

From: HHS IEA (OS/IEA) <HHSIEA@hhs.gov>
To: HHS IEA (OS/IEA)HHSIEA@hhs.gov
Date: 3/1/2013 2:21:51 PM
Subject: HHS Announces Notice of Benefit and Payment Parameters and SHOP Notice of Proposed Rulemaking

HHS Intergovernmental and External Affairs Notification

March 1, 2013

From: Paul Dioguardi
Director, Office of Intergovernmental and External Affairs
U.S. Department of Health and Human Services

RE: HHS Announces Notice of Benefit and Payment Parameters and SHOP Notice of Proposed Rulemaking

The HHS Notice of Benefit and Payment Parameters is a final rule released today. It expands upon the standards set forth in earlier rules and provides further information on the permanent risk adjustment, transitional reinsurance and temporary risk corridors programs, advance payments of the premium tax credit, cost-sharing reductions, medical loss ratio, and the Small Business Health Options Program (SHOP).

To stabilize premiums as new consumer protection begin in the individual and small group market in 2014, the Affordable Care Act creates three programs– risk adjustment, reinsurance, and risk corridors. These programs will work with the premium tax credits, cost-sharing reductions, medical loss ratio program and new market reforms, including the guaranteed availability (also known as guaranteed issue) protections and prohibition of the use of factors such as health status, medical history, gender, and industry of employment to set premium rates, to help ensure every American has quality, affordable health insurance. Key policies in today's rule include:

- **Reducing the incentives for health insurance issuers to avoid enrolling people with pre-existing conditions:** The permanent risk adjustment program will assist health insurance plans that provide coverage to individuals with higher risk populations, such as those with chronic conditions, and will reduce the incentives for issuers to avoid enrolling only healthy individuals. States that are running a Marketplace (also known as an Exchange) and their own risk adjustment program can propose their own methodology for risk adjustment. HHS is finalizing the risk adjustment methodology the agency will operate when a state chooses not to run its own. The final rule also provides a framework for the agency's approach to validating risk adjustment data. HHS will consult with stakeholders on this approach to data validation before finalizing further details.
- **Stabilizing premiums in the individual market for health insurance:** The transitional reinsurance program is a three-year program designed to reduce premiums and ensure market stability by helping issuers cover the costs of high-risk enrollees in the individual market. It will lower premiums in this market by an estimated 10 to 15 percent in 2014. The statute sets a fixed contribution amount for the reinsurance program. To improve efficiency and reduce administrative burden, HHS finalized uniform reinsurance payment parameters for this program and provided States the flexibility to supplement these payment parameters with additional contributions.

- **Protecting health insurance issuers against uncertainty in setting premium rates:** The temporary risk corridors program will protect against uncertainty in rate setting for qualified health plans by limiting the extent of issuer losses and gains. The rule finalizes additional technical details on how issuers will account for profits and taxes in their risk corridors calculations, which align this program with the medical loss ratio program.
- **Helping working Americans afford health insurance in the Marketplaces:** To help eligible individuals pay their premiums and make coverage purchased through a Marketplace affordable for low- and middle-income consumers, HHS is finalizing its proposal to make advance payments of the value of cost-sharing reductions and the mechanisms for determining the amount of the advance payment of the premium tax credit to issuers on behalf of eligible individuals. HHS is also finalizing its proposal that issuers provide cost-sharing reductions at the point of service for eligible individuals and that HHS directly reimburse issuers for the value of these reductions.
- **SHOP:** HHS is finalizing a number of provisions to provide qualified health plan options for small businesses. These provisions help to ensure a competitive market in the small business health options program (SHOP). Concurrently, HHS is publishing a proposed rule outlining a transitional policy for certain operations of the SHOP to ensure market stability in 2014 and conforming SHOP special enrollment periods to those in the broader group health insurance market.
- **MLR:** HHS is amending the Medical Loss Ratio program, also known as the 80 / 20 rule, to ensure that, beginning in 2014, issuers include premium stabilization amounts in medical loss ratio and rebate calculations. HHS is extending the annual medical loss ratio reporting deadline from June 1 to July 31, and the rebate disbursement deadline from August 1 to September 30 to take into account the premium stabilization programs. This change will allow issuers to accurately calculate their medical loss ratios while ensuring that consumers receive rebates as quickly as possible. HHS is also allowing tax-exempt not-for-profit issuers to deduct community benefit expenditures (subject to caps) and State premium tax from premium in calculating medical loss ratios and rebates. This change promotes a level playing field for issuers within each State.

We are also issuing an interim final rule with comment (IFC; Patient Protection and Affordable Care Act; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014) in which:

- HHS is adjusting the risk corridors calculation to align with the single risk pool (§156.80) provision of the Affordable Care Act.
- HHS is allowing QHP issuers to use an optional simplified methodology for calculating the amounts of cost-sharing reductions provided during a transition period.

HHS released a proposed rule outlining special enrollment periods and a transitional policy for SHOP in 2014.

The Notice of Benefit and Payment Parameters for 2014, the Payment Notice Amendment IFC, and the SHOP NPRM may be viewed here: <https://www.federalregister.gov/public-inspection>.

Please direct questions to HHSIEA@hhs.gov.