The below represents an analysis undertaken by Manatt Health Solutions of the legal and regulatory requirements[1] for State Medicaid/CHIP and/or Exchange communications to consumers relating to eligibility determinations or re-determinations. The below does not include communications required at application, between issuers and consumers, or between Exchanges/State Medicaid/CHIP agencies to issuers. Please note, this analysis: (1) reflects information contained in the January 2013 proposed regulations and may need to be updated with the issuance of final regulations; and (2) does not reflect official legal interpretation by the Centers for Medicare & Medicaid Services.

GENERAL REQUIREMENTS (as proposed under January 2013 regulations):

- *Medicaid/CHIP Notice Requirements (42 CFR 435.917(a), 457.340(e)):* Agency must provide all applicants and beneficiaries with timely and adequate written notice of any decision affecting their eligibility, including a denial, termination or suspension of eligibility, or a denial or change in benefits and services. Such notice must:
  - Be written in plain language
  - Be accessible to persons who are limited English proficient and individuals with disabilities

- *General Exchange Notice Requirements (45 CFR 155.230):* Any notice required to be sent by an Exchange to applicants, qualified individuals, qualified employees, qualified employers, and enrollees must be written and include:
  - Explanation of action reflected in notice, including effective date of action
  - Any factual findings relevant to action
  - Contact information for available customer service resources
  - Explanation of appeal rights
  - Citation to or identification of specific regulation supporting action, including the reason for action
  - Accessible/readable:
    - Plain language
    - ADA/504 compliant
    - Oral interpretation
    - Written translations
    - Taglines in non-English language indicating availability of language services
    - Availability of ADA/504 compliant aids and language services
  - Re-evaluated for appropriateness and usability

[1] Sources reviewed: Social Security Act Titles XIX and XXI; ACA Sections 1411, 1413, 2201; 45 CFR Part 155, 42 CFR Part 431, 42 CFR Part 435, 42 CFR Part 457;Proposed Rule: "Medicaid, Children's Health Insurance Programs, and Exchanges: Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeals Processes for Medicaid and Exchange Eligibility Appeals and Other Provisions Related to Eligibility and Enrollment for Exchanges, Medicaid and CHIP, and Medicaid Premiums and Cost Sharing," 78 Fed Reg 4594 (January 22, 2013); Final Rule: "Medicaid and children's Health Insurance Programs: Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes, and Premiums and Cost Sharing; Exchanges: Eligibility and Enrollment," 78 Fed Reg 42160 (July 15, 2013).

- *Combined Notices (42 CFR 435.4, 435.1200, 457.340, 457.348; 45 CFR 155.345):*
  - Communicate "eligibility for each of the IAPs and enrollment in a QHP through the Exchange, for which a determination or denial was made" for individuals and members of the same household
  - Issued by the last agency to determine the individual's eligibility regardless of which agency received the application.

- *Coordinated Content (42 CFR 435.4, 435.1200, 457.340, 457.348; 45 CFR 155.345):*
  - Communicate "eligibility for each of the IAPs and enrollment in a QHP through the Exchange, for which a determination or denial was made" for individuals and members of the same household
  - Issued by the last agency to determine the individual's eligibility regardless of which agency received the application.

- *Electronic Notices (42 FR 435.918, 45 CFR 155.230):* Individuals have choice to receive electronic eligibility determination notices. If individuals choose to receive electronic notices, State must:
  - By regular mail, communicate individual's election to receive electronic notices
  - Provide individual with right to change election at any time
  - Post notices to individual's electronic account within 1 business day of notice generation
  - Send an email or other electronic communication alerting individual that notice has been posted (no confidential information may be included). If electronic communication undeliverable, send notice by regular mail within 3 business days of date of failed electronic communication
  - Provide through regular mail, by request of individual, of any notice posted electronic account

