

Washington Health Benefit Exchange Comments: Proposed Federal Rule – Patient Protection and Affordable Care Act; Market Stabilization

The Washington State Health Benefit Exchange (WAHBE) is submitting comments about the proposed Market Stabilization rule, published by the United States Department of Health and Human Services (HHS) on February 17, 2017.

WAHBE appreciates the overall intent of the proposed rule, and its goal of increasing the stability of the individual and small group markets. A stable, well regulated market is essential to encouraging carriers' ongoing participation and providing maximum consumer choice. While WAHBE recognizes that some of the provisions of the proposed rule will have a stabilizing effect in the near term, we caution that, cumulatively, the rule's provisions will likely decrease enrollment, potentially leading to market destabilization over the longer term. In addition, if tax credits and cost-sharing reductions are eliminated or significantly reduced, the individual market is likely to quickly destabilize, regardless of other market safeguards that may be implemented.

Additionally, a general tightening of restrictions on enrollment will likely increase the number of uninsured individuals. WAHBE is concerned that multiple changes could cause consumers increased confusion and trepidation, leading to a decrease in enrollments.

WAHBE appreciates the opportunity to comment on the impacts of the proposed rules on states and state-based marketplaces (SBMs). WAHBE strongly supports rules that maintain state flexibility to do what is best for their specific markets, carriers, and consumers. WAHBE strongly encourages recognition of the operational and financial challenges that SBMs will face in complying with the proposed regulation changes, including the need for significant system changes and increased resources necessary to provide consumer support.

Guaranteed Availability (45 CFR 147.40)

WAHBE supports efforts to promote continuous coverage and timely payments, but also urges caution in changes to guaranteed availability rules. WAHBE urges HHS to require any changes made in this area to apply consistently across carriers to level the playing field and increase administrative simplification for WAHBE and carrier reconciliation.

WAHBE recognizes that these changes are likely to cause consumer confusion and related customer services challenges for exchanges and carriers, which will be exacerbated during the proposed shortened open enrollment period.

Annual Open Enrollment Period (45 CFR 155.410(e))

WAHBE cautions against making changes to the open enrollment period for plan year 2018. WAHBE is concerned that changing the open enrollment period for 2018 coverage could cause confusion and result in consumers not having enough time to understand and react to the new timeline. This will almost certainly result in a decrease in enrollment.

WAHBE encourages maintaining an open enrollment period that is longer than six weeks in length. For plan year 2019 and beyond, WAHBE encourages HHS to adopt an open enrollment period of October 1 – December 15, with coverage effective January 1. This time period would provide approximately 10

weeks for consumers to renew coverage or become enrolled through an exchange. WAHBE supports an open enrollment period that concludes before the benefit year begins, but also provides adequate time for consumers, issuers, brokers, assisters, and exchanges to successfully perform enrollment and renewal-related activities.

Special Enrollment Periods (45 CFR 155.420)

WAHBE generally supports HHS's proposal to encourage market stabilization by limiting current enrollees' ability to change metal tiers when experiencing certain special enrollment events and limiting availability of the marriage special enrollment event to families in which at least one spouse had coverage in the 60 days preceding the marriage. WAHBE encourages HHS to make these changes optional for SBMs so that states may tailor their special enrollment policies to the needs of their populations. If these changes are required for SBMs, WAHBE strongly supports a delayed implementation timeline of 2019 or later, because significant system and operational changes will be required.

WAHBE appreciates the importance to market stability of conducting pre-enrollment verification of eligibility for special enrollment periods, and strongly supports HHS's proposal to make these processes optional for SBMs and to leave verification to the discretion of the states. If pre-enrollment verification were to be a requirement for SBMs, WAHBE would need adequate time to implement. Significant system and operational changes would be necessary. WAHBE also strongly recommends that, should SBMs conduct pre-enrollment verification, they be permitted the flexibility to provide enrollees with a delayed start date if SBM review causes a delay in a consumer's ability to access services.

Actuarial Value Variation for Metal Levels (45 CFR 156.40)

WAHBE is concerned about the negative consumer impact of the proposed decrease in the floor of the actuarial value (AV) de minimis ranges for plan metal tiers. Lowering the AV floor for each metal tier increases the amount that customers will pay for services at each metal level, which could exacerbate current barriers to consumers using their coverage. Lower AV plans could potentially result in lower premiums, but accessing coverage would become more expensive, causing greater affordability issues. WAHBE also notes that any premium reductions resulting from these proposed changes could be offset by lower tax credits caused by lowering the actuarial value of silver plans.

WAHBE supports the reference by HHS to providing cost-sharing reductions to enrollees with incomes between 250% and 400% FPL, as long as existing cost-sharing reductions are preserved.

Approaches to Incentivizing Continuous Coverage

WAHBE appreciates the importance of enrollees maintaining continuous coverage to the stability of the market. WAHBE supports HHS encouraging continuity of coverage through the mechanism currently in place, the individual mandate. The mandate will be in place for the fourth year in 2017 and has become integrated into consumers' understanding of their responsibility to participate in their own access to health care. The mandate contributes to stability in the marketplace. WAHBE is concerned that without a mandate, carriers will raise premium rates to offset consumers dropping in and out of coverage. WAHBE supports continuing to build on the foundation of the mandate, and believes this will provide greater clarity for consumers and stability to the market.