Latest Updates on HealthCare.gov and Open Enrollment

Presenters:
Sonia Lara, TACHC slides
Anthony Lechuga CMS Dallas office slides
Mina Schultz, Young Invincibles slides

Mina Schultz of Young Invincibles provided an overview of updates for HealthCare.gov during the open enrollment for PY (plan year) 2024 from November 1, 2023 to January 15, 2024, as well as policy issues on the horizon.

New features in open enrollment for PY 2024 are outlined in the 2024 Notice of Benefit and Payment Parameters published by CMS. Some highlights include:

Limitation on non-standardized plans
The new rule reduces the number of non-standardized plans insurers can offer in 2024. The goal is to improve standardized plan choice, offer a better apples-to-apple comparison between plans, increase transparency, and refocus consumers on the differences in premiums, network size/availability and quality. From PY 2019-PY 2023 the average number of plans a consumer could choose from exploded from 25.9 to 113.7 in part due to non-standardized plans.

Other notable changes:

- **HealthCare.gov will accept income attestations when data isn't available** through automatic IRS data matching. Also, consumers will no longer be automatically determined ineligible for financial help unless they haven't reconciled their taxes for more than 2 years.
- **Enrollment assisters can provide in-home enrollment assistance** when conducting door-to-door outreach efforts. In-home enrollment was previously prohibited.
- **A new 90-day SEP when moving from Medicaid/CHIP to Marketplace** when the Medicaid/CHIP plan provided minimum essential coverage (MEC). This matches the number of days provided in a typical Medicaid/CHIP reconsideration period.
- **A new SEP for people who can show they will have a future loss of coverage** that provides MEC, such as from an upcoming layoff.
- **The rule codifies the policy that young adults can stay on their parents' Marketplace plan through December 31 of the year they turn 26.** (Some states and private insurers terminate 26-year-olds at the end of their birthday month.)

Reminder on existing SEPs:

- During Medicaid unwinding **there is no waiting period to transition to a Marketplace plan if terminated from Medicaid**.
- The income-based SEP for people earning 100-150% of FPL is in effect through PY 2025. **People in this income bracket can enroll in Marketplace plans year-round**.

Other policy issues on the horizon include:

Proposed rule on short-term limited duration plans (STLD, short-term or junk plan). The comment period for this rule has closed. Under the Trump administration STLDs were extended from a maximum of three months to three years. STLDs do not meet the ACA's definition of MEC and typically lack many benefits such as pre-existing condition, maternity, and prescription coverage. **STLDs will be reduced to three months plus one additional month of renewal**. Plans will be required to use a comprehensive disclaimer that outlines the limitations and risks of short-term plans.

Proposed rule on mental health parity. The comment period for this rule has closed. Parity between general health and mental health benefits is required under the ACA, but it hasn't fully happened in practice. Under this rule, plans must analyze their coverage and fix things that don't comply. **Examples:**

- The rule will outline what plans can and can't do regarding provider payments and require them to fix deficits.
- Insurers cannot use more restrictive medical management techniques for mental health services, such as more restrictive prior authorization.

This rule also aims to close loopholes in state and local government health plans. These plans were exempted from certain aspects of the ACA, and mental health benefits is one area where they are problematic.

Braidwood v. Becerra court case (in-depth explainer and analysis of the case from Kaiser Family Foundation).

The U.S. District Court in this case struck down coverage of free preventive services added after the passage of the ACA. A stay is currently in place, but the case is on appeal at the Fifth CIrcuit. It will likely go to SCOTUS in 2025.

Sonia Lara from TACHC reviewed how federal poverty guidelines (FPL) are used for federal health programs.

The FPL is used to determine income eligibility for most state and federal benefit programs. It's updated annually with a COLA that's usually published by mid-March.

- Medicaid and CHIP use the new FPL as soon as it's finalized in **March.**
- Marketplace uses the new FPL starting with open enrollment for the following years' plan in **November of the current year.**
- Consumers using a Marketplace SEP (i.e. enrolling outside of open enrollment) are governed by the guidelines in place during the *prior* open enrollment.
- November, December, and the first half of January are the only months Medicaid/CHIP and Marketplace are using the same FPL guidelines.
- For Marketplace the FPL applies to the next plan year.

Tony Lechuga from CMS provided an overview of how CMS is monitoring/investigating alleged broker fraud.

CMS is developing developing programs to monitor two types of fraud:

- Unauthorized plan switch by brokers
- Unauthorized enrollment by brokers

CMS is currently working with one state department of insurance (DOI) and hopes to expand to all states on federal exchange in the future.

Examples of broker fraud mentioned in the session's Q&A:

- CMS has analyzed cases and found there are outlier brokers. The data gets referred to the groups at CMS that can act on potential enforcement.
- Bad broker behavior includes application changes (as many as 99 in one application) to find a falsified income level that doesn't require documentation to get $0 premium coverage.
- There's an increase in the number of undocumented people being enrolled by brokers (unauthorized enrollment). Brokers call them and say they qualify for Marketplace plans and unscrupulously enroll them.
- CMS recommends reporting bad brokers to the Marketplace call center and to law enforcement. If a consumer didn't get the broker's name they can report via the Marketplace using their own Marketplace ID number.
- Complaints about broker fraud can also be made to the Federal Trade Commission and the Texas Department of Insurance.