

February 28, 2013

The Honorable Kathleen Sebelius, Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201
Attention: CMS-10440, CMS-10438, and CMS-10439
Submitted electronically via www.regulations.gov

Dear Secretary Sebelius:

On behalf of First Focus, I appreciate the opportunity to comment on the proposed rules concerning: [Data collection and application for individuals](#) for Medicaid, CHIP and Exchange (CMS-10440), [Data collection and application for employees](#) in the Small Business Health Option Program (CMS-10438), and [Data collection and application for employers](#) in SHOP exchanges (CMS-10439). First Focus is a bipartisan children's advocacy organization dedicated to making children's and families a priority in federal policy and budget decisions. Our core mission is to ensure that all of our nation's children are able to get the services they need and deserve.

First Focus was a leading voice during the debate on the Affordable Care Act (ACA) to advance child health coverage by focusing on enrollment system improvements. If health reform is to be effective for families in need of coverage, it is critical that states have all the tools, information, and direction they need to enroll children, indeed all family members, into the coverage for which they are eligible. We know from experience that getting the administrative systems and applications details right is essential if children and families are to realize the coverage gains that are necessary for the ACA to be successful.

First Focus offers its strongest support for the provisions of the proposed rules which seek to develop such systems to streamline enrollment procedures, eligibility determinations and verification processes, and coordination among CHIP, Medicaid, and the Exchanges. We appreciate all of the Administration's efforts to develop enrollment systems that are easy to understand, welcoming for families from every background, underscore privacy protections, and which implement technology whenever possible to ease the administrative burden on families.

While we offer our strong support for the proposed rules as a general matter, there are some areas where we recommend strengthening or changing them. We respectfully submit our comments and recommendations below:

Immigrant Access and Language Access

Parents in many mixed-status immigrant households are afraid to apply for and enroll their family members in health coverage, given hostility, language barriers, and threats some have experienced when seeking services from government agencies. To promote enrollment of all eligible persons, compliance with civil rights and privacy laws and reduction of administrative errors and costs, the applications at minimum need to avoid creating obstacles to participation, and strive to create a gateway to health care that is welcoming, informative, credible, and secure.

Messages for immigrants, presented at a timely point in the application process, should clearly communicate information such as the following:

- Only citizen and lawfully present members of immigrant families are eligible for services, but ineligible adults are encouraged to file applications on behalf of eligible family members.
- Ineligible, non-applicant family members will never be required to provide their citizenship or immigration status in order to apply for others in their family.
- Non-applicants are not required to provide Social Security numbers (SSNs) nor are applicants who do not have SSNs.
- Information regarding immigration status and SSNs will be used solely to administer the health care program and not for immigration enforcement purposes.
- Free language services will be provided to assist persons with limited-English proficiency (LEP).

Many such messages will only be effective if provided when the application filer is considering beginning the application, and at key times when sensitive questions are asked.

Home Page or Cover Sheet: “Important Information for Immigrants”

On the home page or cover sheet, there need to be messages to the potential application filer of an immigrant family that convey welcome and reassurance. Immigrants often assume that they are not eligible for health coverage, and this confusion can be overcome by encouraging immigrant families to apply, and parents to apply for an eligible child. The application begins by asking the application filer to create an account, asking a filer for an immigrant family to begin revealing personally-identifiable information (PII) before receiving assurances about how PII that is collected will be used and what data sources will be tapped for information. This design fails to address immigrant concerns about questions of non-applicants regarding immigration status or SSNs.

Also, the application provides no information about the effect of applying for health insurance on an individual’s chances of having a Lawful Permanent Resident (green card) application approved by DHS. Many immigrants are concerned that applying for help paying for coverage may result in DHS deeming them inadmissible as a “public charge.” Finally, an offer of free language assistance needs to be conveyed to an application filer who is limited-English proficient (LEP), providing a phone number for interpretation in many languages where assistance completing the form is available, in English with taglines.

