



Silver State Health Insurance Exchange

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January 8, 2024

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attn: CMS 9895-P
P.O. 8016
Baltimore, MD 21244-8016

Re: Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2025 - CMS 9895-P

To Whom It May Concern:

The Silver State Health Insurance Exchange (hereinafter, the Exchange), the state agency tasked by statute with oversight and operation of Nevada's public health insurance marketplace known as Nevada Health Link, appreciates your consideration of the following comments related to the Patient Protection and Affordable Care Act; Updating Payment Parameters for 2024.

The Exchange thanks the Administration for the continued commitment to preserving States' autonomy as it relates to the management of their health insurance markets and protecting the authority exercised by State-based Exchanges (SBEs) to control implementation of policy, operations, and technical improvements to their marketplaces. We respectfully offer the following comments and recommendations addressing specific provisions of the proposed rule.

Cost-Sharing Reduction Adjustments

The Exchange, in consultation with our partners at Nevada's Division of Insurance (DOI), supports the proposed recalibration of CSR adjustment factors for AI/AN enrollees. We believe this change would help ensure that plans enrolling Nevada's AI/AN populations are not underfunded and receive accurate risk adjustment transfer amounts.

Standardized Plan Options (§ 156.201)

The Exchange does not support requirements for standardized plans that would make the standardized plan model of the Federally Facilitated Exchange (FFE), or a variation of said model, a requirement for SBEs. Due to the unique challenges included in standardized plan creation and design, the Exchange would like to convey support for not requiring state-based exchanges (SBE) to also include standardized plans in the foreseeable future. While some SBEs have already moved forward on setting their own standardized plan requirements, we believe it is important to allow SBEs to decide how and when to introduce changes like standardized plans in their own marketplaces. This flexibility allows SBEs to best respond to unique, state-specific needs and prioritize strategies which create the

best opportunity to expand coverage within their state, based on its specific resource constraints.

SBEs must consider varied and unique factors regarding a move to standardized plan models, to include, but not limited to, development of appropriate standardized templates, collaboration with in-state partners, the current state of local provider networks, plan certification limits and strategies, as well as unique demographic trends, which may affect best practices on a state-by-state basis. These factors all require thoughtful consideration, balancing of staff resources, and budget planning for implementation on a timetable that allows SBEs to continue to prioritize expansion of coverage within the state.

45 CFR Part 155 (Attestation of Incarceration Status) (45 CFR 155.315(e))

The Exchange supports the proposed rule to streamline the eligibility verification process regarding incarceration by accepting consumer attestation of status. The Exchange has noted that while Data Matching Issues (DMIs) generated from Hub check responses for incarceration status are generally low in number, they do often tend to be generated in error and subsequently cleared by the consumer. Additionally, due to the nature of the DMI being for incarceration, it is a matter which many consumers find to be particularly negative as an experience as well as confusing, and in the cases in which there is consumer confusion regarding how to clear such a DMI generated in error, the loss of enrollment eligibility places the consumer at risk of gaps in coverage.

Verification Process Related to Eligibility for Insurance Affordability Programs (45 CFR 155.320)

The Exchange believes that the proposed implementation timeline would jeopardize our ability to continue using the VCI service as a fallback data source for income verification. Nevada state agencies budget in two-year cycles, and our current operating budget has been finalized through June 30, 2025. Amending this budget to secure spending authority for continued use of the VCI service would represent a significant logistical hurdle with no guarantee of success. CMS has proposed that SBEs could increase Carrier Premium Fees to offset these costs, but the Exchange is concerned that this move would have a chilling effect on carrier participation, particularly in Nevada's already underserved rural counties. In addition, the Exchange's Board of Directors establishes Carrier Premium Fees for the prospective Plan Year each February, so the earliest opportunity for us to adjust our fees following release of the final rule would be February of 2025, for Plan Year 2026. With that in mind the Exchange urges CMS to consider the monthly, invoice-based payment model, as we believe this would provide much greater flexibility for states to secure interim funding which was not built into their existing operating budgets.

ICRs Regarding Failure to File and Reconcile Process (45 CFR 155.305(f)(4))

The Exchange supports the proposed rule change requiring Exchanges to check consumer reconciliation status at least annually and to notify consumers of a response of failure to reconcile, in any given year. The Exchange agrees that this is a valuable measure in maintaining beneficial and meaningful program integrity checks, which ultimately support consumer best interests. The Exchange would also like to know if the current DMI response codes, indicating one year of failure to reconcile, will still be utilized after the new response code, indicating two years of failure to reconcile, goes into effect. Having clarity on this matter will allow exchanges to better prepare for the proposed guidance and related consumer notification needs from a technology standpoint.

Establishment of Exchange Network Adequacy Standards (45 CFR 155.1050)

The Exchange does not support the proposed rule change to require SBEs to implement network adequacy standards for time and distance that would be at least as stringent as those used by the FFE, by January of 2025. The Exchange, in consultation with our partners at the DOI, has significant concerns regarding both the short timetable for implementation of this rule change, as well as the downstream effects that this change may have on our state's overall coverage and network stability. We believe that the timeframe of implementation is insufficient in practical matters, specifically the communication and collaboration required to implement new standards prior to the plan certification window for 2025 plans. Implementation of new standards would require significant communication, collaboration, and work among the Exchange, the DOI, our carriers, and potentially with individual providers.

Additionally, Nevada is an especially rural state with only two urban areas, and network adequacy is already a challenge in counties with especially low population density and very underdeveloped infrastructure. Nevada's particularly rugged terrain also plays a unique role in development as well as other factors. Regarding this proposed rule change, the Exchange asks that SBEs be allowed to maintain the current degree of state-by-state flexibility and autonomy for network adequacy standards. In the meantime, CMS could assist SBEs with any voluntary implementation of FFE standards for Network adequacy by providing additional training and clarification on FFE standards and implementation processes.

Provision of EHB (Adult Dental Prohibition Removal) (45 CFR 156.115)

The Exchange supports the proposed rule regarding the removal of the prohibition of including routine adult dental benefits as an EHB. Removing the prohibition allows SBEs to make the decision to incorporate said benefits as EHB in the best manner and most practical implementation timeline, while respecting the autonomy of each SBE in making those decision with their partners and stakeholders.

Eligibility Redetermination During a Benefit Year (§ 155.330(d))

The Exchange supports the proposed rule to grant the Secretary the authority to suspend PDM requirements in emergencies or situations that may cause PDM required databases to become reasonably insufficient, such as a public health emergency or other detrimental circumstances.

Thank you for your time and attention. We look forward to working with the Department on these proposals and in our ongoing efforts to improve access to affordable Exchange coverage. Please feel free to contact me should you have any questions or require any additional information.

Respectfully,



Russell Cook
Executive Director
Silver State Health Insurance Exchange