



High-Level Policy Updates

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Overview

Staff will provide an update for the Board on federal policy dynamics of relevance to the Health Connector and the members of the Massachusetts public it serves.

- Federal rulemaking
- Congressional activity
- Other policy updates

Federal Rulemaking: Notice of Benefit and Payment Parameters 2022

CMS recently released its final (third part) of the 2022 Notice of Benefit and Payment Parameters, which creates annual policy for ACA markets and Marketplaces.

- Creates a new year-round special enrollment period (SEP) opportunity for certain low-income consumers ($\leq 150\%$ FPL), with the goal of reducing barriers to coverage
- Repeals the Exchange “Direct Enrollment” Option that had been introduced under prior Administration
- Lengthens the annual open enrollment period beginning for plan year 2022 by 30 days to January 15 (SBEs will be allowed flexibility so long as it extends through at least December 15)
- Repeals the separate-billing regulation that requires nongroup marketplace/Qualified Health Plan issuers to send a separate bill for the portion of a member’s premium attributable to coverage for non-Hyde abortion services
- Modifies section 1332 State Innovation Waiver implementing regulations including changes to many of the policies and interpretations of the statutory guardrails codified in part 1 of the 2022 NBPP finalized in January 2021
- Confirms that insurers must comply with Mental Health Parity and Addiction Equity Act (MHPAEA) when satisfying the requirement to cover mental health and substance use disorder services (including behavioral health treatment services) as part of the ACA’s Essential Health Benefits (EHBs)

Federal Rulemaking: The No Surprises Act & Latest Proposed Rule

On September 10, 2021, the Departments of Health and Human Services, Labor, Treasury, and the Office of Personnel Management issued a proposed rule “Reporting Requirements Regarding Air Ambulance Services, Agent and Broker Disclosures, and Provider Enforcement.”

- The No Surprises Act (NSA) signed into law on December 27, 2020, establishes new surprise medical bill protections that eliminate surprise bills for patients in the individual, small group, and large group markets receiving emergency services and non-emergency services at in-network facilities provided by out-of-network clinicians
- While Massachusetts has existing, robust surprise billing protections (most recently, Chapter 260 of the Acts of 2020 signed into law in January 2021) that protect consumers, including prohibitions on balance billing in certain scenarios, the federal NSA provides some additional protections for Massachusetts residents and Health Connector members
- The new proposed rule continues the series of rules on transparency by implementing additional parts of the No Surprises Act and the Consolidated Appropriations Act of 2021
- The proposed rule would establish:
 - New reporting requirements for air ambulance providers, group health plans, and insurers
 - New disclosure and reporting requirements on issuers of individual health insurance coverage and short-term limited duration insurance (STLDI) related to agent and broker compensation
 - New procedures for enforcement of Public Health Service (PHS) Act provisions against providers, facilities, and providers of air ambulance services as well as revisions to existing PHS Act enforcement procedures for plans and issuers

Congressional Activity

Congress is currently considering a number of changes relevant to the ACA and Marketplaces like the Health Connector as part of its under-discussion ‘Build Back Better’ budget reconciliation bill.

ACA/Marketplace Proposals Under Congressional Consideration

Extension of American Rescue Plan (ARP) Premium Tax Credit Expansion

- The proposal would make permanent the American Rescue Plan’s more generous APTCs for people under 400 percent of FPL and permanently eliminate the 400 percent of FPL cap on APTC eligibility so that no enrollee pays more than 8.5 percent of income.
- These changes have already significantly expanded affordability for existing and new Health Connector members during 2021.

Unemployment-Linked Premium Tax Credit Extensions

- The proposal extends the ARP’s UI benefits through 2025 (with some modifications) which would allow a taxpayer receiving unemployment income for any week in a given year (through 2025) to be treated as if the taxpayer’s household income was no higher than 150 percent of FPL (133 percent of FPL under ARP) for that tax year.

Congressional Activity (cont'd)

In addition to proposing to extend the premium tax credit expansions included in the American Rescue Plan, the legislative drafts would also include additional ACA and Marketplace policy changes aimed at affordability and access, e.g.:

ACA/Marketplace Proposals Under Congressional Consideration (Cont'd)	
ESI Affordability Threshold Adjustment	<ul style="list-style-type: none">• Lowers the threshold to determine whether a taxpayer has access to affordable insurance through an employer-sponsored plan (or QSEHRA) to 8.5 percent of income (Effective 2022)
Treatment of Social Security Lump Sum Payments	<ul style="list-style-type: none">• Excludes Social Security benefit lump-sum payments from calculation of household income for purposes of receiving premium tax credits which allows certain enrollees to be eligible for more generous subsidies (Effective 2022)
New Funding for State Affordability Efforts	<ul style="list-style-type: none">• Establishes new funding (\$10 billion annually) for states to use for a reinsurance program or to reduce out-of-pocket costs for Exchange enrollees (Effective 2023)

Other Policy Updates

Other Federal Policy Developments of Note	
End of Federal Special Enrollment Period	<ul style="list-style-type: none"> Federal HHS recently announced that more than 2.8 million people newly gained access to affordable health care under the through the 2021 Special Enrollment Period (SEP) on HealthCare.gov and State-based Marketplaces. With the enrollment gains made during the SEP, there are now a record-breaking 12.2 million people enrolled in the federal and state marketplaces.
American Rescue Plan Implementation Grant Award	<ul style="list-style-type: none"> US HHS and CMS awarded grant funding to State-based Marketplaces (SBMs) to increase consumer access to affordable, comprehensive health insurance coverage via implementation of the ARP's new benefits for Marketplace enrollees. The Massachusetts Health Connector was awarded \$1.1M for technology and outreach activities,
Preparing for End of Federal Public Health Emergency	<ul style="list-style-type: none"> Continuing to work in close coordination with MassHealth to prepare for eventual unwinding of federal PHE, and working closely with CMS on policy approaches to smooth-as-possible coverage redetermination and transitions
Health Coverage for Afghan Evacuees	<ul style="list-style-type: none"> SBMs, including the Health Connector, and sister Medicaid agencies are collaborating to help enroll Afghan evacuees resettling in the US into health coverage.
New State-Based Marketplaces	<ul style="list-style-type: none"> Kentucky, Maine, and New Mexico are transitioning from HealthCare.gov to their own State-based Marketplaces for the 2022 plan year. These State-based Marketplaces include kynect, CoverME.gov, and beWellnm. This brings the total number of SBMs to 18.

Looking Ahead

Staff will continue to keep the Board apprised of federal policy developments that will affect course for the Health Connector and its members, either in rulemaking or in Congressional activity.