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
DETERMINATION					
Determination of Eligibility for Medicaid/CHIP	1.	Determinations of eligibility for Medicaid must be made "promptly and without undue delay" and in adherence to timeliness standards: 45 days for MAGI and 90 days for non-MAGI. Timeliness standard covers date of application / transfer from another IAP to the date agency notifies the applicant of its decision / date agency transfers individual to another IAP. For notices of denial/termination/suspension, State or local agency must send notice at least 10 days before action with certain exceptions.	• Decision on application • *Approved Eligibility*: o Basis and effective date of eligibility o Circumstances and procedures for change reporting o (if applicable) Amount of medical expenses which must be incurred to establish medically needy eligibility o Information on level of benefits, services, premiums, enrollment fees and cost-sharing o Right to appeal level of approved benefits and services o Information regarding other bases of Medicaid eligibility sufficient to enable individual to make an informed choice • *Denial/Termination/Suspension of Eligibility/Change in Benefits*: o Statement of intended action by State/SNF/NF and effective date of action o Clear statement of specific reasons supporting action o Specific regulations that support, or the change in federal/state o Information regarding other bases of Medicaid eligibility sufficient to enable individual to make an informed choice	ACA 1413(b)(2) 42 CFR 431.210 42 CFR 435.911, 42 CFR 435.912(b)(1), 42 CFR 435.917, *as proposed in January 2013 NPRM* (cross-reference to 42 CFR 431 Subpart E)	Medicaid

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
			o Right to request evidentiary hearing or State agency hearing o Procedures to request appeal o Right to representation (by self, relative, legal counsel, or authorized rep) o If action based on a change in law, circumstances under which hearing will be granted o Circumstances under which Medicaid is continued if hearing requested Information regarding other bases of Medicaid eligibility sufficient to enable individual to make an informed choice		
	2.	Determination of Medicaid eligibility for individual under 21, State must inform the individual of availability of EPSDT and need for immunizations	• Availability of EPSDT and need for age-appropriate immunizations against vaccine-preventable diseases	SSA 1902(a)(43)	Medicaid
	3.	Determination of Medicaid eligibility for pregnant women, breastfeeding or postpartum women or children under 5, State must notify in a timely manner of available special supplemental nutrition program benefits and make referral	• Availability of special supplemental nutrition programs under Section 17 of the Child Nutrition Act of 1966	SSA 1902(a)(53)	Medicaid
	4.	Determinations of eligibility for CHIP must be made "promptly and without undue delay" and in adherence to timeliness standards: 45 days. Timeliness standard covers date of application / transfer from another IAP to the date agency notifies the applicant of its decision / date agency transfers individual to another IAP.	• Decision on application • *Approved Eligibility*: o Basis and effective date of eligibility o Circumstances and procedures for change reporting o Information on level of benefits, services, premiums, enrollment fees	ACA 1411(e)(4), 42 CFR 457.340(d), 42 CFR 457.340(e), 42 CFR 457.1130, 42 CFR 457.1180, *as proposed in January 2013*	CHIP

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
		If an individual applies through CHIP agency and is denied eligibility, APTC eligibility screen will also be review of CHIP denial	and cost-sharing o Right to review for: ▪ Denial of eligibility; ▪ Failure to make a timely determination of eligibility; and ▪ Suspension or termination of enrollment, including disenrollment for failure to pay cost sharing). • *Denial/Termination/Suspension of Eligibility/Change in Benefits*: o Basis and effective date of action o Reason for determination o Explanation of applicable rights to review of determination o Standard and expedited timeframes for review o Manner in which review can be requested o Circumstances under which enrollment may continue pending review	*NPRM* ACA 1413(b)(2)	

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
	5.	"Promptly and without undue delay" determining potential eligibility for, and transferring individuals electronic accounts to, other IAPs		SSA 1943(b)(1)(C) 42 CFR 435.912(b)(2), 42 CFR 457.340(d), 42 CFR 457.350(i) 42 CFR 457.350(b), (f), (j), *as proposed in January 2013 NPRM*	Medicaid/ CHIP
	6.	Using Express Lane Agency findings for child's income and child is determined eligible for Medicaid/CHIP and subject to premiums, State must provide notice	• Child may qualify for lower premium if evaluated by State using regular policies • Procedures for requesting an evaluation under State's regular policies	SSA 1902(e)(13)	Medicaid/ CHIP
	7.	Using Express Lane Agency findings for child's income and child's income exceeds Medicaid screening threshold and is then enrolled in CHIP, State must provide notice	• Child may be eligible to Medicaid if evaluated under State's regular procedures • Process through which a parent, guardian, or custodial relative can request that the State evaluate the child's eligibility for Medicaid using regular procedures • Description of differences between Medicaid and CHIP, including differences in cost-sharing requirements and covered benefits	SSA 1902(e)(13)(C)(ii)(III)	Medicaid

