



Health Affairs Blog

CMS Releases 2017 Enrollment Manual For Individual And Small Business Marketplaces

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On July 19, 2016, the Centers for Medicare and Medicaid Services released the Federally-facilitated Marketplace (FFM) and Federally-facilitated Small Business Health Options Program (FF-SHOP) Enrollment Manual for the fourth (2017) marketplace open enrollment period. The 167 page manual covers in detail the rules and procedures governing the FFM and FF-SHOP, issuers of qualified health plans (QHPs) and qualified dental plans (QDPs) in the FFM and FF-SHOP, qualified individuals and employers who apply for coverage in the FFM and FF-SHOP, and brokers and agents (including web-brokers) and others who assist applicants and enrollees. The manual applies in FFM states and in State-based marketplace states that use the FFM or FF-SHOP enrollment platforms.

Topics covered by the manual include:

- Enrollment in the individual marketplace (including data matching issues, redeterminations and renewals, auto-enrollment, premium payment due dates, and free look provisions under state law);
- Enrollment in FF-SHOP (including minimum participation rates, special enrollment periods, premium payments, terminations, and renewals);
- Direct enrollment in the individual market through insurers or web-brokers;
- Special enrollment periods;

- Premium payments (focused on terminations for nonpayment and grace periods, including complex situations spanning more than one coverage year, and rules governing minimum premium payment thresholds, but also including situations involving over-billed and under-billed premiums);
- Terminations (including terminations due to death and aging off);
- Retroactivity;
- Reinstatements following mistaken disenrollments;
- Reconciliation of enrollments between the FFM and QHP/QDP insurers; and
- Generation and reconciliation of 1095-A tax reporting forms by FFMs.

The manual also includes appendices with a sample welcome letter, non-payment notice, termination letter, and mandatory attestation.

The manual does not plough any new ground. As far as I can see, everything in it has appeared in earlier regulations or guidance. It does, however, set out comprehensively in one place all of the rules and procedures governing the FFM and FF-SHOP and the individuals and entities to which they relate. It describes exhaustively, in flow charts and tables as well as text, the technical details of the transactions in which the FFM and FF-SHOP engage. The text is by and large quite readable and full of examples illustrating the rules and procedures it describes.

The manual tracks quite closely enrollment manuals from prior years (although it is issued much earlier this year), but does contain several new open enrollment period 2017 innovations. These include:

- The specific rules and procedures that are being used by the FFM for redetermining eligibility for QHP enrollment and eligibility for advance premium tax credits and cost-sharing reductions for 2017;
- The 2017 auto-reenrollment hierarchy for situations in which the plan an individual was enrolled in for 2016 is not available for 2017;
- The new “vertical choice” option for the FF-SHOP under which employer can permit employees to choose among QHPs offered at different metal levels by the same insurer in states where it is allowed (Alaska, Delaware, Florida, Georgia, Illinois, Iowa, Kansas, Louisiana, Maine, Missouri, Montana, Nevada, New Hampshire, North Dakota, Ohio, Oklahoma, Texas, Virginia, and Wisconsin);
- New special enrollment period rules;
- The completely automated policy-based payment system for paying QHP insurers, which is fully operational for the first time in 2017 after having been phased in during 2016; and
- A new chapter on 1095-A reporting.

FAQs On Agents And Brokers

One of the topics addressed is the role of agents and brokers in the FFM. On July 18, 2016, CMS released at its REGTAP.info (registration required) website a number of frequently asked questions (FAQs) regarding agents and brokers. The FAQs primarily repeat information that has been provided before, such as guidance on translations and taglines (web-brokers in existence for at least a year must as of the beginning of open enrollment 2017 translate all consumer content on their websites into any language that reaches 10 percent or more of their state’s population); mandatory disclosures by web-brokers (that their website is not the official Healthcare.gov website and may not display all data on qualified health plans offered in the state); and how web brokers can make available their Web sites

and HHS data connections to other agents and brokers. The information found in the FAQs is also included in the enrollment manual.

The FAQs clarify that agents and brokers may not use automation retention and loading of consumer information functionality on a third-party site to submit a completed application to the Federally-facilitated marketplace. They must rather use the FFM's single streamlined application form. Agents and brokers can either directly enroll consumers through an insurer's or web-based broker's website, using their own user-IDs and accounts, or assist consumers "side-by-side" without having access to the consumer's user ID, password, or account.

An Area Of Concern: Fees Charged To Consumers By Agents And Brokers

The FAQ repeats earlier guidance that where a web-broker has "invested significant resources to develop special software to assist consumers with selection and enrollment in QHPs offered through the FFM," and the agent or broker offers "a bona fide service of value that goes beyond the traditional assistance provided by an agent or broker registered with the FFM, it may be appropriate to allow for the collection of an additional fee" The guidance continues

If permitted under state law, agents, brokers, and web-brokers that elect to pass on these types of costs to consumers for selecting and submitting QHP applications offered through the FFM through a non-FFM website should provide a disclaimer to consumers that: 1) clearly discloses the amount and reason for the fee, and 2) informs the consumer that he/she can apply through the FFM website (Healthcare.gov) at no cost.

The consumer must also be permitted to withdraw from the web-broker enrollment process and enroll through Healthcare.gov at any time.

Brokers and agents have played a very significant role in enrolling consumers in marketplace plans. At a time when a number of insurers have eliminated or significantly cut commissions for marketplace enrollment, guidance permitting brokers and agents to charge marketplace enrollees directly for their services is troubling. The lack of clarity in the guidance as to what a "bona fide service of value" might look like makes the guidance even more problematic.

Rather than suggesting that brokers and agents can charge consumers for enrollment, federal and state regulators should rather ensure that insurers are paying agents and brokers for their services to the insurer, particularly when the insurer included commissions in their approved rate structure or when an insurer has eliminated commissions in ways—such as refusing commissions for special enrollment periods only—that strongly suggest that the reason for doing so is to avoid high-cost enrollees, .

CMS maintains a broker and agent webpage with many more resources for agents and brokers.

FOLLOWING THE ACA

ASSOCIATED TOPICS: INSURANCE AND COVERAGE

TAGS: AGENTS AND BROKERS, FEDERALLY FACILITATED MARKETPLACE, FEDERALLY-FACILITATED SMALL BUSINESS HEALTH OPTIONS PROGRAM

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