- Recommendation: Provide information on the home screen or cover sheet that addresses the above application barriers faced by immigrant and LEP families, such as the following sample messages:
 - *Families that include immigrants are welcome to apply. You do not have to provide immigration status or a Social Security number (SSN) for those in your family who are not seeking health insurance. For family members who do not apply, we can give you information about other ways to get health care.*
 - *We will keep all the information you provide private and secure as required by law. We will use personal information only to check if you are eligible for health insurance. No information on this application will be used for immigration enforcement.*
 - *Applying for help with health insurance costs will not make you a “public charge” and won’t affect your immigration status.*

Offer of Language Assistance

We strongly encourage that the homepage or cover sheet include taglines in multiple languages or a language portal that directs limited English proficient individuals to translated versions of the

application and how to access assistance completing the application (e.g. call center phone number or local assisters, navigators, or certified application counselors who can provide in-language assistance).

- Recommendation: Include on the homepage or cover sheet either the following statement in at least 15 languages or a language portal that directs LEP individuals to a webpage for information on how to obtain further assistance.
 - *If you do not speak English, we will get an interpreter to help you for no cost to you. Please call (XXX) XXX-XXXX.*

It is also important for HHS to translate the application into multiple languages. This will assist applicants as well as applicant filers, navigators, and others who will provide application assistance to LEP individuals.

Assistance for ineligible family members

The applications provide no information or enrollment assistance for family members who are ineligible for coverage under the ACA. The application should provide such assistance for any/all federal, state and local health care options that are available regardless of immigration status.

- Recommendation: When determining an immigrant eligible for Emergency Medicaid but not full-scope Medicaid, provide information and enrollment assistance for all health care options available regardless of status, and issue a notice of eligibility to these individuals.

Demographic Data Collection

We strongly support collection of data on race and ethnicity, and also support collection of data on primary language. This data should be asked of all family and household members, not just the household contact. Collection of this data is critical for enforcing nondiscrimination laws, as well as for assisting insurers, navigators and healthcare providers, and establishing national standards for sound policymaking. We suggest that the request for data include an explanation of the reason, to increase the likelihood of a response to these voluntary questions.

- Recommendation: Collect preferred language of all family and household members, applicants and non-applicants.
- Recommendation: Include a statement on the application explaining the need for this data, such as the following:
 - *We ask for your race, ethnicity and language so that we can review application information to make sure that everyone gets the same access to health care. This information is confidential and it will not be used to decide what health program you are eligible for. You do not have to provide your race and ethnicity to complete the application.*

Homeless children and families

A number of questions on the application are challenging and sometimes impossible for homeless children and their families to answer. For example, the second question asks for street address, but options for people with no home address only come later in the application. Similarly, the questions for phone number and email address only have space for one, but homeless families often do not have one reliable phone number or email address where they can be reached. These children and families often depend on trusted people (such as a relative, case worker, etc.) to receive their phone calls and emails.

- Recommendations: The home address question should give applicants an option to enter a mailing address and, as with phone numbers and email addresses, space for alternative contacts. It should also state when applicants should expect to receive mail so they can give the address that works best for that time. Additionally, the email and phone number questions should provide multiple spaces for alternate contacts.

Social Security Numbers

It is not clear that Social Security Numbers (SSNs) are optional for those not applying for assistance. This creates a chilling factor for mixed-legal-status families, in which one or more family members, often children, have SSNs and are eligible for assistance but other family members do not have SSNs.

- Recommendation: State clearly on the application that SSNs are not required for non-applicants and that seeking assistance with health insurance does not jeopardize any application for legal residency or citizenship.

Foster Care Question

Question 10 asks, “*In which state was (applicant name) in the foster care system?*” But many children in foster care have had placements in multiple states.

- Recommendation: Allow for multiple states to be listed.

We have an extraordinary occasion to collect accurate and useful demographic data through the single, streamlined application as well as to get millions of children and adults enrolled in the right health coverage. We urge CMS to continue to work with the consumer advocacy community to improve the application to ensure a seamless enrollment process. Thank you for reviewing our comments. Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Bruce Lesley
President