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
Assessment of Eligibility for Medicaid/CHIP	8.	Exchange assesses applicant eligible for Medicaid/CHIP	"Notices and other activities required in connection with an eligibility determination for Medicaid or CHIP are performed by the Exchange consistent with the standards identified in this subpart or the State Medicaid or CHIP agency consistent with applicable law"	45 CFR 155.302(b)(2)	Exchange
	9.	Exchange assesses applicant ineligible for Medicaid/CHIP	• "Consider the applicant as ineligible for Medicaid and CHIP for purposes of determining eligibility for advance payments of the premium tax credit and cost-sharing reductions and must notify such applicant" • Opportunity for withdrawal of Medicaid/CHIP, though application will not be considered withdrawn if applicant appeals APTC/CSR eligibility and applicant is found the individual potentially Medicaid/CHIP eligible • Opportunity to request full Medicaid/CHIP determination by State Medicaid/CHIP agency	45 CFR 155.302(b)(4)	Exchange
Opportunity to Request Determination of Medicaid Eligibility on Non-MAGI Basis	10.	At initial eligibility determination, mid-year, and annual redetermination	• Opportunity to request a full Medicaid eligibility determination on non-MAGI basis	45 CFR 155.345(c)	Exchange

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
Transmittal of Information to State Medicaid Agency for Determination of Medicaid Eligibility on Non-MAGI Basis	11.	Individual determined ineligible for MAGI Medicaid and assessed potentially Medicaid-eligible on non-MAGI basis OR Individual requests additional screening on non-MAGI basis	• Transmittal of information to State Medicaid Agency	45 CFR 155.345(d)	Exchange
Determination of Eligibility for QHP/IAP	12.	Determinations of eligibility for IAP must be made "promptly and without undue delay." Timeliness standard covers date of application / transfer from another IAP to the date Exchange notifies the applicant of its decision / date Exchange transfers individual to another IAP. (same rules apply to eligibility for QHP)	• Explanation of action reflected in notice, including effective date of action • Any factual findings relevant to action • Contact information for available customer service resources • Appeal rights o Explanation of appeal rights o Description of procedures to request an appeal o Information on right to representation by self, legal counsel or authorized rep o Explanation of circumstances under which applicant's eligibility may be maintained or reinstated pending appeal decision o Explanation that appeal decision for one household member may result in change in eligibility for other household members • Citation to or identification of specific regulation supporting action, including the	ACA 1413(b)(2), 45 CFR 155.230, 45 CFR 155.310(g), 45 CFR 155.355 45 CFR 155.515, *as proposed in January 2013 NPRM*	Exchange

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
			reason for action		
Verification of Information for Medicaid/CHIP Eligibility	13.	If eligibility information provided by or on behalf of individual cannot be obtained electronically or information obtained electronically is not reasonably compatible (not related to citizenship/immigration status)	• Request additional information from individual, which could include: o statement which reasonably explains the discrepancy o other information (which may include documentation) • Consumer has a "reasonable period" to furnish information (State has discretion to determine reasonable period)	42 CFR 435.952(c)(2), 42 CFR 435.956 (e)-(f), 42 CFR 457.380(f) 45 CFR 155.320(c)(2) [household size, MAGI-based household income]	Medicaid/ CHIP Exchange
	14.	If citizenship/immigration status unable to be verified	• Contact the individual to confirm the accuracy of the name or social security number submitted or declaration of citizenship or nationality	SSA 1902(ee), 42 CFR 435.945(a) 42 CFR 435.406, 42 CFR 435.407, *as proposed in January 2013 NPRM* SSA 2107(e)(1)(J) 42 CFR 457.320(b), *as proposed in January 2013 NPRM* ACA 1411(e)(3) 45 CFR 155.320(f)	Medicaid/ CHIP Exchange

