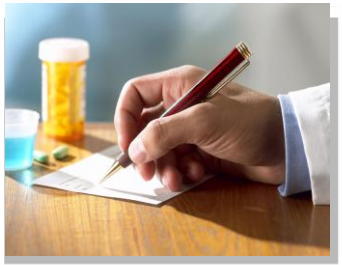
Exchange/Medicaid/CHIP Eligibility Appeals



Center for Medicaid and CHIP Services

Center for Consumer Information and Insurance Oversight

January 2013

NPRM Overview

- On Monday, January 14, CMS released a notice of proposed rule making
- Rule builds on final Medicaid/CHIP and Exchange rules released in March 2012
- 30-Day public comment period – February 21, 2013
- Key Provisions
    - Medicaid & CHIP eligibility, notices and appeals
    - Medicaid Alternative Benefit Plans and Essential Health Benefits
    - Appeals of Eligibility Determinations for Exchanges

- **Medicaid and CHIP Eligibility Appeals**
- **Center for Medicaid and CHIP Services**

Coordinated Appeals Options

- Integrated/delegated appeals: Medicaid/CHIP agency delegates authority to make appeals decisions to Exchange or Exchange appeals entity

- Bifurcated appeals/no delegation: State retains appeals function

Integrated/Delegated Appeals

- Limited to MAGI-based determinations
- Individuals must be able to opt out of delegated hearing processes to have their fair hearing conducted by the Medicaid agency
- State can retain right of review of the legal conclusions
- Exchange appeals entity must be governmental agency with merit protection
- Coordinated decision
- Note: Medicaid can delegate appeals to the other state agencies by seeking a waiver of single state agency requirements

Bifurcated Appeals/No Delegation

- No duplicate information requests
- Rely on findings of Exchange appeals entity, if based on same process and standards applied by Medicaid/CHIP agency
- Sequencing of hearings permitted – Medicaid hearing decision may be issued no later than 45 days from date of Exchange appeals decision

Coordination of Appeals

- Appeal of ATPC/CSR amount automatically triggers Medicaid/CHIP appeal in certain circumstances:
  - Final determination of Medicaid/CHIP ineligibility has been made by Medicaid/CHIP agency
  - Exchange has delegated authority to make Medicaid/CHIP eligibility determinations
- No automatic appeal in assessment model if Medicaid/CHIP agency has not denied eligibility
- Applies in both integrated and bifurcated options

Coordination of Appeals Cont.

- Information sharing through secure electronic interface
- Details worked out in written agreements
- Reinstatement of application (in assessment states only) if the individual:
  - Has withdrawn Medicaid application
  - Is receiving APTC
  - Then requests an appeal of the APTC level and
  - The Exchange appeals entity finds the individual is potentially eligible for Medicaid or CHIP

Coordination of Appeals Cont.

- Transmit Medicaid/CHIP appeals decision to the Exchange when –
  - Determination of Medicaid or CHIP ineligibility was made by Exchange
  - Determination of ineligibility was made by Medicaid or CHIP, and account transferred to Exchange for APTC/CSR eligibility determination

Other Appeals Modifications

- Individual choice of receiving electronic notice of appeal rights
- Provides for accessibility of hearings process
- Clarifies 90 day timeframe for making appeals decision
- Miscellaneous clarifications: When a hearing must be provided, matters to be addressed at hearing, definition of “action”

Modernizing Appeals

- Modernizes current regulations related to appeals
  - Request for a hearing: Provides for requests by telephone, mail, in person, commonly used electronic methods, including Internet Website (at state option)
  - Expedited appeals process: For individuals when the standard time frame might jeopardize health. Aligns with existing managed care regulations

Scenario 1
Integrated Appeals/Delegation
Applicant applies through an Exchange

- The state has delegated eligibility determinations AND appeals to the Exchange.
- Jane applies and is granted an APTC. She is an adult with no children and has income at 150% FPL. The state covers such adults to 133% FPL; Medicaid is denied. Jane appeals her level of APTC to the Exchange.
  - Jane's appeal of APTC automatically triggers Medicaid fair hearing request.
  - Jane's APTC and Medicaid appeals may be heard at the same time by the Exchange appeals entity.
  - Jane must be able to opt to have her Medicaid denial heard at the Medicaid agency and informed how to do so.

Scenario 1 Cont. Integrated/Delegated Appeals

Assuming Jane does not opt for hearing by Medicaid agency:

- Jane's appeal request of her APTC level is considered a fair hearing request of her Medicaid denial.
- If the Exchange appeals entity decides that Jane's income is under 133% and thus eligible for Medicaid, the Exchange appeals decision is final.
- Exchange appeals entity issues a combined decision on the APTC/CSR and Medicaid issues.
- The state may establish a review process to review legal conclusions.

Scenario 2
No Delegation/Bifurcated Appeals

- The state has delegated eligibility determinations, but has not delegated appeals to the Exchange.
- Jane applies at Exchange and qualifies for APTC. She is an adult with no children with income at 150% FPL. The state covers such adults to 133% FPL; Medicaid is denied. Jane appeals her level of APTC to the Exchange.
  - Jane's APTC appeal will be at the Exchange appeals entity.
  - Her Medicaid fair hearing will be at the Medicaid agency

Scenario 2 Cont.
No Delegation/Bifurcated Appeals

- Jane's appeal request of her APTC level is considered a fair hearing request of her Medicaid denial.
- The agency may sequence hearings – the Exchange could decide Jane's case first, and the Medicaid agency have its hearing 2nd, and issue a hearing decision no later than 45 days from date of Exchange appeals decision.
- The Medicaid agency in conducting the hearing may not request duplicate information already requested and provided by Jane to Exchange appeals entity, and vice versa.
- The agency would rely on findings of Exchange appeals entity, if based on same process and standards applied by Medicaid agency.

Scenario 3
Eligibility Assessment Approach

- The state has not delegated eligibility determinations to the Exchange.
- Jane applies at Exchange, which assesses her as ineligible for Medicaid. Jane is asked to (and does) withdraw her Medicaid application. Jane is granted an APTC. She is an adult with no children and is determined to have income at 150% FPL. The state covers such adults to 133% FPL;
  - Jane later appeals her level of APTC. At the Exchange appeal, the hearing officer finds that Jane had income below 133% and is potentially eligible for Medicaid.

Scenario 3 Cont.
Eligibility Assessment Approach

- Jane's application for Medicaid is reinstated and is transferred to the Medicaid agency to complete the eligibility determination.
- If eligibility denied, any future appeal would be heard by the Medicaid agency.

CHIP Appeals/Review Process

Similar options for CHIP programs with some program specific modifications –

- Current broad flexibility to delegate CHIP review process
- Coordination requirements
- Reinstatement of application
- Beneficiaries must be informed of notice and appeal rights

More Information

The NPRM is available at:

- https://www.federalregister.gov/articles/2013/01/22/2013-00659/essential-health-benefits-in-alternative-benefit-plans-eligibility-notices-fair-hearing-and-appeal