer of assistance, as is required by regulation.

- **Recommendation: Move the message in the shaded box that explains that the SSN is voluntary and how it will be used, as is required by regulations, up above the blank lines for writing in the SSN, to encourage the application filer to read the message before advancing to other questions on the form.**
- **Recommendation: Change the last sentence of the SSN explanation to a true offer of assistance with obtaining an SSN, as required by regulation, by**

**explaining the purpose of directing the application filer to call the 800-number or visit the website.**

- **Recommendation: Add to the message about SSNs, information that a person applying only for Emergency Medicaid or a state program need not provide the SSN, such as the following.**

You do not have to give an SSN or immigration status for anyone who is applying for Emergency Medicaid or [state funded program].

Halfway down the first page of the personal questionnaire, the application asks if Person (1-6) is applying for health insurance. If the answer is NO, then the Person is directed to skip the remaining questions on the page, and go directly to the income questions on the second page. This design is helpful to encourage participation of immigrant families because it distinguishes family members who are applying for coverage from non-applicant family members. In this way, non-applicants are not asked unnecessary or inappropriate questions which have in the past discouraged participation of the potential applicants in the family.

If the person answers Yes, then SSN is required if available. “Required” is emphasized by bold caps, but not “if you have one.” Some lawfully present immigrants are not eligible for a regular SSN, but regulations require the Social Security Administration to issue a non-working SSN if the immigrant needs the SSN to obtain benefits such as health insurance. Immigrants may need assistance in obtaining the non-work SSN as many SSA staff are unaware of this policy. The application does not offer assistance in obtaining the SSN, as required by regulations.

To answer the immigration status question, which asks if the Person has an eligible immigration status, the application filer is referred to the page 20 of the application which lists eligible immigration statuses. We appreciate this design as it alleviates any immigrant family member from declaring that they do not have lawful presence for insurance eligibility purposes, which is crucial for encouraging mixed-status families to apply for eligible family members. The box to check “Yes”, after reviewing the list of eligible statuses, is erroneously placed before the instruction to review the list, not after as would be logical. It has been suggested that calling the list “Eligible Immigration Status List” may mislead some into thinking they have to have a status that is eligible for immigration (rather than for health care). See our recommendation on CMS-10440, Appendix A.

The list is organized in such a way that similar categories are not grouped together to facilitate ease in identification. The applicant categories are not listed next to the statuses that the person is applying for. So, for example “applicant for asylum” is not located next to the “asylee” category, but elsewhere on the list. It would be helpful to group these together, for example, listing “applicant for lawful permanent resident” next to “lawful permanent resident” so applicants do not miss their inclusion on the list. Another problem with the list is that it uses the acronym “EAD” without defining it as an Employment Authorization Document (more commonly called a “work permit”). After checking Yes on the form, the next question asks the Person to describe the type of immigration document they have, along

with the identification number on the document. However, there is no list of documents provided for reference, as there is on the online application. We question whether documents and document numbers are ever needed; while the information may be helpful in speeding verification, if immigration status is unknown, a document name and number should not be required.

To determine if an immigrant is likely not to be subject to the federal five year waiting period for Medicaid and CHIP, a question asks if the Person has lived in the U.S. since 1996. Given that the person may not be eligible for Medicaid or CHIP, the question is inappropriate for those who are eligible for the Exchange only but unfortunately there is no Medicaid-specific section of questions later in the application form where the question would be more appropriately placed. However, it should be possible to skip the question for a child or pregnant women in a state that has taken up the CHIPRA §214 option, or for a lawfully present immigrant who is not subject to the five year bar.

- **We support the design of the application that encourages participation of mixed-status immigrant families by asking questions about immigration status only of those family members who are applying for benefits for themselves, and directing non-applicant family members to skip immigration status questions.**
- **Recommendation: We support the Social Security number question asked of applicants, which states that the SSN is required if the person has one, however, we recommend that the form provide emphasis through use of a bold font to the words, “if you have one” following the word, “required,” emphasized with bold caps.**
- **Recommendation: Provide an offer of assistance in obtaining a SSN, as required by regulations, on the same line in the application that requests the SSN.**
- **Recommendation: We support phrasing the immigration status question by asking the applicant if they have an eligible immigration status, and providing a reference list of eligible statuses to aid in answering the question, however we recommend the check box follow the instruction to refer to the reference list, rather than precede it.**
- **Recommendation: In the list of eligible immigration statuses on page 20, add all categories included in the final regulatory definition of “lawfully present.”**
- **Recommendation: In the list of eligible immigration statuses on page 20, define the acronym “EAD.”**
- **Recommendation: Provide a list of documents verifying eligible immigration status as a reference to help the applicant accurately name their immigration document in the blank provided on the form for this purpose.**

