Attachment A: CMS Response to Public Comments Received for CMS-10333

The Centers for Medicare and Medicaid Services (CMS) received comments from The Community Service Society of New York State's designated Consumer Assistance Program (CAP) Community Health Advocates (CHA), Mr. Garamendi of California, Ms. Lee of California, Mr. Leahy of Vermont, Mr. Gregory Smith of California, Mr. Bond of Missouri, and Mr. Enzi of Wyoming related to CMS-10333. This is the reconciliation of the comments.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received comments from The Community Service Society of New York State's designated Consumer Assistance Program (CAP), Community Health Advocates (CHA) suggesting that, *"The CAP database should be designed to allow existing CAPs to continue to collect and analyze their longitudinal data about health coverage trends in their respective states."*

Response:

CMS thanks the commenter for the suggestion. Each Consumer Assistance Program (CAP) is required to use some type of Database software to track all cases received by the awardee. All casework must be entered into the Database. The Database keeps track of all caller information, such as caller demographics, type of coverage, problem type, and case resolution. The Database also tracks cases that were referred to the Federal and State regulators, Medicaid, CHIP, and other public programs.

Currently, many existing consumer assistance programs already use Database software to track cases they handle. If their Database software can generate the types of information required to be reported by this Office, then programs may continue to use their own Database software. However, programs, at their discretion, may choose to use the OCIIO provided database.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received comments from The Community Service Society of New York State's designated Consumer Assistance Program (CAP), Community Health Advocates (CHA) suggesting *"changing the options for the question about "English Proficiency" to simply yes or no. Most advocates are not experts in evaluating language proficiency, and are hesitant to ask clients additional personal questions that are unrelated to coverage. It will be difficult to collect accurate data about more nuanced levels of proficiency."*

Response:

CMS appreciates the suggestion provided by the commenter and agrees that changing the options for the question about "English Proficiency" to a simple yes or no will allow the CAP programs to more easily collect accurate data. We will add this change to the next update of the database.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received comments from The Community Service Society of New York State's designated Consumer Assistance Program (CAP), Community Health Advocates (CHA) suggesting to "*add "student" to the list of choices under "Employment status.'*"

Response:

CMS appreciates the suggestion provided by this commenter but disagrees with the commenter that student should be an option under employment status. This field is used to identify the employment status of the consumer as it relates to his/her access to Employer Sponsored Insurance; although there are health plans available to students, it would not be considered Employer Sponsored Insurance and should not be included in this question.

Student health plan data is captured in the "Health Insurance Status and Recent History" form. For Uninsured this would be selected from the drop down menu under the "Type of Coverage Last Had" question. For "Insured in Transition" and "Insured Other Problems," student health would be selected under the "Type of Coverage at Initial Contact."

Comment:

The Centers for Medicare and Medicaid Services (CMS) received comments from The Community Service Society of New York State's designated Consumer Assistance Program (CAP), Community Health Advocates (CHA) suggesting that *"Rather than asking for a client's monthly income level, it might be simpler to ask for the client's income for the prior month. Some clients have fluctuating incomes or informal jobs without fixed monthly incomes and can make the response a little more challenging."*

Response:

CMS appreciates the suggestion and concern expressed by this commenter but disagrees with the commenter that it would be simpler to ask for the consumer's income for the prior month. The types of coverage or programs available to consumers may depend on their average monthly income. If the consumer's income varies from month-to-month, then the analysis of available (and viable) options for the consumer may not be accurate.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received a comment from The Community Service Society of New York State's designated Consumer Assistance Program (CAP), Community Health Advocates (CHA) that *"We found the questions about "Insurance burden" confusing. We were unsure when it would be appropriate to check the box "Obtained with burden." We also suggest that you add an option to the list of options under "Insurance burden" called "Cost sharing increased," in addition to the "Cost sharing too high" option. It could be helpful to distinguish between consumers who experience a cost burden because they obtain new coverage with unreasonable cost sharing requirements from consumers whose existing coverage becomes unaffordable when the cost sharing requirements are increased."*

Response:

CMS appreciates the concern expressed by this commenter. The "Obtained with Burden" box should be checked when the consumer was able to obtain coverage, but did so with a burden such as a high premium or preexisting condition exclusion period.

