

NY State of Health

Comments on HHS Notice of Benefit and Payment Parameters for 2019

NY State of Health, the state's Official Health Plan Marketplace submits the following comments on the proposed regulations for 45 CFR Parts 147, 153, 154, 155, 156, 157 and 158; Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2019 [CMS-9930-P].

D. Part 155 - Exchange Establishment Standards and Other Related Standards Under the Affordable Care Act

Section 155.420 Special Enrollment Periods

The proposed rule modifies the parameters of certain special enrollment periods (SEPs) including special enrollment for dependents and effective dates of coverage.

NY State of Health supports efforts to reduce adverse selection in the individual insurance market, while minimizing unnecessary administrative burdens on consumers seeking a SEP. To that end, NY State of Health currently verifies over 75 percent of requested SEPs electronically without the need for consumers to provide documentation. Implementation of the proposed rule, will require changes to information technology systems. As such, New York strongly encourages HHS to allow state flexibility in the timeline for implementation.

E. Part 156 - Health Insurance Issuer Standards under the ACA, Including Standards Related to Exchanges

Essential Health Benefits Package

NY State of Health has worked with multiple stakeholders consistent with current federal regulations to complete a thorough analysis of the State's EHB selection that balances comprehensive coverage with affordability.

While the proposed rule lays out alternatives to the current method for selecting the state's EHB, it also provides that a State could continue the current (2017) EHB-benchmark plan selection for any future year for which a State does not select a new EHB-benchmark plan. We strongly support a process that allows a state's 2017 EHB selection to automatically continue into future years unless that state determines otherwise.

The rule, while proposing to allow states to change their EHB selection in 2019, also seeks comment on whether this should be delayed until 2020. Based on prior experience, we believe that for those states that choose to make a change in their current EHB, the effective date should be delayed to 2020 to allow sufficient time for analysis, reasonable notice and public comment and to take the steps necessary to implement the change.

The proposed rule asks for comments on the possibility of a future federal “default” definition of EHB that would set a national standard EHB and remove state flexibility on setting the EHB. We strongly oppose any future direction that would impose a federal default definition of EHB on states. States should retain the authority and flexibility to define an EHB that meets the needs of their consumers. To do otherwise is clearly contrary to regulation’s stated intent to give states additional choices and flexibility.

Section 156.602 Other Coverage that Qualifies as Minimum Essential Coverage (MEC)

The rule seeks comment on whether CHIP Buy-In Programs should be categorically designated by HHS as Minimum Essential Coverage without the need for state application. We support designating a CHIP Buy-In that is identical to the state’s CHIP program as MEC without the need for an application to HHS. This would reduce unnecessary administration at both HHS and the state.

Section 156.1120 Quality Rating System

Although not proposing changes to the Quality Rating System, the proposed rule asks for comments on the types of social risk factors that may be most appropriate and the methods or combination of methods to account for these factors for QHP issuer quality reporting.

NY State of Health agrees that socio-economic factors can influence health and would welcome participation in development of any quality rating system adjustments. Care must be taken, however, to ensure that any adjustment for socioeconomic status does not mask meaningful differences in quality and, inadvertently, limit the ability to measure and implement improvement activities.

NY State of Health appreciates HHS’ consideration of these comments and looks forward to continuing to work with our federal partners to refine the proposed regulations.