



IMPORTANT NOTICE REGARDING HEALTHCARE REFORM Update #65 February, 2017

HHS Proposes Regulations to Stabilize Individual and Small Group Health Insurance Markets

HHS has issued proposed regulations intended to stabilize the individual and small group health insurance markets. These regulations would make changes to the guaranteed-availability rules, Exchange annual open enrollment and special enrollment periods, and certain other Exchange standards.

Guaranteed-Availability: HHS proposes to change its interpretation of guaranteed availability to remove an economic incentive for individuals to pay premiums only when they need coverage and to prevent gaming. Under HHS's current interpretation, individuals whose coverage was previously terminated for non-payment of premiums can apply for coverage under a different product from the same insurer, and the guaranteed-availability rules require the insurer to issue the coverage (i.e., the insurer cannot apply new premiums to past-due amounts). Under the proposed interpretation, the insurer could refuse to enroll the individual in new coverage and instead apply new premium payments to outstanding debt associated with non-payment of premiums for up to the prior 12 months of coverage. This would effectively require an individual whose coverage was terminated for non-payment of premium in the individual or group market to pay past due premiums in order to resume coverage from that insurer. HHS does note that state law could limit an insurer's ability to apply this new rule, and it will not be available to insurers in the federally facilitated SHOP. Also, the interpretation would not prevent delinquent individuals or employers from enrolling in coverage with a different insurer.

Exchange Annual Enrollment: The regulations propose to shorten the annual open enrollment period for obtaining Exchange coverage for the 2018 plan year so that it would begin on November 1, 2017 and end on December 15, 2017. Previously, HHS had set the open enrollment period from November 1, 2017 to January 31, 2018 for 2018 coverage. The shift to the earlier end date was already set to begin for 2019 coverage. In addition to the obvious goal of reducing adverse selection, the earlier end date to Exchange open enrollment would align better with open enrollment periods for employer-sponsored plans and Medicare and could serve to simplify administration where coordination is required.

Exchange Special Enrollment: In an effort to improve the risk pool, improve market stability, and promote continuous coverage, the proposed regulations would increase the scope of pre-enrollment verification of eligibility for all categories of special enrollment periods, starting in June 2017. This pre-enrollment verification, which would require individuals to submit supporting documentation, would be implemented in the federally facilitated Exchanges and state-based Exchanges using the federal platform. New proposed rules would also add tighter restrictions on enrolling dependents during a special enrollment period and would require some consumers in special enrollment periods to demonstrate prior coverage. It is important to note that some of the proposed changes to special enrollment periods would apply in the individual market only. Thus, for example, the proposed restrictions on enrolling dependents would not apply to special enrollment periods in the SHOP.



Health Care Reform Update



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There will undoubtedly be fundamental changes proposed in the coming weeks and months relating to the structure of health care reform, as enacted and implemented under the previous administration. These proposed regulations appear to be an interim step to ease insurer concerns about participation in the Exchanges and promote market stability. As the news release states, the proposed regulations would help protect individuals enrolled in the individual and small group health insurance markets while future reforms are being debated.

Links to the News Release and proposed regulations:

[Regulations](#)

[News Release](#)

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