INFORMED ON REFORM

HEALTH CARE REFORM ALERT

Alerting you on official legislative, regulatory or executive action

October 31, 2017

Proposed Regulations –
2019 Notice of Benefit and Payment Parameters

On Oct. 27, 2017, the Department of Health and Human Services (HHS) issued proposed regulations related to a wide range of Affordable Care Act (ACA) benefit provisions. In addition to the annual benefit provision updates, this proposed rule would increase state flexibility for Essential Health Benefits (EHBs) and reduce some regulatory requirements in the individual and small group markets. It also includes an increase to the consumer out-of-pocket maximums.

The proposed changes to EHB benchmark plans would directly impact individual and small group plans, as well as large group health plans. Most of the remaining provisions are related to Marketplace regulations and market reforms that would directly impact individual and small group markets.

These proposed regulations will be effective for the 2019 plan year. The regulations have a 30-day comment period and request input on a variety of topics by Nov. 27.

Also on Oct. 27, the Centers for Medicare & Medicaid Services (CMS) posted the draft 2019 Actuarial Value Calculator and methodology. The calculator is used by insurers in the individual and small group market to determine their plans' "metal" level (bronze, silver, gold or platinum).

Links to the calculator and all documents can be found below.

Essential Health Benefits (EHBs)
Beginning in 2019, the proposed rule would allow states greater flexibility in selecting a benchmark plan applicable to the individual and small group insurance markets. States would be allowed to follow current rules and maintain 2017 benchmark plans, or they may select a new EHB benchmark plan annually from one of the following three options:

- **Choose another state's 2017 benchmark plan** – allowing states to select another state's 2017 benchmark plan, and implement the plan benefits and limits to their own EHB standards, such as changing benefits with dollar limits to non-dollar limits.
- **Replace one or more EHB categories** of benefits under its current 2017 benchmark plan with the same categories from another state's 2017 benchmark plan – giving states the ability to make precise changes to their 2017 benchmark plans at the coverage detail level. For example, State A may select the prescription drug coverage EHB from State B, which uses a different drug formulary, and one or more other EHB categories from other states.
- **Select a new benchmark plan** – using the 2017 benchmark plan selection process so long as it is equal to the scope of benefits provided under a "typical employer plan," and is no more generous than the most generous of a set of comparison plans. CMS released guidance with methodology for comparing benefits.

2019 out-of-pocket maximums
The proposed 2019 annual out-of-pocket maximums are $7,900 for individual coverage and $15,800 for family coverage (up from $7,350 for individual coverage and $14,700 for family coverage in 2018).

Marketplace regulations
Many of the provisions relate to strengthening the Health Insurance Marketplace (public Exchanges) by:

- Extending the qualified health plan (QHP) certification approach that it adopted in the 2018 Market Stabilization rule for 2019 and beyond, deferring QHP reviews to the states
- Loosening the audit process for agents, brokers and issuers who participate in the direct enrollment process
- Updating the risk adjustment model for insurers with high-cost enrollees
- Modifying the requirements for Exchanges to verify eligibility for, and enrollment in, qualifying employer-sponsored coverage
- Not proposing 2019 standardized plan options (known as simple choice plans)
- Updating special enrollment period (SEP) rules for coverage effective dates specific to SEPs that allow adding or changing dependents

- Adding a new SEP for pregnant women who are receiving coverage through Children's Health Insurance Program (CHIP) once they lose access
- Allowing Exchanges to determine individual affordability exemptions based on affordability of the lowest-cost metal level plan available
- Allowing enrollees to request same-day termination of coverage
- Removing several Small Business Health Options Program (SHOP) requirements for online enrollment

Other market reforms
In addition to Marketplace (Exchange) updates, the proposed rules also modify other ACA provisions.

- Streamlining the rate review process for states and issuers, including when rates are posted and increasing the threshold at which rate increases require review from 10% to 15%
- Modifying the Medical Loss Ratio (MLR) rules, including simplifying quality improvement activity reporting for issuers and the process states use to request adjustments to the MLR standard in the individual market

Review the information via these links for additional details.

Understand Essential Health Benefits basics

Read the 2019 Proposed Benefit and Payment Parameters Fact Sheet

Read the Proposed Regulations

View the 2019 Draft Actuarial Value Calculator (**Note:** If you are using Internet Explorer, you may need to right click the link and select "Save Target As...")

Review the Calculator Methodology

Staying Informed
To stay up to date on the evolving state of health care reform, visit www.InformedonReform.com, where we continuously update information as it becomes available.