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
	15.	After contacting applicant and still unable to resolve citizenship/immigration status inconsistency information required to determine eligibility for Medicaid/CHIP 90-day reasonable opportunity period starts 5 days after the date on the notice	• Notice of inconsistency and inability to verify citizenship/immigration status • Opportunity for applicant to resolve through documentary evidence or through addressing inconsistency with the Social Security Administration for a period of 90 days from notice • Disenrollment of the individual within 30 days after the end of such 90-day period if no such documentary evidence is presented or if such inconsistency is not resolved	SSA 1902(ee), 42 CFR 435.945(a), 42 CFR 435.956 42 CFR 435.406, 42 CFR 435.407, *as proposed in January 2013 NPRM* SSA 2107(e)(1)(J) 42 CFR 457.320(b), *as proposed in January 2013 NPRM* ACA 1411(e)(3), 45 CFR 155.320(f)	Medicaid/ CHIP Exchange
Verification of Information for QHP/PTC/CSR Eligibility	16.	Exchange is unable to verify information required to determine eligibility for enrollment in QHP, PTC and CSR	• Contact the individual to confirm accuracy of the information submitted by the application filer	45 CFR 155.315(f)(1)	Exchange
	17.	After contacting applicant and Exchange is still unable to resolve inconsistency in information required to determine eligibility for enrollment in QHP, PTC and CSR [See row above for verification of Medicaid/CHIP household, income, citizenship/immigration status procedures]	• Notice of inconsistency and not reasonably compatible • Opportunity for applicant to resolve through documentary evidence or other process for a period of 90 days from notice (Exchange may extend 90-day period) • Temporary eligibility for enrollment in QHP and access PTC/CSRs (tax filer must attest to understanding that amounts subject to reconciliation)	ACA 1411(e)(4)(A)(ii) 45 CFR 155.315(f)(2), 45 CFR 155.320(c)(3)(i)(D), 45 CFR 155.320(c)(3)(iii)(B), 45 CFR 155.320(c)(3)(vi)(C), 45 CFR 155.320(d)(2)	Exchange

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
	18.	"Timely" after 90-day period to resolve inconsistencies and Exchange remains unable to verify attestation (eligibility determination effectuated no earlier than 10 days after and no later than 30 days after notice)	• Notice that Exchange is unable to verify attestation • Eligibility determination based on information available from data sources. If no tax data return available: o Determination of ineligibility for PTC/CSR o Discontinuation of APTC/CSR • Right to appeal • Instructions to file an appeal of eligibility determination	ACA 1411(e)(4), 45 CFR 155.315(f)(5)(i), 45 CFR 155.320(c)(3)(vi)(E), 155.320(c)(3)(vi)(F) (cross-references 155.310(g))	Exchange
ANNUAL RE-DETERMINATION					

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
Re-determination of Eligibility for Medicaid/CHIP	19.	If agency able to redetermine eligibility based on verification of information through available sources	• Eligibility determination and basis • Requirement that individual inform agency of inaccuracies • Non-requirement to sign/return if information is accurate	42 CFR 435.916(a)(2), 42 CFR 435.916(b), 42 CFR 457.343 42 CFR 457.340(e), *as proposed in January 2013 NPRM* (cross-reference to 42 CFR 431 Subpart E)	Medicaid/ CHIP
	20.	If agency is unable to redetermine eligibility based on verification of information through available sources	• Information available to the agency that is needed to renew eligibility • Process to present necessary information through web, phone, mail, in-person, and other electronic means, within 30 days of notice • Decision concerning renewal of eligibility • Reconsideration w/o new application if individual subsequently submits within 90 days of termination • Explanation of right to request fair hearing	42 CFR 435.916(a)(3)(i), 42 CFR 435.916(a)(3)(iii), 42 CFR 457.343 42 CFR 457.340(e), *as proposed in January 2013 NPRM* (cross-reference to 42 CFR 431 Subpart E)	Medicaid/ CHIP