CMS appreciates the suggestion to add 'cost sharing increased' to the options but disagrees with the commenter that it should be added to this section. A cost sharing increase would mean the consumer was experiencing an issue with his/her current coverage and should be reflected in the "Problem with current coverage", "Adequacy" section.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received a comments from The Community Service Society of New York State's designated Consumer Assistance Program (CAP), Community Health Advocates (CHA) *"CHA has been trying to determine how many of the consumers we help have benefitted from the ACA reforms that have already been implemented, like the PCIP. It might be helpful to include a question asking whether the consumer has benefitted from an ACA provision, with a list of possible benefits for the advocate to choose from."*

Response:
CMS thanks the commenter for the suggestion and will take it under consideration for the next update.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received a comment from The Community Service Society of New York State's designated Consumer Assistance Program (CAP), Community Health Advocates (CHA) *"We also note that the data collected appears to focus primarily on commercial coverage, with less information gathered about consumers with public coverage. CHA has always been an all-payer program, and we help consumers with public and private coverage as well as those who are uninsured. As the ACA expands access to public coverage, more consumers will need help enrolling in and navigating public health insurance programs. If the CAP data base does not collect equally robust data about consumers with public insurance as private insurance, HHS will lose the ability to conduct high quality analysis of coverage trends. We encourage HHS to equally prioritize providing consumer assistance, and collecting data about that assistance, to consumers with public coverage."*

Response:

CMS appreciates the concern expressed by this commenter but at the current time, this collection is focused on health insurance and group health plans as prescribed under Section 2793 of the PHS Act. As such, programs are not expected to provide assistance related to Medicaid and CHIP coverage, but they are required to demonstrate that they can and do make appropriate referrals for such inquiries.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received a comment from The Community Service Society of New York State's designated Consumer Assistance Program (CAP), Community Health Advocates (CHA) *"CHA has added "Recovered Benefits" to the list of fields in our system, but we are still developing guidelines for what to include in that category. Currently, we are working with the most basic measures – we have our advocates enter the total of any bills that the consumer does not have to pay because of our help. We would appreciate further guidance from HHS on how to define and calculate recovered benefits."*

Response:

CMS appreciates the request for guidance. Recovered benefits refer to the dollar amount the CAP has been able to recover for the consumer. CHA's method of determining this amount appears to be in line with the intended data to be collected in this field. CMS will provide further guidance to our grantees on how to determine this.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received a comment from The Community Service Society of New York State's designated Consumer Assistance Program (CAP), Community Health Advocates (CHA) *"We identified two questions in the*

Appeals and Grievances form that we think could use more clarification. The difference between levels of grievance and appeal can be very confusing for consumers and even for advocates. The data that HHS collects will be more accurate if the definitions for various levels of appeal are made clearer for users of the database. Additionally, the database should allow advocate to record complaints made more informally by letter or telephone call. Consumers do not always report that they have made a complaint because they are not aware that a complaint made by telephone is a real complaint, resulting in underreporting of complaints."

Response:

CMS appreciates the concern expressed by this commenter. The drop down menu provides two options which are the levels, internal and external. CMS will provide training and materials to grantees on the new Appeals Regulations and Guidance published on June 22, 2011. CMS will also update the database user manual with examples to help CAP's understand the levels of appeals.

Regarding the recording of complaints, CMS will clarify the proper way to document and report this data.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received a comment from The Community Service Society of New York State's designated Consumer Assistance Program (CAP), Community Health Advocates (CHA) "*We are also concerned that advocates will have a difficult time determining which plans have grandfather status. The rules for grandfather status are very complicated. In many cases, the grandfather status is not an issue that advocates must resolve. More training on how to determine grandfather status so that advocates can accurately select the field might be helpful."*

Response:

