Georgetown University
Health Policy Institute
CENTER FOR CHILDREN
AND FAMILIES

July 17, 2014

VIA ELECTRONIC SUBMISSION (marketreform@cms.hhs.gov)

Mandy Cohen, Acting Director
Center for Consumer Information and Insurance Oversight
Centers for Medicare & Medicaid Services
Department of Health and Human Services

Re: Draft Standard Notices When Discontinuing or Renewing a Product in the Small or Individual Market

Dear Ms. Cohen:

Thank you for the opportunity to comment on the "Draft Standard Notices When Discontinuing or Renewing a Product in the Small or Individual Market" (hereinafter referred to as "draft issuer standard notices").

The Center for Children and Families is based at Georgetown University's Health Policy Institute with the mission of improving access to health care coverage among the nation's low- and moderate-income children and families. As such, we have a long history of conducting analysis, research and advocacy on issues relating to enrollment in all insurance affordability programs, including Medicaid and CHIP, as well as qualified health plans.

Of the 8 million individuals who gained coverage through the new health insurance marketplaces, an overwhelming 85 percent received financial assistance. Continued access to the appropriate amount of premium tax credits (PTC) and cost-sharing reductions (CSR) is critical to the affordability of coverage and the health and economic security of low- and moderate-income children, families and individuals. How the marketplace re-determines eligibility for PTC and CSR and renews coverage will have a significant impact on maintaining the gains our country has made in providing access to affordable health insurance.

The marketplace and issuer notices are the primary communication vehicles for ensuring that all enrollees clearly understand any and all steps they need to take to maintain their coverage and continue to receive the financial assistance. Coordination between issuer and marketplace notices is of equal importance, in addition to the redetermination and renewal process (we will comment on the proposed rule and guidance put forth separately).

Given the short time frame for providing comments, we are offering limited specific recommendations on the wording of only the draft issuer standard notices that apply to marketplace plan renewal or discontinuation. First, we raise overarching issues regarding the content of the notices, and point out areas of concerns about the process.

1. **Coordinate the timing and content of the marketplace and issuer notices.** How the marketplace re-determines financial assistance eligibility and renews coverage as well as the substance of marketplace notices, significantly influences the content and timing of issuer notices. We strongly urge HHS to release drafts of the marketplace notices for comments, and to delay finalizing the issuer notices until the process and marketplace notices can be better coordinated.

2. **Start renewal notices for a marketplace QHP with an emphatic message that directs enrollees to return to the marketplace to update their information.** The draft renewal notice (attachment 2) inappropriately places the emphasis on doing nothing rather than clearly explaining that it is important for enrollees to verify the most current information and report any changes in order to have financial assistance appropriately assessed for the coming year. If enrollees heed the inherent message that no action is required, they may either receive a lower premium credit and cost-sharing reduction or face a payback of excess tax credits. As HHS notes most people would receive a lower advance payment based on their 2014 eligibility determination and may struggle to pay larger premiums, or miss out on additional cost-sharing reductions. Furthermore, since the first tax reconciliation has yet to happen, there is no experience to confirm the accuracy of 2014 premium tax credits.

3. **Clarify language about enrollees keeping their current coverage.** Unless an enrollee is being renewed in the same QHP, or a comparable QHP at the same metal level within the same product line as the enrollee's current QHP, it is misleading to state that they are able to keep their existing coverage. As proposed in the rules and guidance, enrollees could be auto-enrolled in a metal level higher or lower than their current plan, which would be a substantial change to the current coverage, not to mention their premium share and CSR. In commenting on the notice of proposed rulemaking (NPRM), we will strongly recommend that no enrollee who qualifies for cost-sharing reductions be automatically re-enrolled in anything other than a silver plan.

4. **Provide enrollees with clear details on any changes to their coverage.** Regardless of the extent of changes made to the current plan, the notice should very explicitly document specific details about changes to premium, deductibles, cost-sharing, benefits and networks to help consumers make informed choices.