- **We support asking if the person has lived in the U.S. since 1996, to determine if they are likely not to be subject to the five-year waiting period for Medicaid and CHIP.**

The last group of questions on the first page of the personal information questionnaire is the collection of data on race and ethnicity. We support collecting race and ethnicity demographic data as well as language data of all family members identified on the application, whether applicants or non-applicants. We strongly recommend that CMS collect language data of all applicants and non-applicants, not merely of the application filer (household contact).

In the supporting statement released with the draft paper application, CMS stated that it plans to collect data elements pursuant to ACA §4302. We greatly appreciate the recognition of the need to collect comprehensive demographic data. However, CMS did not follow the statutory instructions and include language data collection of all applicants on the draft applications, nor did it collect data on all applicants, recipients or participants. ACA §4302 states:

The Secretary shall ensure that, by not later than 2 years after the date of enactment of this title, any federally conducted or supported health care or public health program, activity or survey. . . collects and reports, to the extent practicable – (A) data on. . . primary language. . . *for applicants, recipients or participants. (emphasis added)*

CMS recognizes collecting demographic data is practicable by including race and ethnicity collection from all applicants on the application, and there is no basis for excluding the collection of primary language data for all applicants. By requesting language data information only from the household contact, CMS further weakens its compliance with §4302 since it will not have language data of recipients and participants (unless it implements post-enrollment collection which historically has been very difficult).

Comprehensive language data is essential to ensuring nondiscrimination and compliance with Title VI of the Civil Rights Act and ACA §1557. Having comprehensive language data is also critical to address health disparities and service planning. Exchanges need to know the languages of applicants so they can ensure provision of appropriate language services – both oral and written – in their offices, call centers, and by their subcontractors. Collecting this data once on the application will save time and money since the Exchange can share the data with health plans, providers, navigators, assisters, certified application counselors, brokers and others who will be assisting limited-English proficient (LEP) individuals.

Collecting language data only from the household contact will likely misrepresent and significantly undercount the needs of LEP individuals. Given the well-documented barriers LEP individuals face in accessing services and healthcare, it is likely that if a household has an English-speaking member, that individual will be the household contact. Yet an estimated 23% of Exchange applicants will speak a language other than English at home, demonstrating the significant need to identify language needs so that appropriate assistance can be provided for *all* family or household members.

There is also no reason not to collect race, ethnicity, and language data of non-applicants. Non-applicant family members are “participants” pursuant to ACA §4302 given the application filer may be a non-applicant, may be interacting with the agency on behalf of applicant family members, may be liable for a penalty as a spouse tax filer on a joint return. The advent of health reform provides a historic opportunity to comprehensively collect important demographic data collection through the single, streamlined application. We urge CMS to use this opportunity to ensure comprehensive language data collection and comprehensive race and ethnicity data collection. Demographic information on uninsured individuals will become increasingly important in the years following the implementation of health reform, and it will be too costly to add such collection to computer systems later.

Race and ethnicity data is critical for enforcement of Title VI of the Civil Rights Act, ACA §1557, and other civil rights protections. Some consumers, however, wonder if the information may be collected for the opposite purpose, as a way of discriminating based on race, color, or national origin. Thus, it is helpful that the question is clearly labeled as not required, but an explanation for the purpose of the question is also needed to help promote collection of the data. The explanation should also provide assurance that the data will not be used to discriminate. To indicate the question is not required, the form states that it is “OPTIONAL,” in all caps; research shows that many people do not understand this, so the voluntary nature of the question should be clearly explained.

- **Recommendation: In collecting data on race and ethnicity, accompany the question with an explanation for why the data is being gathered, such as the following:**

We ask for your race and ethnicity so that we can review application information to make sure that everyone gets the same access to health care. This information is confidential and it will not be used to decide what health program you are eligible for. You do not have to provide your race and ethnicity to complete the application.