CMS appreciates the concern expressed by this commenter. We have provided all CAP programs a "Health Insurance Resource Manual for Consumer Assistance Programs," which discusses Grandfathered Plans (beginning on page 11). In addition, CMS has provided several trainings to the CAP grantees on Grandfathered health plans and other topics. A recording of these trainings, as well as factsheets and other materials, are available to CAP grantees at any time on the grantee web portal. Additional trainings will be provided as updates to the Regulation are made.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received a comment from The Community Service Society of New York State's designated Consumer Assistance Program (CAP), Community Health Advocates (CHA) *"CHA has added several useful functions to our case management system that we recommend HHS adding to the CAP database. We ask clients for permission to tell their story, for promotional and advocacy purposes. Our database includes an option for an advocate to identify clients who are willing to have us use their stories, and we suggest that HHS add this option for CAPs using the database.*

Our case management system allows our quality assurance manager to flag cases that need follow-up. This notifies CBO-based advocates that they need to check in with CSS about further actions they need to take on the case, or additional documentation they need to enter in the database. While this feature would not be used by HHS staff or CAPs with another case management system, like CHA, the CAPs that use the HHS database as their case management system might find this feature useful."

Response:
CMS thanks the commenter for the suggestion and will take it under consideration for the next update.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received a comment from Mr. Garamendi of California *"I remember those days too. And I also remember what you were talking about a moment ago, and that is the way in which the insurance industry has in the past really harmed us. It's as though we were thrown to the sharks. We had no option. We will have a better option in the purchase of insurance in the days ahead. In fact, for those people in the 50 to 65 age group who have preexisting conditions, there is an insurance exchange that is immediately available to them. They will be part of a group, a high-risk group. They will be able to get insurance immediately. I think it's within 90 days they'll be able to apply for that insurance. Right now there's no way they can get coverage. They're not old enough for Medicare. They're probably virtually unemployable because they have a preexisting condition, and employers don't want to hire them because they know the insurance companies are going to raise the rates on everybody if they would be hired. So they are really in a dark hole. But this legislation provides a mechanism for those people in that category to get insurance in a high-risk pool that is actually paid for by the Federal Government. And that will be available this year right away.*

Ninety days from now, this would be in June, there is an immediate help for the uninsured in the exchange. This is what we were talking about. These are those who have a preexisting condition, those 50 to 60, 65 years old, they will be able to enter into a temporary, high-risk pool, and eventually, in 2014, they will be able to purchase insurance through the purchasing exchanges."

Response:

CMS will not address this comment as it is outside the scope of the information collected.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received a comment from Ms. Lee of California *"Among the key provisions in the legislation that CBC members fought to have included are:*

Inclusion of coverage for residents of the U.S. territories, including a significant infusion of new Medicaid dollars, as well as access to the Exchange so that Americans in the territories will have access to affordable, high-quality health insurance plans. The bill guarantees transparency on rates and enables state insurance commissioners to recommend to the National Insurance Commissioner whether a particular insurer should participate in the Health Insurance Exchange, taking into account excessive or unjustified premium increases in making that determination. This will hold private insurers accountable, ensure affordability and help provide quality coverage for American families:"

Response:

CMS will not address this comment as it is outside the scope of the information collected.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received a comment from Mr. Leahy of Vermont *"The building blocks of health reform are more popular than the sum of the plan's parts. Polls show public unease about the hazy concept of ``comprehensive health reform'' but solid support for what is in the plan.*
This paradox recently was put to a real life test, with a vote on a reform I proposed to repeal health insurance companies' antiquated exemption from the antitrust laws. These are the pro-competition rules that apply to virtually all other businesses, to help promote vibrant markets and consumer choice. Competition and choice help lower costs, expand access and improve quality.

We have seen all too well what would have happened if we had not acted to pass comprehensive reform. Just last month, insurance companies planned a series of premium hikes as large as 39 percent in one State. Last year the five largest for-profit insurance companies booked $12.2 billion in profits, and they raised the average family

premium three times faster than wages. One company alone, WellPoint, is hiking rates by double digits in 11 States, while their profits are up 91 percent. Meanwhile, even with soaring profits, insurers continue to drop sick people from their rolls, spend less on care, and avoid competition.

Like many sweeping reforms of our history, this legislation will likely be improved in the coming years as these reforms are implemented. For example, I will continue to push for a public option and for repeal of the health insurance industry's antitrust exemption, in order to promote competition, choice and lower prices.

