

Washington Health Benefit Exchange Comments: Proposed Federal Rule – Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond

The Washington State Health Benefit Exchange (WAHBE) is submitting comments about the proposed rule on Exchange and Insurance Market Standards for 2015 and Beyond published by the United States Department of Health and Human Services on March 21, 2014.

Exemptions from Individual Mandate

The rule proposes that HHS will no longer grant individual exemptions from the shared responsibility payment on behalf of state-based exchanges for applications submitted starting November 15, 2014. After that date, processing and granting exemptions will be the responsibility of an exchange.

WAHBE is urging HHS to continue to process and grant the exemptions. WAHBE does not currently have the administrative capacity to perform the exemptions and developing that capacity would displace the development of vital functionality in support of consumer enrollment and renewals that have been prioritized and are currently underway. Processing and granting the exemptions would also pull scarce resources away from customer service activities that either enroll consumers or help retain their coverage by managing their accounts.

Washington State will ultimately fund WAHBE's operating budget. Performing the exemptions adds a significant and potentially expensive administrative activity to an operating budget that must be sustainable beginning 2015. WAHBE would like to further urge HHS to consider if designating this specific activity to states may bypass the potential to leverage economies of scale at the federal level.

Verifying minimum essential coverage in employer-sponsored coverage

The rule proposes that HHS will no longer verify enrollment in employer-sponsored coverage in the process of an exchange determining eligibility for a federal premium tax credit. Similar to the previous proposal to no longer grant individual exemptions, WAHBE would need to develop the functionality and administrative capacity to verify employer-sponsored coverage, which will displace the development of vital functionality and add costs to our sustainable operating budget. **WAHBE urges HHS to continue to perform the verification process and examine if retaining the service at the federal level takes advantage of economies of scale.**

Employer Selection Time Period for SHOP

Employer selection of 2015 group plans is proposed to begin no earlier than November 15, 2014. January 1 has become the prominent anniversary date for small employers in Washington State and waiting until November 15 to begin the SHOP enrollment process will not allow Washington State small businesses enough time to elect January coverage. WAHBE will likely lose potential enrollment if SHOP cannot offer initial enrollment or renewals with coverage effective in January. **WAHBE is proposing that state-based exchanges be permitted to begin**

selection of employer group plans no earlier than October 1, 2014. WAHBE also urges that HHS retain regulations that allow for flexibility in performing open enrollment for small businesses.

Eligibility Redetermination

An exchange must notify enrollees about open enrollment and currently an exchange must send that letter September 1—30. The rule proposes to change that time period to either:

- October 1—October 31, 2014, or
- October 1—November 15, 2014

WAHBE appreciates the additional flexibility provided by either time period in the proposed rule and **would request that HHS adopt the longer time period, October 1—November 15, 2014**, because it provides the most time, should we need it, to establish an effective operational timeline for 2014.

Navigators, Non-navigators, and Certified Application Counselors

The rule proposes the establishment of an expanded notification of functions and responsibilities by navigators, non-navigators, and certified application counselors when they receive authorization to assist consumers. WAHBE provides a current, more limited, notification on behalf of navigators, non-navigators, and certified application counselors and stores the completed authorization within our Healthplanfinder information system. **We would urge that any standards established by HHS permit WAHBE to use the same electronic functionality for providing and storing the expanded notification and authorization.**

Fraud

The rule proposes that HHS may impose civil money penalties on any person for “knowing or willful provision of false or fraudulent information” or “negligence or disregard of any rules.” An exchange needs protection from fraudulent behavior and **WAHBE concurs with the definitions proposed in the rule and supports imposing civil money penalties on those people who would perpetrate fraud against an exchange.**