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
Annual Eligibility Re-determination for IAP	21.	Annually: • For redeterminations effective January 1, 2015, Exchange must send as a single coordinated notice with *notice of annual enrollment period* – therefore notice must be sent between September 1 and 30 • For redeterminations effective on or after January 1, 2017, Exchange may send notice separately but no earlier than September 1. Timing must allow for reasonable amount of time for enrollee to review, provide timely response and Exchange to implement changes.	• Data obtained from tax return, regarding Social Security benefits, and regarding MAGI-based income • Data used in the enrollee's most recent eligibility determination • Enrollee's projected eligibility determination for the following year after considering updated information, including amount of PTC/CSR or eligibility for Medicaid/CHIP/BHP • Requirement that enrollee report any changes with respect to information listed in notice within 30 days of notice	45 CFR 155.335(c), *as proposed in January 2013 NPRM*	Exchange
	22.	Annually, after 30-day period for enrollee response has elapsed	• Eligibility determination • Right to appeal • Instructions to file an appeal of eligibility determination	45 CFR 155.335(h)(1)(ii), 45 CFR 155.355, 45 CFR 155.345(c) (cross-references 155.310(g))	Exchange
	23.	Enrollee requests IAP determination and Exchange does not have an active tax data authorization on file, with the *first annual eligibility redetermination notice*	• Absence of active tax data authorization • Explanation of process for consumer to provide authorization or to discontinue request for IAP eligibility determination	45 CFR 155.335(l)	Exchange
CHANGE REPORTING/MID-YEAR RE-DETERMINATION					

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
Change Reporting Requirements	24.	Agency must have a process for change reporting [No requirement on how the individual is notified of change reporting requirement/process]		42 CFR 435.916(c)	Medicaid
Change Reporting Requirements	25.	Periodic, unless consumer opts out	• Requirements for reporting changes (including reasonable threshold, established by the Exchange, under which enrollee not required to report changes)	45 CFR 155.330(c)(2)	Exchange
Redetermination as a Result of Enrollee-Reported Data	26.	"Timely" after Exchange conducts re-determination as a result of enrollee-reported data	• Eligibility determination • Right to appeal • Instructions to file an appeal of eligibility determination	45 CFR 155.330(e)(1)(ii), 45 CFR 155.355 (cross-references 155.310(g))	Exchange
Redetermination as a Result of Data-Matching: Updated Information **(unrelated to income, family size/composition)**	27.	Exchange identifies updated information through data matching	• Updated information • Projected eligibility determination after consideration of such information • Opportunity for enrollee to notify Exchange of inaccuracies/contest information within 30 days of notice	45 CFR 155.330(e)(2)(i)	Exchange

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
	28.	Exchange identifies updated information through data matching and enrollee responds contesting the updated information within 30-day period	• Notice of inconsistency • Opportunity for applicant to resolve through documentary evidence or other process for a period of 90 days from notice (Exchange may extend 90-day period) And, if unable to verify... • Notice that Exchange is unable to verify attestation • Eligibility determination based on information available from data sources	45 CFR 155.330(e)(2)(iii)	Exchange
	29.	Exchange identifies updated information through data matching and enrollee does not respond within 30-day period, "timely" after Exchange conducts re-determination	• Eligibility determination • Right to appeal • Instructions to file an appeal of eligibility determination	45 CFR 155.330(e)(2)(iv) (cross-references 155.310(g))	Exchange
Redetermination as a Result of Data-Matching: Updated Information **(regarding income, family size/composition)**	30.	Exchange identifies updated information through data matching	• Updated information • Projected eligibility determination after consideration of such information • Opportunity for enrollee to notify Exchange of inaccuracies/contest information within 30 days of notice	45 CFR 155.330(e)(3)(i)	Exchange