Some have argued that doing nothing is a safe option. Last month, insurance companies planned a series of premium hikes, as large as 39 percent in one State. Last year, the five largest for-profit insurance companies booked $12.2 billion in profits and they raised the average family premium three times faster than wages. One company alone, WellPoint, is hiking rates by double digits in 11 States, while their profits are up 91 percent. Meanwhile, even with soaring profits, insurers continue to drop sick people from their rolls, spend less on care, and because they have an exemption in antitrust laws they avoid competition."

Response:

CMS will not address this comment as it is outside the scope of the information collected.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received a comment from Mr. Gregory Smith of California *"Following are optional comments for your information collection (reference 1 below) on limited Competition for the Affordable Care Act's Exchanges. I didn't find a form CMS-10337 on the CMS web page, so comments were generic by your title - limited competition on the exchange.*

Antitrust exemption.
Did the Affordable Care Act solve the previous causes of limited health insurance competition? One previous cause of limited competition was a health insurance industry anti-trust exemption as explained by a Vermont leader [Mr. LEAHY] in attachment 1. This leader's record also provided examples of how competition was important to keep costs from going too high.

State process to recommend insurers to exchange.
A California leader [Ms. LEE] reported State insurance commissioners could recommend particular health organizations to be put on the exchange list per attachment 2. If the list of competing insurers is limited, does this just mean the exchange is just waiting for State insurance commissioners to report more qualified candidates? If an

insurance commissioner can simply recommend a few more candidates, maybe this could overcome the reported limitation?

U.S. territories.
Attachment 2 also said the health exchange was going to benefit U.S. territories. By having access to the same exchange as regular States, the territories might have access to equal services. If the exchange has been limited, is it fair to say the territories were also impacted?

Accelerated schedule for 50-65 year old persons.
Can health exchange options go on the internet for the 50-65 year old persons now instead of waiting for a 2014 deployment? A California exchange web page currently delayed options until 2014 (http://www.healthexchange.ca.gov/Pages/Default.aspx). However, a California leader (Mr. Garamendi) indicated exchange information might be deployed earlier for the 50-65 age range per attachment 3. If data for 50-65 year olds was deployed earlier, this might also mitigate the perceived limitation in exchange competition per your notice (reference 1).

Small businesses impacts.
Small business competitiveness is partly a function of access to affordable health insurance from national purchasing pools like the planned exchanges. This is according to leaders of Missouri [Mr. BOND] and Wyoming [Mr. ENZI] per attachment 4. If small business were affected by the exchange limitations, is it fair to identify this as an unplanned result/impact?

Insurers on the internet – California.
Attachment 5 is a draft list of 34 "active" California health insurers downloaded from the California Secretary of State's business registry. An internet address was added separately for each insurer for practical utility. If no health exchange data is already available for California internet exchange, maybe some of these 34 records could provide something to start with?"

Response:

CMS will not address this comment as it is outside the scope of the information collected.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received a comment from Mr. Bond of Missouri "*The government is literally prohibiting economic growth. Small businesses are struggling. They are struggling in this economy to be able to offer affordable health insurance. I have worked for years with people such as Senator Enzi and other colleagues to get small businesses permission to go together in nationwide*

purchasing pools and buy their insurance in the national market like the big employers and the unions do so they can get better rates, get the administrative savings.

Well, we cannot get it through. This would be the time to do that. It would not cost the taxpayers anything. It would save taxpayers money. Allow people to purchase health care across State lines. You can see auto insurance advertised, and they cut through competition to get you the best deal. Would not my folks in Missouri who are having trouble affording health care like to look for a national health plan? They would love it."

Response:

CMS will not address this comment as it is outside the scope of the information collected.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received a comment from Mr. Enzi of Wyoming "*I thank the Senator from Missouri for his passionate remarks. He was the former chairman of the Small Business Committee before he moved to the chairman of the Intelligence Committee. You can see the passion and his understanding, former Governor, and one of Jaycee's ``10 outstanding young men.'' I appreciate him raising the issue of small business health plans. We have exchanges, we have the Shop Act, we have some other things, co-ops, in the bill. But we should have put in more opportunities for competition. Increased competition brings prices down. So I thank the Senator for mentioning that. I believe our time has expired?"*

Response:

CMS will not address this comment as it is outside the scope of the information collected.