Washington State Health Care Authority Comments on Exchange Functions in the Individual Market: *Eligibility Determinations and Standards for Employers*

The Washington State Health Care Authority (HCA) is pleased to submit comments to the U.S. Department of Health and Human Services (HHS) on the proposed rules for eligibility determinations and standards for employers in an Exchange's Individual Market.

The HCA is currently responsible for developing the Washington State Health Benefit Exchange. The responsibility for the exchange is passed to the Washington State Exchange Board on March 15, 2012.

II. Provisions of the Proposed Regulation

A. Part 155 – Exchange Establishment Standards and Other Related Standards under the Affordable Care Act

1. Subpart D – Exchange Functions in the Individual Market: Eligibility Determinations and Standards for Employers

These proposed rules help clarify how to align the determination and verification of eligibility and enrollment in insurance affordability programs through the Affordable Care Act (ACA). HHS, in these proposed rules, interprets the ACA to provide for the establishment of a system of streamlined and coordinated eligibility and enrollment processes for insurance affordability programs.

b. Eligibility standards (subsection 155.305)

The HCA also believes that a uniform definition of residency can be applied to a great number of households. The HCA also believes that the rules should continue to retain options for those times when all of the household members do not reside in the same rating area. We agree that a family member who resides in a different rating area should have the option to enroll in a qualified health plan (QHP) in the rating area where the rest of the household resides. Also, the Exchange needs the option to enroll that family member in a QHP from his or her rating area and remain a member of the household that resides and receives coverage from a different rating area.

The rules also propose that a taxpayer can receive a premium tax credit that is less than the full amount calculated for that household. HHS should retain that option in the final rule: opting to receive a lower federal subsidy gives that taxpayer one more tool to accurately manage his or her year-end tax liability.

HHS should continue to propose rules that assist the management of household accounts in the Exchange. To that end, states need the option to establish standards for the collection of income changes throughout the year. The Washington State Basic Health Plan, for example, requires families to report changes in income within 30 days. The Exchange should have the option to establish uniform reporting expectations with enrolled households. The Exchange will also need the latitude to adopt new uniform expectations. By adjusting reporting expectations when necessary, the Exchange will

help households receive appropriate premium tax credits and cost-sharing reductions while retaining enrollment and avoiding large year-end tax repayments.

e. Verification process related to eligibility for insurance affordability programs (subsection 155.320)

The proposed rule promotes a seamless process of eligibility and enrollment for insurance affordability programs. The Washington State Exchange continues to develop its business functions and would like to retain the option to require the verification of both annual and current income. Such a requirement, imposed at the state level, could assist the Exchange and the State Medicaid agency to seamlessly determine eligibility and offer enrollment for QHP coverage.

f. Eligibility redetermination during a benefit year (subsection 155.320)

The Washington State Exchange is currently developing its information technology system and would like to retain the option to use periodic data-matching processes for redetermination. Data matching can be a useful tool in assisting a household and the Exchange in the management of eligibility, enrollment, and federal subsidy amounts. The Washington State Basic Health Plan, for example, currently uses a regular process to match family income amounts against data collected and stored by a separate state agency.

g. Annual eligibility redetermination (subsection 155.335)

This section directs an Exchange to redetermine an enrollee's eligibility in a QHP consistent with Subsection 1411 of the ACA. An enrollee will need to review his or her redetermination information and the rule should establish a time limit for households to respond to the Exchange. The HCA also believes that 30 days is the best initial time limit.

The rule also directs the Exchange to verify income and other household information. An enrollee will likely prefer that his or her redetermination is based upon current income information. For that reason, the Exchange will need to consider performing the annual process soon after tax season has ended.

Redetermining household income will likely be the most time-consuming task of the annual process. Transferring MAGI-based income data electronically from a federal agency to the Exchange will likely be an efficient start to the process. In Washington State, however, the process of measuring income has never retained itself to simple and predictable situations. The HCA believes that the Exchange and federal agencies will need to work together to review inconsistencies, respond to questions, and verify household income. Ensuring customer service will be challenging, and the Exchange might need to consider how to perform redeterminations for different segments of the population at different times throughout the year.

Regardless of the process used, the Exchange and federal agencies will need to support annual redeterminations with appropriate resources. Also, close coordination between

the Exchange and federal agencies will be necessary to successfully perform such a large annual process.

Essential Health Benefits

The HCA is taking this opportunity to also submit comments about the essential health benefits, which represent a crucial transformation for the private health insurance system. The HCA appreciates the time and expertise committed by HHS toward the development of the process and the ultimate decision.

The Institute of Medicine has recommended a thoroughly researched and thoughtfully justified timeline for developing the essential health benefits. However, the HCA strongly discourages HHS from delaying the final benefits decision until late spring of 2012. This would deal a heavy blow to the planning and development of the Exchange, the possible federal Basic Health program, and the Medicaid expansion.

The negative drawback stems from delaying the assessment of the potential services and budgetary impacts of the benefits. The potential services and budgetary impacts of the benefits go hand-in-hand with the development of the Exchange. A decision in the spring serves to immobilize any direction or guidance about implementing the benefits that could be obtained through Washington State's 2012 Legislative session. Further, because final rules will not likely be released until the fall 2012, it may inhibit our ability to prepare for the 2013 legislative session by having robust conversations with different stakeholder groups, including plans and consumer groups.

Washington State has even more immediate reasons to be keenly interested in the definition of the essential health benefits. The benefits package of our state's current Basic Health Plan has been modified to cover an adult expansion population through our Transitional Bridge Waiver. Many of these adults will be newly eligible for Medicaid in 2014. In the concept paper for the Transitional Bridge Waiver, submitted to CMS in January of 2010, the HCA offers to examine how the state's current Basic Health Plan benefits package could be modified to build a better bridge from Medicaid to the Exchange in 2014. The alignment of Medicaid programs with the essential health benefit design was then further directed by the Legislature and is a major component of the state's Health Innovation for Washington proposal submitted to the Center on Medicare and Medicaid Innovation (CMMI). Further conversation with CMMI and the MSTAT team has been postponed pending final regulatory guidance on the essential health benefits.

The decision on essential health benefits will have significant policy, fiscal, and operational impacts on our Medicaid program and expansion planning process, especially as it relates to building seamless coverage for individuals who transfer from Medicaid to the Exchange.

In recognition of the concerns expressed above, the HCA strongly believes that a substantive decision on the essential health benefits is necessary by January 2012.

The HCA is available and looks forward to responding to any questions about these comments. You may contact Ms. Molly Voris at 360.923.2740 or molly.voris@hca.wa.gov.