- **Recommendation: To the section on race and ethnicity, add a question asking for preferred language.**
- **Recommendation: Move the section asking for data on race, ethnicity and primary language to the top of each page that asks questions of non-applicants as well as applicants, before the section asking “Is Person X applying for health insurance?” so that this data is collected on all family members.**

The questions on “Current Job and Income Information” have multiple choices for the way wages are paid, i.e., hourly, weekly, etc. The choices can be confusing for seasonal workers, so we recommend a new box to check for “seasonal work.”

- **Recommendation: To “Current Job and Income Information,” add a checkbox category for seasonal work.**

**Page 18. Step 5: Please read and sign this application**



At the beginning of the last page of the application are four bulleted statements of understanding and/or agreement, to which application filers assent by signing the application form. The first is the truth of their answers on the form, the second is a privacy statement and a promise to report a change of circumstances, the third is a civil rights statement, and the fourth agrees that no one applying through the form is incarcerated. These are all important rights and responsibilities to convey and we note only that the promise to report changed circumstances is misplaced as part of the second bullet on privacy protections. The agreement to report changed information relevant to eligibility more logically belongs with the first promise, that all answers on the current application are true, or as a separate bullet. The latter is preferable, as the statement looks to the future circumstances of the family and provides contact information for reporting changes, and also in order to highlight the need to report changes.

- **Recommendation: Amend Page 18, by reformatting the second bulleted statement into two bulleted statements, highlighting the second sentence seeking the application filer’s agreement to report a change of circumstances by separating it into a new bulleted item.**

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## **PAPER SINGLE STREAMLINED APPLICATION FOR HEALTH INSURANCE**

CMS-10440, Appendix D

### **Page 1. THINGS TO KNOW: “Your information is private” and welcoming messages for immigrant families**

We appreciate the inclusion on page one of a privacy statement, as privacy of personal information is of paramount concern to all consumers today, especially to non-citizen families. This statement could be strengthened in the message and given greater prominence in the formatting. As currently written and formatted, it is inadequate to address immigrant family concerns about privacy and confidentiality. Failure to address these concerns has been shown for many years to discourage participation by eligible members of these families, especially mixed-immigration status families. The average person does not know what privacy the law requires, so there is no detail in the statement regarding what information will be requested and required, from which family members, and how information such as immigration status and Social Security numbers will be used, including with whom it will be shared. Since one primary concern is that identifying information on a family member who is not eligible for health insurance will be shared with USCIS for immigration enforcement purposes, this concern should be addressed directly, with a statement such as, “None of the information you provide will be used for immigration enforcement.”

Given the significant barriers immigrant families often face to enrolling in coverage, including fears that enrolling will hinder their ability to gain permanent residence or expose family members to the risk of deportation, it is important to actively encourage participation by directly addressing barriers at the beginning of the application form. We note that there is nothing on Page One of the form communicating welcoming and reassuring messages to these families who include millions of potential applicants. We believe it is critically important to fill this gap by including a box in the Page One category called “Things to Know,” which has ample room for an additional box. The box title needs to clearly identify the offering of “Important Information for Immigrants.” The primary goal is to assure mixed-status immigrant families that they are welcome to apply for eligible persons in their families, and that only necessary information about ineligible family members will be requested and confidentiality will be protected.

- **Recommendation: On Page 1, add a box titled “Families that include immigrants are welcome to apply,” or “Important information for immigrants.” We recommend that the box contain a message like that which follows.**

Immigrant families are welcome to apply. Please do not let fear about immigration status keep your family from seeking insurance for eligible family members. We will not delay or deny health coverage because there are family members who are not seeking coverage. For those who do not apply, we can give you information about other ways to get health care.

We will keep all the information you provide private and secure as required by law. We will use it only to check if you are eligible for health insurance. No information on this application will be used for immigration enforcement purposes.

#### **Page 1. THINGS TO KNOW: Get help with this application**

We appreciate that the application offers help in Spanish. Also, in small print at the bottom, it says in Spanish that the application has been translated and the Spanish language application can be used instead of the English language application. This is very important for encouraging participation of millions of potential applicants whose preferred language is Spanish. However, many immigrant and LEP families speak a non-English language other than Spanish. To comply with non-discrimination protections, HHS must provide meaningful access to ACA programs for all who are limited-English proficient, and the application form is the gateway to program access. We also note that the Spanish version communicates that language assistance is available at no cost to the LEP person, and we believe fact is important to communicate in the English version and in all other languages.

