

May 6, 2013

SUBMITTED VIA ELECTRONIC TRANSMISSION

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Mail Stop C4-26-05  
7500 Security Boulevard  
Baltimore, MD 20144-1850

Attention: **CMS-9955-P**  
**Patient Protection and Affordable Care Act; Exchange Functions: Standards  
for Navigators and Non-Navigator Assistance Personnel**

Dear Sir/Madam:

As organizations that share a strong commitment to the health of our nation's children, we appreciate the opportunity to comment on the recently proposed rules relating to "Standards for Navigators and Non-Navigator Assistance Personnel." We applaud your efforts to ensure families learn about and enroll in the full range of health care coverage and affordability options under the Affordable Care Act (ACA). While issues that affect families also affect children, we have focused our comments on several issues within the proposed standards that will have a direct or greater impact on children. In general, we believe it is vitally important that navigators and other assisters are fully trained in the unique coverage needs of children. Since children's health care and coverage needs differ significantly from those of adults, we encourage CMS to include a mandatory module on pediatric health coverage in the navigator training, as well as specific questions to evaluate a trainee's understanding of pediatric coverage needs in certification examinations. Specifically, the training and examinations should ensure that consumer assistance personnel (1) understand and are able to explain how the differences in health plans and provider networks will impact children; and (2) have a thorough knowledge of the unique role of Medicaid and the Children's Health Insurance Program for children's coverage, including the different eligibility pathways for various pediatric populations.

More specifically, we urge CMS to:

- 1. Ensure that navigator and assister training includes a thorough understanding of the implications of pediatric dental benefits accessed through stand-alone dental plans.** §155.215(b)(2)(i) describes the type of qualified health plan (QHP) information to be included in federal navigator and assister training. From a children's perspective, it is critically important that navigators and other assisters understand how pediatric dental benefits will be administered in the federally facilitated exchange (FFE). While oral health services are expressly required as part of the essential health benefit package for children, the flexibility of the law allowing QHPs to forego providing dental services if such benefits are available through a stand-alone dental plan and the lack thus far of an effective way to aggregate or coordinate cost-sharing limitations (premiums and co-payments) poses concerns for families. It is vitally important that HHS address these concerns to minimize

their impact on children's access to preventive and routine dental care. Regardless of any administrative remedies, it will be important that navigators and assisters fully understand the implications of pediatric dental benefits accessed through stand-alone dental plans.

- 2. *Ensure that training includes state-specific data on Medicaid and CHIP eligibility and enrollment rules and procedures and whether states have opted to cover lawfully residing children and pregnant women.*** Most uninsured children will be eligible for Medicaid or CHIP coverage, even when their parents qualify only for subsidized coverage through the exchange. §155.215(b)(2)(ii) addresses training on the range of insurance affordability programs while §155.215(b)(2)(iv) lists eligibility requirements for premium tax credits and cost-sharing reductions and §155.215(b)(2)(ii) covers eligibility and enrollment rules and procedures. Yet, it is not clear to what extent training will include state-specific content, such as Medicaid and CHIP eligibility levels or eligibility and enrollment requirements in states that will not be using the FFE to make Medicaid determinations. While we appreciate the challenges and time constraints in developing 34 versions of the training for each of the FFE states, it is very important that training include state-specific content so that navigators can fulfill their duty to maintain expertise in eligibility, enrollment, and program specifications for all of the insurance affordability programs and to assist with all coverage options. We note that Medicaid and CHIP eligibility levels and state verification requirements will be available to HHS through the Centers for Medicaid and CHIP Services. These resources should be used to provide state-by-state details on eligibility levels and procedures that should be included in navigator resource materials and linked in the web-based training. Additionally, these materials should specify the states that have adopted the option to cover lawfully-residing immigrant children and pregnant women in Medicaid and CHIP. Special attention should also be given to continued Medicaid eligibility to age 26 for youth in the foster care system on their 18th birthday and eligible for Medicaid.
- 3. *Ensure that navigators are well equipped to deal with special concerns facing immigrant and mixed-status families in a manner that is culturally sensitive and linguistically appropriate.*** By definition, certain members of mixed-status families will not be eligible for the Exchange, Medicaid, or CHIP. This fact raises several issues of concern: 1) privacy and security in regard to personal information such as Social Security numbers or lack thereof; 2) applicability of the individual responsibility for minimum essential coverage exemption for people who do not qualify for ACA-related coverage; and 3) availability of and access to safety net programs and health services. Research has shown that when some (often one or more parents) in the family cannot access health care, then others (such as children) in the family are less likely to use medical coverage or services for which they may be eligible. It is vital that navigators be able to provide immigrant families with reassurances about what information is needed and how it will be used, clarify who is subject to the individual mandate, and connect uninsured family members to coverage and care. These families will rely heavily on the knowledge of navigators and other assisters about additional sources of care when they are not eligible for coverage in the Exchange, Medicaid, or CHIP. If navigators fail to provide culturally-

sensitive and linguistically appropriate assistance to the uninsured, an important opportunity to improve the health and well-being of vulnerable, hard-to-reach families will be lost.