5. **Create a separate issuer notice for specific circumstances.** Creating specific renewal notices for different circumstances is a far better way to provide clear, understandable information to enrollees. We recommend the creation of additional renewal notices as follows:

    a. **People who received PTCs but did not authorize the marketplace to recheck their tax information.** Enrollees receiving financial assistance but who did not authorize the marketplace to recheck their tax information will receive conflicting information from the issuer and the marketplace regarding their eligibility for financial assistance. It is imperative that the issuer and marketplace notice be coordinated and convey consistent messages to avoid confusing or misleading consumers. As the draft notice stands, it provides a false sense to people that they will continue to receive financial assistance and will put additional burden on sources of consumer assistance to help explain the discrepancy between the two notices.

b. **People who received PTCs but may qualify for a substantially lower or no PTC because their income has changed significantly or is close to or above eligibility levels.** Similar to the circumstance above, the issuer and marketplace notices will provide conflicting information. Under the best of circumstances, there should be separate notices for those who have borderline income and those who are above PTC eligibility in order to explain these unique circumstances and next steps.

c. **People not receiving financial assistance.** If enrollees are not receiving financial assistance, they should receive a letter that does not reflect current savings, however, they should be encouraged to contact the marketplace to see if they are eligible for lower premiums and/or cost-sharing.

d. **People whose marketplace coverage is being renewed outside the marketplace.** Based on the hierarchy in the proposed rule, some enrollees could have their plan renewed in a QHP outside the marketplace. While this may be a rare occurrence, enrollees need to understand the significance of this change. This is especially imperative for people receiving PTCs who will lose their financial assistance if enrolled in a QHP outside the marketplace. In our comments on the NPRM, we will strongly recommend against auto-enrolling anyone receiving a PTC and/or CSR in a non-marketplace plan where this financial assistance would be unavailable.

We also offer these specific comments on the two notices that impact marketplace renewals and discontinuation:

Attachment 2 – Renewal notice for the individual market where coverage is being renewed in a QHP covered through the marketplace.

- Change header box to read – " Important: Steps to Keep Your Health Insurance in 2015." As noted above, all enrollees should be encouraged to visit Healthcare.gov to verify their current information and to ensure that they receive the appropriate amount of PTCs and CSRs. A lead message that suggests no action is needed may impact whether the enrollee reads and reacts to the remainder of the notice.

- In the first paragraph, the second sentence should be replaced with "Unless you take action by [date], you will be automatically re-enrolled and will keep your current coverage. However, you and your family have the option to change plans. You should verify your information on file at Healthcare.gov to ensure that you and your family are receiving the right amount of financial assistance to lower your premiums and cost-sharing."

- The notice should include specific information on the enrollee's cost-sharing reductions or should direct them to where such specific information can be found.

- Changes that are being made to the current health plan should include changes to the provider network and indicate how the enrollee can confirm if his/her providers are covered.

Attachment 4: Discontinuation notice for the individual where coverage being discontinued was in a QHP offered through the marketplace.

- This notice is contradictory. It states that you must choose a new plan but then says that we'll automatically enroll you in [Plan Name and Plan ID]. We recommend adding similar language to the renewal notice such as "Unless you take action by [date], you will be enrolled into [new plan] on [date]. However, you and your family have the option to change plans. You should verify your information on file at Healthcare.gov to ensure that you and your family are receiving the right amount of financial assistance to lower your premiums and cost-sharing," with an encouraging message to visit the marketplace.

- Deductibles and cost-sharing should be clearly noted with information that is specific to the individual's eligibility. If the auto-enroll plan is NOT a silver plan, specific language should point out that to receive cost-sharing reductions, the enrollee must select a new plan by visiting Healthcare.gov or contacting a navigator or assister. The language currently in the notice is vague and not specific to whether the actual discontinued plan was a silver-level plan and the enrollee was receiving CSR.

- Changes to the provider network should be noted with information on how to check if the enrollee's providers are included in the new network.

- It is common for there to be multiple discontinuation notices before any type of insurance is cancelled. We recommend that a second notice be sent to enrollees who take no action at least two weeks in advance of the auto-enrollment date.

We hope these comments are helpful in preparing for the first round of financial assistance eligibility re-determinations and QHP renewals. We look forward to commenting on the proposed process and marketplace notices in the near future, and continuing to work with you to advance coverage for low- and moderate-income children, families and individuals in 2015 and beyond. If you have questions about our comments, please contact Tricia Brooks at pab62@georgetown.edu.

Respectfully submitted,

Georgetown University Center for Children and Families