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
	31.	Exchange identifies updated information through data matching and enrollee responds confirming the updated information or providing more up-to-date information within 30-day period	• Eligibility determination • Right to appeal • Instructions to file an appeal of eligibility determination	45 CFR 155.330(e)(3)(ii) (cross-references 155.310(g))	Exchange
TERMINATION/DISCONTINUATION/SUSPENSION					
Termination/ Discontinuation/ Suspension of Medicaid Eligibility	32.	After any decision affecting applicant/enrollee eligibility, including denial or termination, or suspension of eligibility. Notice must be sent at least 10 days before action with certain exceptions.	• *Denial/Termination/Suspension of Eligibility/Change in Benefits*: o Statement of intended action by State/SNF/NF and effective date of action o Clear statement of specific reasons supporting action o Specific regulations that support, or the change in federal/state Information regarding other bases of Medicaid eligibility sufficient to enable individual to make an informed choice o Right to request evidentiary hearing or State agency hearing o Procedures to request appeal o Right to representation (by self, relative, legal counsel, or authorized rep) o If action based on a change in law, circumstances under which hearing will be granted o Circumstances under which Medicaid is continued if hearing requested Information regarding other bases of	42 CFR 431.210, 42 CFR 435.917, *as proposed in January 2013 NPRM* (cross-reference to 42 CFR 431 Subpart E)	Medicaid

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
			Medicaid eligibility sufficient to enable individual to make an informed choice		
	33.	With termination of TANF (Title IV-A) benefits, as part of the TANF termination notice, State must inform individual of availability of transitional medical assistance (TMA) for an initial 6 months	• Right to extended Medicaid • Reporting requirement description of circumstances under which such extension may be terminated • Card or other evidence of the family's entitlement to assistance	SSA 1925(a)(2)	
	34.	During initial 6-month TMA period, at the close of the first month that family ceases to include a dependent child then TMA eligibility is terminated. State must provide notice to family prior to termination. Termination may not be effective prior to notice.	• Grounds for the termination	SSA 1925(a)(3)	Medicaid
	35.	During the 3rd and 6th month of the initial TMA eligibility period, State shall notify the family of the family's option for additional extended assistance.	• Statement of the reporting requirement • Statement as to whether any premiums are required for such additional extended assistance • Description of other out-of-pocket expenses, benefits, reporting and payment procedures, and any pre-existing condition limitations, waiting periods, or other coverage limitations imposed under any alternative coverage options *6th Month Notice must also include:* • Amount of any premium required of a particular family for each of the first 3 months of additional extended assistance	SSA 1925(b)(2)(A)(i)	Medicaid

Purpose	#	Triggering Events and Timing	Content	Source	Responsible
	36.	During the 3rd month of any additional TMA extension period, State shall provide notice.	• Reporting requirement • Statement of amount of any premium required for extended assistance for the succeeding 3 months	SSA 1925(b)(2)(A)(ii)	Medicaid
	37.	During additional 6-month TMA extension period, if family becomes ineligible then State must provide family with notice before termination. No such termination shall be effective earlier than 10 days after the date of mailing of such notice.	• Grounds for the termination • In the case of termination relating to no continued earnings, a description of how the family may reestablish eligibility for medical assistance under the State plan.	SSA 1925(b)(3)(B)	Medicaid
Termination/ Discontinuation/ Suspension of CHIP Eligibility	38.	After any decision affecting applicant/enrollee eligibility, including denial or termination, or suspension of eligibility. Notice must be sent at least 10 days before action with certain exceptions. In the case of suspension or terminations, State must provide sufficient notices to enable child's parent/caretaker to take any appropriate actions that may be required to allow coverage to continue without interruption.	• *Denial/Termination/Suspension of Eligibility/Change in Benefits*: o Basis and effective date of action o Reason for determination o Explanation of applicable rights to review of determination o Standard and expedited timeframes for review o Manner in which review can be requested o Circumstances under which enrollment may continue pending review	42 CFR 457.340(e)(1), 42 CFR 457.1180, *as proposed in January 2013 NPRM*	CHIP
	39.	Prior to disenrollment from CHIP, reasonable notice of and opportunity to pay past due premiums, copayments, coinsurance, deductibles, or similar fees	• Notice and opportunity to pay past due premiums, copayments, co-insurance, deductibles, or similar fees	42 CFR 457.570(a), *as proposed in January 2013 NPRM*	CHIP