

Program Integrity Rule

Exchanges, Premium Stabilization Programs and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014

On October 24, 2013, HHS released a rule finalizing a number of policies related to the implementation of the Affordable Care Act, including provisions regarding Affordable Insurance Exchanges, also known as the Health Insurance Marketplaces. These policies largely are unchanged from previous proposed rules and guidance documents.

Overview

This rule finalizes policies from the proposed rule, titled "Program Integrity: Exchange, SHOP, Premium Stabilization Programs, and Market Standards," published on June 19, 2013. A number of other provisions in the proposed rule were finalized in the final rule published in the Federal Register on August 30, 2013, titled "Patient Protection and Affordable Care Act; Program Integrity: Exchange, SHOP, and Eligibility Appeals," specifically related to oversight of issuers offering coverage in the Federally-facilitated Marketplaces (FFMs), compliance with privacy and security standards, consumer protections regarding payment and application assistance, as well as eligibility appeals and flexibility for states.

This final rule, titled "Patient Protection and Affordable Care Act; Program Integrity: Exchange, Premium Stabilization Programs and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014," focuses on program integrity standards for advance payments of the premium tax credit, cost-sharing reductions, the premium stabilization programs, and State Marketplaces, oversight of issuers offering coverage in the FFMs, and standards for HHS-approved enrollee satisfaction survey vendors. The rule also amends standards and finalizes interim provisions set forth in the interim final rule, "Amendments to the HHS Notice of Benefit and Payment Parameters for 2014," published in the Federal Register on March 11, 2013, related to risk corridors calculations and cost-sharing reduction reconciliation. The overarching goal of the

provisions in the final rule is to safeguard federal funds and to protect consumers by ensuring that issuers, Marketplaces, and other entities comply with federal standards meant to ensure consumers have access to quality, affordable health insurance.

Key policies in the rule include:

Oversight of State-Operated Premium Stabilization Programs

The risk adjustment and reinsurance programs are important elements in guaranteeing affordable health insurance to consumers by helping to ensure a level playing field and the stabilization of premiums. To protect the financial integrity of these programs, the final rule establishes standards for the oversight of states that operate risk adjustment or reinsurance programs. The rule would require that states keep an accurate accounting for the programs, submit to HHS and make public reports on operations, and take other steps to ensure the soundness and transparency of the programs.

Program Integrity for Advance Payments of the Premium Tax Credit and Cost-Sharing Reductions

One of HHS' s key goals with respect to the oversight of advance payments of the premium tax credit and cost-sharing reductions is ensuring that eligible enrollees receive the correct tax credit and cost-sharing reductions. In order to achieve this goal, HHS establishes timeframes for refunds to eligible enrollees and providers when an issuer or Marketplace incorrectly applies advance payments of the premium tax credit or cost-sharing reductions, or incorrectly assigns an individual to a plan variation (or a standard plan without cost-sharing reductions). HHS also establishes general standards necessary for the oversight of these payments, including standards governing the maintenance of records, annual reporting of summary statistics, and audits.

Program Integrity of State Marketplaces

Effective and efficient oversight of State-based Marketplaces will help ensure that affordable and quality health coverage is available to all Americans. This final rule

establishes standards for the oversight of State Marketplaces through monitoring, reporting, and oversight of financial activities and Marketplace activities. These mechanisms would ensure that consumers are properly given their choices of coverage available, that consumers receive the full amount of advance payments of the premium tax credit and cost-sharing reductions for which they qualify, and that Marketplaces are meeting the standards of the Affordable Care Act in a transparent manner.

Oversight of QHP Issuers in Federally-facilitated Marketplaces

To protect consumers and the financial integrity of FFMs, the final rule provides for oversight of health insurance issuers. This includes ensuring compliance with Marketplace requirements, such as the maintenance of records requirement and participation in investigations and compliance reviews.

Establishment of Standards for HHS-approved Enrollee Satisfaction Survey Vendors

The Affordable Care Act provides for the development of an enrollee satisfaction survey that will be available to the public and will allow for the easy comparison of enrollee satisfaction levels among comparable plans in the Marketplace. This rule sets forth a process for approving and overseeing survey vendors to administer the survey on behalf of QHP issuers in the Marketplace.

Finalizing Provisions of the Interim Final Rule

This final rule also amends standards and adopts as final interim provisions set forth in the interim final rule, "Amendments to the HHS Notice of Benefit and Payment Parameters for 2014." These provisions align risk corridors calculations with the single risk pool provision, and finalize standards permitting issuers of QHPs to use an alternate methodology for calculating the value of cost-sharing reductions provided, for the purpose of reconciliation of advance payments of cost-sharing reductions.