4. ***Ensure that navigators and other type of assisters understand the service, coverage and affordability needs of children with complex and chronic conditions.*** Navigators will need to be trained in a variety of special, state-specific situations in order to serve families of children with special health care needs in an effective manner. Children with special health care needs, including those with disabilities and chronic and complex medical conditions, often need specialized medical and therapeutic services for which coverage and provider networks may differ among QHPs. Furthermore, some of these children may need to receive certain Medicaid services through special Medicaid pathways – such as state options or waivers. Finally, in some cases, Medicaid serves as a secondary payer to private insurance, when the private insurance does not cover necessary services. Under the IRS proposed rule, “Shared Responsibility Payment for Not Maintaining Minimum Essential Coverage,” this coverage scenario would have implications for a child’s eligibility for advanced premium tax credits. Therefore, Navigators and other assisters will need to be knowledgeable about the differences among QHPs in coverage and provider networks, the state’s Medicaid eligibility pathways for children, and how Medicaid interacts with the premium tax credits.

As a community committed to advancing children’s health coverage, we know that when parents are covered, children are more likely to receive the important preventive and routine health care they need to stay healthy. Emerging research clearly indicates that a majority of people who stand to gain coverage want consumer assistance.<sup>1</sup> To this extent, we are concerned that resources for navigators where a federally-facilitated exchange will operate are inadequate to meet consumer demand. There are several steps HHS can take to better support and strengthen the availability of assistance:

- 1) ***Allow section 1311 funds to be used to provide consumer assistance in full FFE states.*** HHS is allowing the use of 1311 exchange establishment grants for specific state activities that support the FFE, including plan management and outreach and education. These funds should be extended to consumer assistance.
- 2) ***Clarify how private support can leverage federal Medicaid matching funds to provide enrollment assistance.*** HHS has indicated that state navigator funds can be eligible for Medicaid match. And recently, the California Endowment pledged millions of dollars to support Medicaid enrollment and retention that will leverage federal Medicaid match. It would be helpful for HHS to clearly articulate the circumstances and process for private funds to qualify for federal the Medicaid match.

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<sup>1</sup> Enroll America (2013). Research and Message Findings. Available at <http://www.enrollamerica.org/best-practices-institute/webinar-archives/enroll-americas-research-and-message-findings>; Robert Wood Johnson Foundation (2012). Preparing for 2014: Findings from Research with Lower-Income Adults in Three States. Available at <http://www.rwjf.org/en/research-publications/find-rwjf-research/2012/06/preparing-for-2014.html>

- 3) Establish a dedicated unit and helpline in the FFE to support navigators and assisters.** Seasoned eligibility, enrollment and system experts are needed to adequately support the work of navigators and assisters who uncover more complex issues and barriers to coverage, or who are helping a consumer resolve an eligibility problem.
- 4) Establish a web portal with enhanced functionality for navigators and assisters.** An enhanced portal would allow assisters to check the status of applications and enrollment and provide other functionality, such as reporting the birth of a child or other changes in circumstances or checking the status of needed verifications.
- 5) Provide key resources needed by navigators through the FFE so that limited navigator grants can be dedicated to direct consumer assistance.** Specifically, the FFE should pool its purchasing power for language translation services and key assistive technologies so that navigators can dedicate their limited dollars to more direct services.
- 6) Finalize federal rules allowing for certified application counselors.** Community health centers and other health care providers have long provided assistance to children and families in applying for Medicaid and CHIP. A certified application counselor program will ensure that additional boots-on-the-ground resources are available to supplement navigator activities.

Finally, our organizations agree with HHS that entities that serve as Navigators, non-navigators and certified application counselors should be free of conflicts of interest that would compromise their ability to provide clear and unbiased guidance to families. To the extent that Center for Consumer Information and Insurance Oversight (CCIIO) extends the conflict of interest standards to certified application counselors (CACs), we note that the requirement at §155.215(a)(1)(iv)(B) and §155.215(a)(2)(v)(B) for disclosure of all employees and employee spouse/domestic partner current or prior employment relationships with health or stop loss issuers or their subsidiaries could be burdensome for large organizations such as large health systems. We suggest that HHS take this into consideration in finalizing the conflict of interest standards for CACs.

Thank you for your consideration of our comments.

Sincerely,

American Academy of Pediatrics  
Children's Defense Fund  
Children's Dental Health Project  
Children's Hospital Association  
Family Voices  
First Focus  
Georgetown University Center for Children and Families  
March of Dimes  
Voices for America's Children