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Summary of Benefits and Coverage and Uniform Glossary

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Submitter Information

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General Comment

See attached file(s)

Attachments

ACAP standard coverage document reg response 102111

ACAP
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Bob Thompson, Chairman | Margaret A. Murray, Chief Executive Officer

October 21, 2011

Dr. Donald Berwick, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201
File code: CMS-9982-NCv

Submitted electronically via: http://www.regulations.gov

Dear Dr. Berwick:

The Association for Community Affiliated Plans (ACAP) appreciates this opportunity to provide comments to the Centers for Medicare & Medicaid Services (CMS) related to the solicitation for comments called *Summary of Benefits and Coverage and Uniform Glossary--Templates, Instructions, and Related Materials Under the Public Health Service Act.*[1]

ACAP is an association of 59 not-for-profit and community-based Safety Net Health Plans (SNHPs) located in 28 states.[2] Our member plans provide coverage to over 8 million individuals enrolled in Medicaid, Children's Health Insurance Program (CHIP) and Medicare Special Needs Plans for dual eligibles. Nationally, ACAP plans serve approximately one-third of all Medicaid managed care enrollees. Safety Net Health Plans currently are developing plans to serve those individuals that will gain new coverage due to insurance expansions enacted by the Affordable Care Act; such plans must be viewed as a full partner in meeting the coverage needs of our nation's low-income health care consumers – whether they are eligible for Medicaid, CHIP, coverage in health state-based health insurance Exchanges, or other health care programs.

Please find below ACAP's responses to selected parts of this solicitation.

Affordable Care Act § 2715

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[1] The Patient Protection and Affordable Care Act (P.L. 111-148) and the Healthcare and Education Reconciliation Act (P.L. 111-152) together are referred to in this letter as the Affordable Care Act.

[2] ACAP represents safety net health plans that are exempt from federal income tax, or that are owned by an entity or entities exempt from or not subject to federal income tax, and which provide health coverage primarily or exclusively for individuals receiving benefits under Federal or state health care programs, including Medicaid, Medicare, and CHIP.

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Section 2715(a) of the Affordable Care Act, "Development and Utilization of Uniform Explanation of Coverage Documents and Standardized Definitions" states that:

> "Not later than 12 months after the date of enactment of the Patient Protection and Affordable Care Act, the Secretary shall develop standards **for use by a group health plan and a health insurance issuer offering group or individual health insurance coverage,** in compiling and providing to applicants, enrollees, and policyholders or certificate holders a summary of benefits and coverage explanation that accurately describes the benefits and coverage under the applicable plan or coverage."

The law does not appear to explicitly require Medicaid, CHIP and Basic Health Program health plans. However, the solicitation states at one point that the SBC template is intended to be used by all types of plan or coverage designs, but does not clarify that Medicaid plans are not included. Also, the Public Health Service Act at section 2715(b)(3)(G) states that health plans must include on the SBC a statement indicating whether the health plan provides minimum essential coverage. Because the definition of "minimum essential coverage" in section 5000A(f) of the Code, as created by the Affordable Care Act, includes Medicaid and CHIP, ACAP seeks clarification as to whether Medicaid, CHIP and Basic Health Program health plans will be considered "group health plans" or "health insurance issuers" and therefore must provide SBCs to enrollees, applicants, policyholders or certificate holders.

> **ACAP respectfully requests clarification** as to whether Medicaid, CHIP and Basic Health Program health plans will be considered "group health plans" or "health insurance issuers" for the purpose of the SBC.

The solicitation states that the SBC is intended to assist individuals purchasing coverage in the individual market in comparing the benefits and coverage of different individual policies offered by insurance issuers. ACAP is particularly concerned about the health care needs of low-income individuals and families, and is aware that the population with income below 200 percent of the federal poverty level can be expected to experience frequent income changes that will cause eligibility to swing between Medicaid or CHIP and commercial coverage, including coverage in the Exchange. Furthermore, many lower-income families will experience "split eligibility," whereby parents are eligible for coverage in qualified health plans through the Exchange, and children are eligible for Medicaid and CHIP.

ACAP therefore believes that the SBC should include a statement regarding whether the health plan's issuer also operates a health plan in the state's Medicaid, CHIP or Basic Health programs. Such a requirement will provide consumers with information critical for selecting a health plan or health insurance issuer most likely to be able to coordinate the different coverages.

Section 2715(b) of the Affordable Care Act requires that standards for the summary of benefits and coverage developed under subsection (a) shall provide for, among other items,

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''(G) a statement of whether the plan or coverage—

''(i) provides minimum essential coverage (as defined under section 5000A(f) of the Internal Revenue Code 1986);

ACAP urges HHS to interpret (G)(i) to mean that the SBC should include a statement regarding whether the health plan's issuer also operates a health plan in the state's Medicaid, CHIP or Basic Health programs.

We appreciate your consideration of our comments regarding *Summary of Benefits and Coverage and Uniform Glossary--Templates, Instructions, and Related Materials Under the Public Health Service Act*. ACAP is prepared to assist the agency with additional information as needed. If you have any additional questions please do not hesitate to contact Jennifer McGuigan Babcock (202) 204-7518 or jbabcock@communityplans.net.

Sincerely,

Margaret A. Murray
Chief Executive Officer