

June 4, 2010

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Mr. Jay Angoff
Director
Office of Consumer Information and Oversight
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

File Code: DHHS-9997-IFC

RE: Comments on the Interim Final Rule Detailing Health Care Reform Insurance Web Portal Requirements

Dear Secretary Sebelius and Director Angoff:

The undersigned organizations appreciate this opportunity to comment on the interim final rule on the requirements for the new health insurance Web portal. The Web portal has the potential to significantly simplify a complicated, time-consuming, and often overwhelming process for many individuals, families, and small businesses – choosing affordable and appropriate health coverage. Overall we are pleased to see the level of detail and the broad scope of information that will be provided by the Web portal. We are concerned, though, that as the rule currently stands the benefits of the portal may not extend to the increasing number of individuals with limited English proficiency (LEP), nor the large number of Americans with sensory or intellectual disabilities. In addition, critical information pertaining to the cost of premiums and coverage options for low-income individuals is not currently included.

Language Access

According to the 2008 U.S. Census Bureau's American Community Survey, the United States foreign-born population numbers about 38 million. More than half of this population reported speaking English less than "very well," as did more than one out of every 12 people in the total U.S. population. Some areas, such as California, are well known for their large LEP populations, but we are also increasingly seeing limited English proficient individuals across the country, moving into areas that have not traditionally been home to minority populations.

Unfortunately, our health care system has not kept pace with the diversifying population it serves – to the great detriment of LEP patients and consumers. Language barriers limit the ability of patients and providers to communicate with each other and consequently lead to a number of problems ranging from uninformed or mistaken consent, unnecessary tests and emergency room

visits, less preventive care and fewer screenings, and ultimately poorer health outcomes. Yet the provision of language services (including written translated materials and oral interpreting) remains challenging for many providers, often citing a lack of funding or resources.

When considering health insurance coverage options, LEP individuals and families would benefit greatly from knowing whether or not a plan provides language services – a need equally as important as an adequate provider network or comprehensive benefits. We strongly recommend that as soon as possible the portal include information on whether or not a plan offers language services, and, if so, specific details about such services. This information will not only assist the LEP population, but over time potentially create a clear demand for language services that drives the market towards providing such services.

For the LEP population to take advantage of the Web portal, it too must be accessible in multiple different languages. As detailed by Executive Order 13166, federal agencies are expected to provide meaningful access to LEP individuals just as federal fund recipients must under Title VI of the Civil Rights Act of 1964. Thus, we urge you to translate the Web portal into, at least, the 15 languages the Social Security Administration offers on its website.¹ Links to translated versions should be clearly available on the Web portal homepage (or other entry point) in the appropriate language. At the least, the homepage of the web portal must include taglines – one to two sentences in multiple languages explaining to LEP individuals how to access the information if translations are not available.

Disability Accessibility

There are over 50 million Americans with disabilities in the United States. This includes people with sensory disabilities such as people who have low vision, are blind, and people who are deaf-blind. Additionally, there are many individuals with intellectual and other disabilities who might utilize this Web portal. Many of these individuals are parents, caregivers, and heads of families, as well as individuals independently managing their own care. Many people with disabilities use common software-based assistive technologies such as screen readers, screen magnifiers, speech synthesizers, and voice input software that operate in conjunction with graphical desktop browsers (among other user agents). Hardware assistive technologies may include alternative keyboards and pointing devices. Thus, we strongly urge you to ensure that in design and development of the web portal, standards for disability accessibility are followed so that no one is excluded from portal use due to lack of forethought about such users. Furthermore, data that is displayed as Web portal content, such as from the various issuers such as states, associations and high risk pools, should be in formats that are accessible to and easily usable by people with disabilities.

Premium Rates

The third issue we want to bring to your attention pertains to information about premium rates. We understand that it would be unfeasible for the Web portal to provide individuals with specific premiums for underwritten plans that may take numerous factors into account when calculating

¹ Arabic, Armenian, Chinese, Farsi, French, Greek, Haitian-Creole, Italian, Korean, Polish, Portuguese, Russian, Spanish, Tagalog, and Vietnamese.

the total charge. Nonetheless, we strongly encourage you to include some information beyond what is proposed in the interim final rule.

First, the Web portal should provide an expected premium range to give individuals an idea of how much their premium may vary from the manual rate. Second, please clarify the term “manual rate,” to ensure that the Web portal provides information on any age and gender differences in rates. Section 1557 of PPACA, which takes immediate effect, bans discrimination in health care on gender (as well as other criteria) by recipients of federal financial assistance (including insurance companies) and thus prohibits gender rating. Although “federal financial assistance” is quite broad, including tax credits, subsidies and contracts, there may be insurance companies that do not receive federal financial assistance and are therefore not covered by this provision. As a result, even though many insurance companies will be prohibited from gender rating by virtue of this section, the information on differences in premiums for men and women will still be necessary for any insurance companies that are not subject to the requirements of Section 1557 of PPACA and are permitted to use gender for underwriting purposes until and unless other restrictions on this practice (such as those set forth in section 1201, amending the Public Health Service Act) take effect. We do not believe this information would be difficult to provide (see, for example, the website eHealthInsurance), and the benefit it would provide would be significant. Individuals should know how much their age and gender will affect the cost of their health insurance.

In addition, we urge you to include information about state funded public plans, other than high risk pools, for individuals who are ineligible for Medicaid but cannot afford private insurance coverage.

The Web portal will be a critical resource for individuals and families across the country. We hope that you will revise the interim final rule to ensure that the Web portal is equipped to meet the needs of a diverse population and look forward to working with you in the future to ensure that health care reform delivers on its promise to decrease health disparities.

Sincerely,

ADAP Advocacy Association (aaa+)
American Association of People with Disabilities (AAPD)
American Association of Deaf-Blind (AADB)
Asian American Justice Center
Asian & Pacific Islander American Health Forum
Black Women’s Health Imperative
Cerebral Palsy (CP) Group
Community Catalyst
Families USA
Japanese American Citizens League (JACL)
NAACP
National Association of the Deaf (NAD)
National Congress of American Indians

National Council on Independent Living (NCIL)
National Council of Jewish Women
National Council of La Raza (NCLR)
National Health Law Program
National Partnership for Women & Families
National Women's Law Center
The Leadership Conference on Civil and Human Rights
United Church of Christ, Office of Communication, Inc.
World Institute on Disability (WID)