Health Care Reform in Indian Country

Self-Governance Communication & Education

Self-Governance Tribes Striving Towards Excellence in Health Care

Marketplace Redetermination Process – How Will It Work?[1]

This document – *Marketplace Redetermination Process – How Will It Work?* – outlines the redetermination processes that are proposed for use in the Federally-facilitated Marketplace (FFM) and identifies options for redeterminations that may be used in the State-based Marketplaces (SBMs). A "redetermination" involves an assessment of an individual's eligibility for a subsequent year of health insurance coverage through a Marketplace, possibly including eligibility for advanced premium tax credits (APTCs) and cost-sharing reductions (CSRs), and includes the process for enrollment in a health plan for the 2015 coverage year.

The redetermination procedures are designed to enable current enrollees in health insurance coverage through a Marketplace to retain coverage even if the enrollee does not respond to notices from the Marketplace to request re-enrollment. **Current enrollees, though, are encouraged to contact a Marketplace in order to: (1) provide updated information, if any; (2) authorize the Marketplace to access information from the Internal Revenue Service, if needed; (3) receive an updated determination of the type and amount of federal financial assistance available; and (4) review health plan options for 2015 and consider selecting a different health plan, if warranted, rather than be assigned to a health plan using the default procedures.**

Proposed Redetermination Processes

In July 2014, the Centers for Medicare and Medicaid Services (CMS) published "proposed rules" for the redetermination processes that will be used in the FFM and may be used in the SBMs.[2] (Each SBM will either adopt the redetermination process currently in regulations, adopt the proposed process to be used in the FFM, or design an alternative process.) These processes are to be used for the annual eligibility redetermination and re-enrollment processes, starting with the transition from the 2014 coverage year to the 2015 coverage year.

Tribal representatives made recommendations to modify the CMS proposed rules. In particular, tribal representatives asked that:

[1] For additional information, contact Doneg McDonough, TSGAC Technical Advisor, at d.mcdonough@yahoo.com.

[2] The proposed rules would modify existing regulations at 45 CFR §§ 155.330 and 155.335 in the Code of Federal Regulations. http://www.ecfr.gov/cgi-bin/text-idx?SID=ecc6087cb1c8074de62f0dff2f564a7d&node=45:1.0.1.2.70.4.27.8&rgn=div8.

1) Marketplace notices that are issued address relevant Indian-specific provisions,

2) Procedures used not disenroll an AI/AN from the Indian-specific "limited cost-sharing plan variation" whether an income determination was authorized or not, and

3) Any default plan assignment factor-in an AI/AN preference to remain in bronze-level coverage.

As of mid-August, CMS had not yet responded to the tribal recommendations nor issued "final rules". *Because the regulations are not finalized, and because SBMs have significant flexibility in their approach, the processes outlined below should be considered general guidance.* Additional information is expected from the FFM in the near future. Some SBMs have already started to issue redetermination / renewal notices.

Web links to related CMS and other documents are provided at the end of this document.

Reporting Changes to Marketplace

It is important to note that the redetermination procedures are built on the existing requirement that, throughout the year, enrollees are to report to the Marketplace within 30 days any changes that pertain to eligibility (*e.g.*, income, family size, residency, employment status, *etc*.)

- For the eligibility redetermination process, *any* change in projected annual income is to be reported.
- The FFM is eliminating the option for individuals to report changes via mail. Changes are to be reported online (at www.HealthCare.gov) or through a Call Center (at 1-800-318-2596).
    - SBMs will have the option of continuing to allow changes to be reported by mail.

Application Filer

The regulations indicate an "application filer" may submit information, and take other actions, on behalf of the qualified individual. An "application filer" is an applicant/enrollee, an adult who is in the applicant's/enrollee's household or family, an authorized representative of the applicant, or if the applicant is a minor or incapacitated, someone acting responsibly for the applicant.[3]

[3] 45 CFR § 155.335(e)(2)).

Inconsistencies in Information

Information provided to, or accessed by, a Marketplace is subject to the procedures for "inconsistencies" (under 45 CFR §155.315(f)). These procedures provide a period of 90 days for an applicant or enrollee to provide documentation for certain information not yet verified.

Termination of Coverage

If an enrollee remains eligible for coverage in a Qualified Health Plan (QHP) upon annual redetermination, the enrollee may review available plans and make a new plan selection. If the enrollee does not actively select a plan, "default" procedures are used. The default procedures provide that the enrollee will be re-enrolled in the QHP selected the previous year or will be enrolled in another plan using a sequence of assignment procedures issued by CMS. *To NOT be re-enrolled in a health plan, an enrollee needs to terminate coverage through a Marketplace.* **Enrollees should not assume coverage will be canceled at the end of the current plan year (December 31, 2014) if they do not actively re-enroll.**

Redetermination Procedures in the FFM

In the FFM, the following procedures are proposed for conducting redeterminations and re-enrolling individuals in a health plan for the 2015 coverage year:

- The FFM will send a **notice of the redetermination process** to current plan enrollees no later than November 15, 2014.
    - In the default procedures for SBMs, the notice is to be provided no earlier than September 1 and no later than September 30.
    - The notice of the redetermination process may be combined with the annual open enrollment period notice and provided as a single, coordinated notice.
- For an enrollee who authorized the Exchange to request updated tax information, the FFM will request updated income information from the IRS.
    - The enrollee will be sent one or more notices and informed that the Marketplace will establish 2015 eligibility that is identical to the enrollee's most recent eligibility determination for 2014, including the exact dollar amount of the APTC and category of CSR, except that –
        - Enrollees with income determined to be in excess of 500 percent of the federal poverty level (500% FPL) will be notified that coverage will be renewed but without the APTC or CSR.