- **Recommendation: Translate the paper application into other languages, making them available for downloading and printing from the internet.**
- **Recommendation: Offer toll-free interpretation assistance in any non-English language, through a language line.**

- **Recommendation: Provide taglines in at least 15 languages if not more.**
- **Recommendation: Communicate in the English version and all languages in addition to Spanish, that help is available for free/at no cost.**

#### **FOOTER: NEED HELP WITH YOUR APPLICATION?**

We greatly appreciate that at the bottom of page 1 and every succeeding page, is a footer providing a toll-free number and a website to visit for help completing the application. The message is in English and in Spanish. A language line should be available at the call center, making it possible for any LEP person to obtain help in their preferred language, which is important to communicate in the footer to speakers of other languages.

- **We support the offer of help, with phone number and website address, at the bottom of every page of the application, in both English and Spanish.**
- **Recommendation: Provide a help message for any non-English language spoken – through mechanisms such as 1-800-XXX-XXXX-M (for Mandarin), 1-800-XXX-XXXX-T (for Tagalog), and so forth for other languages, or alternatively, through a page of taglines that is referenced in the footer.**

#### **P.2 STEP 1: TELL US ABOUT YOURSELF**

The application filer in an immigrant family may be an ineligible immigrant parent who wants to apply on behalf of a citizen child. The phrase, “Tell us about yourself” is vague and can arouse concerns about personal information that will be asked of the ineligible parent. There is no accompanying reassurance about confidentiality of the information. Clarification is needed about whether the application filer can complete the application without being an applicant him/herself. Clarification is needed regarding the role of “yourself”, i.e., that this person will be responsible for signing the application at the end under a listing of rights and responsibilities.

We appreciate the request for language data; this is imperative to gather in order to serve an LEP application filer. The parenthetical below the title, “(We will need to contact an adult member of the family.)” is ambiguous and confusing, and could further raise privacy concerns.

This section includes a request for a Social Security number, preceded by an explanation that “We need Social Security numbers (SSNs) for who has one.” Although this is awkward phrasing, we appreciate the placement of an explanation for the SSN request, required by law, before the request itself. And we appreciate the communication that the SSN is required for those who have an SSN. There should be greater emphasis placed on the message that SSNs do not have to be provided if they are not available. This is very important for encouraging an application filer who prefers not to provide the SSN for him/herself or for a family member, to continue completing the application.

It is also important to explain how the SSN will be used. Immigrants will be concerned that the SSN will be used as a proxy for immigration status, as is often common among government agencies. Though an explanation is provided, it is only a partial explanation: “We use SSNs to check identity and other information.” The catch-phrase “and other information” is too vague. Any major uses of the SSN should be specified.

Finally regarding the SSN request, the last sentence of the explanation is an instruction to call a number or visit a website if the person does not have a SSN. But it doesn’t say the purpose, and an application filer without an SSN may wonder s/he is being directed to call a number for some punitive reason. In other words, it is not an offer of assistance, as is required by regulation.

- **Recommendation: Clarify the role of the application filer and the information he or she must provide to complete the application. Delete the word, “yourself” in the title, and substitute clarity such as “the person completing the application.” Add an explanation such as the following:**
  - 1) A person may complete the application for others even if not applying for coverage for themselves. Are you applying on behalf of someone else? Yes/No
  - 2) Persons not seeking coverage do not need to provide a Social Security number or citizenship or immigration status information
  - 3) We will keep all the information you provide private and secure as required by law. We will use it only to check if you are eligible for health insurance.
- **Recommendation: If there is more to the role of the “household contact” than that of completing and signing the application, describe what the future needs and responsibilities will be. State that “if the person completing the application is under age \_\_\_, then please provide the name of an adult in the household whom we may contact: \_\_\_\_\_”**
- **We support asking for preferred non-English language.**
- **Recommendation: Explain with specificity how the SSN will be used in addition to checking identity, in place of the vague phrase, “and other information.”**
- **Recommendation: Change the last sentence of the SSN explanation to a true offer of assistance with obtaining an SSN, as required by regulation, by explaining the purpose of directing the application filer to call the 800-number or visit the website.**

The application filer is then asked to declare citizenship or immigration status. This must be clearly marked as optional for any application filer who is not seeking insurance for themselves. To answer the immigration status question, which asks if the Person has an eligible immigration status, the application filer is referred to the page 8 of the application which lists eligible immigration statuses. We appreciate this design as it avoids defining the eligible immigrant as “lawfully present” when an ineligible immigrant may be lawfully

present as well. This is crucial for protecting confidentiality and encouraging mixed-status families to apply for eligible family members.

