

Center for Medicaid, CHIP and Survey & Certification

CMCS Informational Bulletin

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SUBJECT: Medicaid Premiums and Cost Sharing -- Revised Final Regulation on Display in the Federal Register

This informational bulletin is to notify you that today, the Centers for Medicare & Medicaid Services (CMS) put on display at the Federal Register a final rule (with a 30-day comment period for certain provisions) revising regulations addressing State options with respect to Medicaid premiums and cost sharing. This regulation implements the provisions of the Deficit Reduction Act (DRA) of 2005, as amended by the American Recovery and Reinvestment Act of 2009 (the Recovery Act). The regulation is available for viewing at http://www.federalregister.gov/OFRUpload/OFRData/2010-12954_PL.pdf.

Background

As you know, the DRA established a new section 1916A of the Social Security Act that offered a new option for establishing premiums and cost sharing in State Medicaid programs for certain beneficiaries. This regulation addresses the DRA changes and section 5006(a) of the Recovery Act, which amended sections 1916 and 1916A of the Social Security Act to exempt Indians from premiums and cost sharing under certain circumstances.

This revised final rule follows multiple comment periods and will become effective on July 1, 2010. The rule revises the final rule that was published on November 25, 2008 but was not made effective, and reflects public comments received during two subsequent comment periods. Please note that a 30-day comment period is provided for the portion of the revised final rule that applies to the provisions related to cost-sharing protections for Indians. Under the Recovery Act, those changes took effect on July 1, 2009.

Key Provisions

This final rule continues most of the provisions that were in the original rule published on November 25, 2008. It also includes several changes to the previously published rule, in part based on public comments received. Key provisions include:

Assuring Compliance with Statutory Cost-Sharing Limits

- The rule specifies that *if* a State establishes cost sharing (including premiums, copayments, deductibles) that could exceed the statutory maximum, the State must track beneficiaries' incurred costs through a mechanism, developed by the State, that does not rely solely on beneficiaries to assure that cost sharing remains below the statutory cap. This practice is common in the private sector and has been adopted in many State Medicaid and CHIP programs. States may devise the method they will use; no single method is required. The rule identifies a number of practices that States currently use to track families' out-of-pocket costs, including automated systems such as MMIS systems, which are matched at a 90% federal matching rate.
- Similarly, States must devise a method for informing providers, ideally through the use of automated systems, whether cost sharing for a specific item or service may be imposed on an individual beneficiary, and whether that provider may require the beneficiary, as a condition of receiving the item or service, to pay the cost-sharing charge.
- States must also describe in their Medicaid State plan the process through which beneficiaries may request that the State reassess the family's aggregate limit for premiums and cost sharing when the family's income may have changed or if enrollment is being terminated due to nonpayment of premiums.

Promoting Transparency

- Under the rule, States proposing to establish or substantially modify alternative premiums or cost sharing must provide the public with advance notice of the change and a reasonable opportunity to comment.

Promoting Prevention

- The rule defines the preventive services that must be excluded from cost sharing for children younger than age 18, consistent with the well-baby and well-child care and immunization recommendations described in the Bright Futures guidelines, an initiative led by the American Academy of Pediatrics.

Cost Sharing Protections for American Indians

- The rule specifies the requirements for exempting Indian applicants and beneficiaries from Medicaid premium and cost-sharing requirements and the conditions for assuring that Indian health care providers and providers offering contract health services (CHS) under a referral from an Indian health care provider receive full payment for services provided. These provisions are open for public comment over the next 30 days.

Thank you for your continued commitment to the success of these critical health coverage programs. Questions regarding this rule can be directed to Ginni Hain, Director, Division of Eligibility and Benefits, Family and Children's Health Programs Group, at 410-786-6036 or via email at ginni.hain@cms.hhs.gov