



**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

May 7, 2012

Marilyn Tavenner  
Acting Administrator  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services

RE: CMSCMS-2349-F, RIN 0938-AQ62

Dear Acting Administrator Tavenner:

The Consortium for Citizens with Disabilities (CCD) Health Task Force appreciates the opportunity to comment on the interim final rule components of the final rule implementing the eligibility changes in the Medicaid program. The changes are the result of passage of the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010 (collectively known as the Affordable Care Act or “ACA”). The CCD Health Task Force is a coalition of national disability organizations that work together to promote public policy that improves access to affordable, quality health care.

**§435.1200: Coordination-Medicaid agency responsibilities**

This interim final provision sets out the requirements that Medicaid agencies must meet to ensure coordination of the eligibility process across all insurance affordability programs. These requirements are extremely important now that different agencies may make the determination of eligibility for Medicaid, CHIP, advance payments of premium tax credits (APTC), and cost-sharing reductions (CSR).

CCD is concerned that bifurcating the eligibility process is inconsistent with the streamlined “no wrong door” system described in sections 1413 and 2201 of the ACA. Given the decision to allow bifurcation, our comments on this provision are intended to make the requirements for coordination stronger and clearer so that more individuals and families can easily enroll in the appropriate coverage program.

Specifically, we recommend revising the interim final rule to:

- Outline how the Medicaid agency and the exchange will come to agreement on the eligibility standards, methodologies, and verification procedures that the exchange will use in assessing eligibility of applicants for insurance affordability programs, as well as what further processing by the Medicaid agency is allowable
- Require that advocates and consumers have a role in commenting on the interagency agreements and that HHS reviews and approves the agreements.
- Ensure that the agreements describe the division of responsibility for notices, appeals and consumer assistance.
- Ensure that the end result of the negotiation and agreement is transparent and readily available to applicants and the general public.

### **§435.912: Timely Determination of Eligibility**

CCD strongly supports the decision to require states to establish performance standards that measure their effectiveness in making efficient and timely eligibility determinations across a pool of applicants. Such performance standards are a necessary supplement to current Medicaid timeliness standards for eligibility determination. We understand that states need flexibility to set these standards (subject to federal minimum requirements) in order to reflect the capabilities of existing systems and technologies. However, HHS should establish benchmarks for evaluating whether the performance standards set by a state properly reflect the systems and its technological and other capacities. Furthermore each state's performance on these standards should be subject to rigorous monitoring and enforcement.

CCD also recommends that HHS revisit the 45 day processing standard for applications and the 90 day processing standards for disability applications. We urge that CMS establish a maximum 30-day standard for applications and a 60 day standard for disability determinations. We believe is reasonable and achievable given today's technological capabilities, the availability of electronic sources of verification, the requirement for electronic data transfers, and the push to conduct real-time eligibility determinations of insurance affordability programs. Shortening the timeliness standard is particularly important in light of the new option that allows exchanges to merely make an assessment of potential eligibility for Medicaid as opposed to a final and binding eligibility determination.

### **§431.10 Single State Agency**

CCD urges CMS to reconsider the portion of the final Medicaid rule that permits important eligibility-determination functions to be contracted out to private entities. Public accountability for Medicaid eligibility determinations is essential. The best way to ensure accountability is through the use of governmental staff that will carry out these functions in the best interest of the public, without bias or conflicts of interest. This has been the policy in Medicaid for decades and to change it without a process for notice and comment is highly unusual and sets a bad precedent.

CCD appreciates the opportunity to provide comment. If you have any questions or would like more information please contact the Health Task Force co-chairs listed below.

Sincerely,

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