The box to check “Yes”, after reviewing the list of eligible statuses, is erroneously placed before the instruction to review the list, not after as would be logical. One problem with the usefulness of the list is that the list uses the acronym “EAD” without defining it as an Employment Authorization Document (more commonly called a “work permit”). After checking Yes on the form, the next question asks the Person to describe the type of immigration document they have, along with the identification number on the document. However, there is no list of documents provided for reference, as there is on the online application.

- **Recommendation: We support phrasing the immigration status question by asking the applicant if they have an eligible immigration status, and providing a reference list of eligible statuses to aid in answering the question, however we recommend the check box follow the instruction to refer to the reference list, rather than precede it.**
- **Recommendation: In the list of eligible immigration statuses on page 8, define the acronym “EAD.”**
- **Recommendation: Provide a list of documents verifying eligible immigration status as a reference to help the applicant accurately name their immigration document in the blank provided on the form for this purpose.**

The last group of questions on the first page of the personal information questionnaire is the collection of data on race and ethnicity. We support collecting race and ethnicity demographic data of all applicants. This data is critical for enforcement of Title VI of the Civil Rights Act, ACA §1557, and other civil rights protections. However, some consumers wonder if the question may be asked for the opposite purpose, as a way of discriminating based on race, color, or national origin. It is helpful that the question is clearly labeled as one which need not be answered, though the term “optional” will not be easily understood. It would further promote collection of the data if the question were accompanied by an explanation for why the data is being sought, providing assurance that the data will not be used to discriminate.

- **Recommendation: In collecting data on race and ethnicity, accompany the question with an explanation for why the data is being gathered, such as the following:**

We ask for your race and ethnicity so that we can review application information to make sure that everyone gets the same access to health care. This information is confidential and it will not be used to decide what health program you are eligible for. You do not have to provide your race and ethnicity to complete the application.

At the end of page 2, is the instruction, “Now, tell us who else needs insurance.” This is misleading, as there may be ineligible family members who nonetheless “need” insurance.

- **Recommendation:** Substitute “is applying” for “needs” in the instruction, “Now tell us who else ~~needs~~ *is applying* for insurance.”

#### **Pages 3-4. STEP 2: TELL US ABOUT ANYONE WHO NEEDS INSURANCE.**

As with the instruction on the preceding page, this title on page 3 is misleading as there may be ineligible non-applicants in the family who nonetheless need insurance. Pages 3 and 4 provide no protections for non-applicants that are required under the regulations. Thus it is crucial to accurately describe who these pages are soliciting information about and to specify that only those applying should provide personal information.

- **Recommendation:** In the heading to Step 2, substitute “is applying” for “needs” in the instruction, “Tell us about anyone who ~~needs~~ *is applying* for insurance.”

For everyone who is applying for insurance, the form has a blank for filling in the Social Security number (SSN). The form fails to communicate that the SSN is required only if the applicant has one. Some lawfully present immigrants are not eligible for a regular SSN, but regulations require the Social Security Administration to issue a non-working SSN if the immigrant needs the SSN to obtain benefits such as health insurance. Immigrants may need assistance in obtaining the non-work SSN as many SSA staff are unaware of this policy. The application also fails to offer assistance in obtaining an SSN to anyone who needs one, as is required by regulations.

- **Recommendation:** In accordance with regulations, we recommend that the Social Security number question asked of applicants clearly and prominently state that the SSN is required *only if the person has one*.
- **Recommendation:** Provide an offer of assistance in obtaining a SSN, as required by regulations, on the same line in the application that requests the SSN.

The next question asks if the applicant is a citizen, national, or eligible immigrant. As with the question on page 2 for the application filer, we appreciate this basic design for soliciting a declaration of immigration status, with the checkbox placed more logically. We also reiterate our suggestions for improving the reference source on page 8, by defining the acronym “EAD” and providing a list of documents as a reference.