- Notice(s) will explain that, **to obtain the most accurate eligibility determination from the Marketplace, including an APTC that may increase or decrease, the enrollee should contact the Marketplace and request a redetermination be conducted.**

- For an enrollee who did *not* authorize the Exchange to request updated tax return information, and on whose behalf the APTC or CSR are being provided in 2014, the FFM will send the enrollee one or more notices.

  - The notice will explain that, unless the individual contacts the Marketplace to obtain an updated eligibility determination, the Marketplace will renew the enrollee's coverage in a QHP for 2015 but the **APTC and CSR will end on December 31, 2014**.

    - *Tribal representatives provided comments to CMS indicating that AI/ANs with the Indian-specific "limited cost-sharing protections" are not required to have an income determination to secure these benefits and, as such, the "limited cost-sharing protections" for AI/ANs should not be canceled whether or not an authorization is provided for the Marketplace to access the enrollee's income from the IRS.* CMS has not yet responded.

  - Enrollees must select a QHP on or before December 15, 2014, to ensure the coverage selection is effective on January 1, 2015.

- Under the FFM approach, notices will be sent only to individuals who enrolled in coverage in 2014 (not all those previously determined eligible).

  - Under the default redetermination option in existing regulations, an SBM must send redetermination notices to all individuals previously determined eligible for enrollment in a QHP through the Marketplace for the 2014 plan year (whether or not the individuals enrolled in coverage through a Marketplace).

- The FFM will not send enrollee premium information. Premium information for 2015 will be provided on the Marketplace Web site (www.HealthCare.gov), and the health plan in which the individual enrolls or is enrolled by default will send premium information on the enrollee's plan.

- For enrollees who contact the Marketplace to request a redetermination as well as those who do not contact the Marketplace but still receive a "default" redetermination, the Marketplace will send enrollees a **notice with the new eligibility determination**.

- Outside the re-enrollment process, an individual may contact the Marketplace at any time during a year to request an updated redetermination.

Effective Dates and Open Enrollment Periods

A Marketplace is to ensure that redeterminations are effective on the first day of the next plan year (January 1, 2015), with some exceptions for a later effective date allowable under 45 CFR §155.330(f).

The general open enrollment period is from November 15, 2014 – February 15, 2015. It appears that if no action is taken by a current enrollee prior to December 15, 2014, the default procedures will be used by the Marketplace. If a current enrollee then contacts a Marketplace prior to February 15th, the enrollee could change their health plan selection.

Monthly special enrollment periods are still in effect, enabling AI/ANs meeting the Affordable Care Act's definition of Indian (along with their family members) to enroll in coverage, or change enrollment in coverage, throughout the year.

Default Assignment to Health Plan (If Enrollee Does Not Contact Marketplace)

When re-enrolled by default in a health plan, the enrollee will be re-enrolled for 2015 in the same plan (QHP) in which the individual is currently enrolled for 2014. If the same QHP is not available for 2015, the enrollee will be enrolled in another QHP offered by the same issuer, subject to a series of criteria (*e.g.*, same metal level, one metal level higher or lower, *etc*.). Under certain circumstances, according to the proposed rules, an enrollee may be enrolled in a health plan offered by the same issuer that is outside of the Marketplace.

Tribal representatives recommended to CMS that default assignment for AI/ANs currently enrolled in bronze-level coverage would give priority to remaining in bronze-level coverage, rather than giving priority to staying with the same issuer. **To avoid assignment to a health plan that is not preferred, enrollees should make a proactive plan selection for 2015.**

Issues of Particular Concern to American Indians and Alaska Natives

A primary concern expressed to CMS by tribal representatives is that the information included in the Marketplace notices may be confusing to AI/AN enrollees. This may be the case because the information may not be applicable to certain AI/ANs and may be in conflict with the requirements for securing Indian-specific CSRs.

For example, one tribal recommendation encouraged CMS to require a Marketplace to issue notification letters to an AI/AN who is currently enrolled in a zero cost-sharing plan variation or

a limited cost-sharing plan variation that contains information pertinent to persons enrolled in these plans and excludes conflicting information and information that is not applicable to enrollees in these plan variations. In particular, general statements indicating that all enrollees, including AI/ANs, must enroll in silver-level coverage and/or must authorize an income determination in order to maintain the limited cost-sharing plan variation should be removed from any notices to AI/ANs enrolled in the Indian-specific cost-sharing variations.

A second concern is that AI/ANs currently enrolled in bronze-level coverage may be re-enrolled in non-bronze level coverage, with the resulting higher premium requirements. **In order to avoid being assigned to a plan that is not preferred, AI/ANs currently enrolled in coverage through a Marketplace should be encouraged to contact a Marketplace to 1) request a full redetermination and 2) select a health plan at a metal level that is most advantageous.**

Related Web Links

- HHS Press Release on Auto Enrollment for 2015 Plan Year: http://www.hhs.gov/news/press/2014pres/06/20140626a.html
- Proposed Rule on Annual Eligibility Redeterminations (CMS-9941-P): http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/508_CMS-9941-P-OFRv-6-26-14.pdf
- CMS Guidance Document on Annual Redeterminations under an FFM: http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2014-0626-Guidance-on-annual-redet-option-2015-FINAL.pdf
- CMS Bulletin Containing Draft Renewal and Discontinuation Notices: http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2014-0626-Bulletin-on-Renewal-and-Termination-Notices-FINAL.pdf
- Tribal Technical Advisory Committee to CMS (TTAG) Recommendations on CMS Proposed Redetermination Procedures http://www.nihb.org/tribalhealthreform/wp-content/uploads/2014/07/TTAG-comment-on-CMS-9941-Annual-Eligibility-Redeterminations-2.pdf