



## Center for Medicaid, CHIP and Survey & Certification

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### *CMCS Informational Bulletin*

**DATE:** August 31, 2011

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**SUBJECT:** Updates on Medicaid/CHIP

This Informational Bulletin is to update States and other interested parties on a number of important items:

- The publication of three proposed rules regarding access to affordable coverage under the Affordable Care Act, including changes to Medicaid eligibility and FMAP rates;
- The publication of a proposed rule entitled “Medicaid and Children’s Health Insurance Programs; Disallowance of Claims for FFP and Technical Corrections;”
- The issuance of a State Medicaid Director Letter regarding the Affordable Care Act Maintenance of Effort (MOE) provisions;
- The issuance of a Tri-Agency Letter on Cost Allocation of Information Technology Systems
- The availability of grants for States to develop Medicaid Emergency Psychiatric Demonstrations

### **Three Proposed Rules Regarding Affordable Coverage**

On August 12, 2011, the Departments of Health and Human Services and Treasury released three proposed rules regarding the provisions of the Affordable Care Act under which millions of uninsured Americans will gain access to health coverage through Affordable Insurance Exchanges and improvements in Medicaid and CHIP.

Together, the rules seek to create a path to a simple, seamless and affordable system of coverage. Information about each of the three rules is below:

- **Medicaid and CHIP Eligibility:** This proposed rule expands Medicaid and simplifies Medicaid and CHIP eligibility and promotes a simple, seamless system of affordable coverage by coordinating Medicaid and CHIP with the new Exchanges. The proposed rule can be viewed at <http://www.gpo.gov/fdsys/pkg/FR-2011-08-17/pdf/2011-20756.pdf>.
- **Exchange Eligibility and Employer Standards:** This proposed rule details the standards and process for enrolling in qualified health plans and insurance affordability

programs. It also outlines basic standards for employer participation in Small Business Health Options Program (SHOP). The proposed rule can be viewed at <http://www.gpo.gov/fdsys/pkg/FR-2011-08-17/pdf/2011-20776.pdf>.

**Health Insurance Premium Tax Credit:** Treasury Department proposed regulations specifying how individuals and families will receive premium tax credits to help defray insurance costs. The premium tax credits make it easier for millions of Americans to purchase affordable health insurance. The proposed rule can be viewed at <http://www.treasury.gov/press-center/Documents/36BFactSheet.PDF>

CMCS encourages all stakeholders to read the proposed rules and submit comments. The comment period is open through October 31, 2011 and comments can be submitted at <http://www.regulations.gov>.

### **Disallowance of Claims for FFP**

On August 3, 2011, CMS published a proposed rule which makes several changes related to State overpayments and disallowances in the Medicaid program. In accordance with the Affordable Care Act the proposed rule lengthens the time States have to credit the Federal government for identified but uncollected Medicaid provider overpayments. Additionally, the rule makes other changes to improve the disallowance process and to update the regulations to reflect recent changes in federal law, and provide States more time to repay the Federal share of overpayments to providers. The proposed rule can be viewed at <http://www.gpo.gov/fdsys/pkg/FR-2011-08-03/pdf/2011-19528.pdf>. Comments must be submitted by September 2, 2011.

### **Additional Guidance regarding the Affordable Care Act Maintenance of Effort Provisions**

On August 5, 2011, CMS issued a State Medicaid Director's letter and a set of Questions and Answers (Q&As) providing guidance on the "maintenance of effort" (MOE) provisions in the Affordable Care Act and their relationship to institutional level of care requirements and home and community-based services (HCBS). The policies contained in the letter and Q&A build upon guidance previously issued on the Affordable Care Act MOE provisions, as well as the American Reinvestment and Recovery Act (the Recovery Act) MOE provisions. The letter is available at: <http://www.cms.gov/smdl/downloads/SMD11-009.pdf>.

### **Tri-Agency Letter Regarding Cost Allocation for IT Systems**

On August 10, 2011, CMS, the HHS Administration for Children and Families (ACF), and the U.S. Department of Agriculture released a Tri-Agency letter providing States with information about a time-limited, specific exception to the cost allocation requirements set forth in OMB Circular A-87 (Section C.3) to allow Federally funded human services programs to benefit from investments in State eligibility systems being made by State-operated Exchanges, Medicaid and the Children's Health Insurance Program (CHIP). The exception gives States the opportunity to

consider the benefits of integrating the eligibility determination functions across health and human services programs.

The exception allows human services programs (including, but not limited to, Temporary Assistance for Needy Families (TANF), Child Care and Development Fund (CCDF), and the Supplemental Nutrition Assistance Program (SNAP)) to utilize systems designed specifically for determining a person's eligibility for certain health coverage programs (Medicaid, CHIP, and premium tax credits and cost sharing benefits through the Exchange) without sharing in the common system development costs, so long as those costs would have been incurred to develop systems for the Exchanges, Medicaid, and CHIP. This exception is effective immediately, applies only to development costs for eligibility determination systems, and terminates on December 31, 2015.

The Tri-Agency Letter is available at <http://www.cms.gov/smdl/downloads/tri-agency.pdf>.

### **Medicaid Emergency Psychiatric Demonstration**

On August 9, 2011, CMS announced a new Medicaid Emergency Psychiatric Demonstration, authorized by the Affordable Care Act, to provide States with more flexibility and resources to care for Medicaid beneficiaries with mental illnesses. The demonstration provides up to \$75 million in funding to States over three years to help care for Medicaid patients with psychiatric emergencies, in private inpatient psychiatric facilities with 17 or more beds, also known as institutions for mental diseases (IMDs).

CMS is now accepting applications to participate in this demonstration from interested State Medicaid Directors. States will be selected competitively based on their application proposals. More information, including the solicitation, application and fact sheet can be found at <http://www.cms.gov/DemonstrProjectsEvalRepts/MDP/itemdetail.asp?filterType=none&filterByDID=-99&sortByDID=3&sortOrder=ascending&itemID=CMS1249074&intNumPerPage=10>

I hope you find this information helpful.