- **Recommendation:** We support the design of the immigration status question and recommend the check box follow the instruction to refer to the reference list, rather than precede it.

The final questions collect data on race and ethnicity, which we strongly support with the addition of an explanation for how the data will be used, to encourage provision of the information which is voluntary. However, we are dismayed that the form does not collect

primary language data of all family/household members, not merely of the application filer (household contact). The advent of health reform provides a historic opportunity to comprehensively collect important demographic data collection through the single, streamlined application. We urge CMS to use this opportunity to ensure comprehensive language data collection for the same reasons we support comprehensive race and ethnicity data collection. Please see our detailed discussion of this important recommendation in comments on the individual online questionnaire and the paper application for insurance affordability programs.

- **Recommendation: In collecting data on race and ethnicity, accompany the question with an explanation for why the data is being gathered, per sample language previously presented.**
- **Recommendation: Add a question asking for the preferred language of every applicant. In the current design, add this question adjacent to the request for race and ethnicity on pages 3 and 4, for Persons 1-5.**

**Page 6. Step 4: Please read and sign this application**

At the beginning of the last page of the application are bulleted statements of understanding and/or agreement, to which application filers assent by signing the application form. The second bulleted statement is a privacy statement coupled with a promise to report a change of circumstances. The promise to report changed circumstances is misplaced as part of the statement of privacy protections.

- **Recommendation: Amend Page 6, by separating the two sentences of the second bulleted statement into two bulleted statements, one providing information on the right to privacy, and the second seeking the application filer's agreement to report a change of circumstances.**

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**SMALL BUSINESS HEALTH OPTIONS PROGRAM (SHOP)**  
**ONLINE EMPLOYEE QUESTIONNAIRE**  
CMS-10438, Appendix A

Many immigrants are small business owners and are employed by small businesses. Many of these individuals are limited-English proficient (LEP), and live in mixed-status families that include eligible and ineligible household members. The SHOP presents an opportunity for these immigrant workers and entrepreneurs and their families to obtain affordable coverage. Collection of Social Security numbers (SSNs) by any public or private entity is known to discourage participation by immigrant families in that entity's programs and activities. Therefore, the collection and disclosure of SSNs and other tax identification numbers (ITINS) should be carefully limited to uses that are strictly necessary for administration and specifically authorized by law. CCF offers the following comments and recommendations

to HHS in hope that the SHOP employee applications will facilitate access to coverage for immigrant families within the requirements of the ACA.

## **I. Privacy information**

The questionnaire begins with a Privacy statement and a request to set up a My Account function, both in Section I. We appreciate that the Privacy statement precedes the My Account questions, providing confidentiality guarantees first which helps to encourage immigrant employees to begin completing the application. The privacy statement is not included so it is not available for review; we hope to have an opportunity to review and comment on it in the future before the applications are finalized. We would like HHS to consider for the SHOP online application, our comments and recommendations for improving the privacy communications and providing more context to applicants on the My Account function, that CCF is submitting on the individual applications (paper and online).

- **We support placement of the privacy and confidentiality assurances at the beginning, before the My Account function.**
- **Recommendations: Improve the privacy assurances and the contextual explanations for the My Account function, as we recommended for the individual online and paper applications, above.**

We are concerned that there is no offer of assistance in completing the application form. The new coverage world of the ACA is complicated and will likely draw many to apply who are unfamiliar with health insurance, especially employees of small businesses. In addition, many small business employees will be limited English proficient as small businesses are frequently owned by immigrants. Assistance for applicants will be available through navigators, certified application counselors, and call centers. Information accompanying the application should let employees know how they can get personalized assistance, including the availability of language services. Additionally, HHS should require states to comply with requirements to provide application assistance in a culturally competent manner that effectively communicates to immigrants about what information is and is not required and ensures a welcoming environment.

- **Recommendation: Offer free assistance in completing the application, in a culturally competent manner that effectively communicates to immigrants about what information is required, and that includes assistance in non-English languages.**

We appreciate that the online SHOP employee application, in requesting Social Security numbers (SSNs) also asks for tax identification numbers (ITINs) in the alternative, as is required by the ACA. However, the request for an SSN or ITIN in the My Account screen seems unnecessary and it threatens to discourage many employees from proceeding with the application. The SSN or ITIN are requested in the next section (“II. Verify eligibility”) and there is no apparent reason to ask for them two times. If there is a reason, it should be explained. We appreciate that the SSN or ITIN is labeled as “optional” but this word is not



understood by many. There should be a message, as required by law, that clarifies under what circumstances and for whom the SSN or ITIN may be voluntary or required, how the SSN or ITIN will be used and that it will not be used for immigration enforcement. Please see comments on SSN requests in our comments on the individual applications, and the sample SSN messages to consumers suggested in those recommendations.

- **We support asking for tax ID numbers as an alternative to Social Security numbers.**
- **Recommendation: Delete the request for SSN or ITIN in the My Account screen.**
- **Alternative Recommendation: In asking for SSN or ITIN, avoid use of the word “optional” and explain that the number is not required, how it will be used if provided, and that it will not be used for immigration enforcement.**

### **III. Information about you, the employee**

We appreciate that data on preferred language is collected for the employee. See our comments on the individual applications, Section VII.D. (Ethnicity and Race) of the online application (CMS-10440, Appendix A), and on Step 2 of the paper application for insurance affordability programs (CMS-10440, Appendix C), for information about the extreme importance and potential impact of collecting this data. In addition, we appreciate collection of data on race and ethnicity, and as with the individual applications. We reiterate previous recommendations that a message accompany this question that explains to the applicant the importance of collecting the data and how it will and will not be used, and the suggested language for that message.

- **We support collection of data on race, ethnicity, and preferred language of the employee.**
- **Recommendation: Provide a help message explaining how the data will be used and that it will not be used to discriminate, as per the sample message suggested for use on the individual applications, CMS-10440.**

### **IV. Dependents**

For SHOP employees, it is important before asking questions about dependents, to communicate that information on dependents will not be shared with the employer, beyond what is allowed by the regulation, name and date of birth. We are concerned that the request for SSN or ITIN of a dependent is not accompanied by a communication that this is required only if available. In addition, by law, other consumer messages must accompany the SSN inquiry, as detailed in previous comments. We greatly appreciate the collection of race and ethnicity data on all dependents and especially the collection of language data, lacking in other draft application forms for members of an applicant’s family or household. Please see earlier comments on the importance of collecting this data.

- **We support collection of race, ethnicity and language data of dependents.**
- **Recommendation: Provide a help message explaining how race and ethnicity data will be used.**
- **Recommendation: Provide help messages with the SSN inquiry explaining that SSNs are required and how they will be used and that they are not used or immigration enforcement, per sample messages suggested for use on the individual applications, CMS-10440.**

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**SMALL BUSINESS HEALTH OPTIONS PROGRAM (SHOP)**  
**INSURANCE APPLICATION FOR EMPLOYEES**

CMS-10438, Appendix B

Below are brief comments and recommendations that we urge HHS to consider when improving the SHOP paper application for immigrant and LEP employees, based on the same rationales that have been discussed for the four preceding applications and questionnaires.

**Cover page: “Things to Know”**

We strongly encourage that the cover sheet, in the “Get Help” section or in the Footer, include taglines in multiple languages or a language portal that directs limited English proficient individuals to translated versions of the application and how to access assistance completing the application (e.g. call center phone number or local assisters, navigators, or certified application counselors who can provide in-language assistance).

- **Recommendation: Include on the cover sheet either the following statement in at least 15 languages or a language portal that directs LEP individuals to a webpage for information on how to obtain further assistance.**

If you do not speak English, we will get an interpreter to help you for no cost to you. Please call (XXX) XXX-XXXX .

It is also important for HHS to translate the application into multiple languages. This will assist applicants as well as applicant filers, navigators, and others who will provide application assistance to LEP individuals.

**Step 1. Information about you, the employee**

We appreciate that the application, in requesting Social Security numbers (SSNs) also asks for tax identification numbers (ITINs) in the alternative, as is required by the ACA.

- **We support asking for tax ID numbers as an alternative to Social Security numbers.**

We appreciate that data on preferred language is collected for the employee. In addition, we appreciate collection of data on race and ethnicity, and strongly suggest that to encourage a response, a message accompany this question that explains to the applicant the importance of collecting the data and how it will and will not be used.

- **We support collection of data on race, ethnicity, and preferred language of the employee.**
- **Recommendation: Provide a help message explaining how the data will be used and that it will not be used to discriminate, as per the sample message suggested for use on the individual applications, CMS-10440.**