

May 6, 2013

Marilyn Tavenner  
Acting Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244

**RE: CMS-9955-P; Patient Protection and Affordable Care Act: Exchange Functions; Standards for Navigators and Non-Navigator Assistance Personnel; Proposed Rule**

Dear Administrator Tavenner:

On behalf of the Childhood Asthma Leadership Coalition, we are pleased to submit the following comments on the proposed Navigator Program rule referenced above. The Childhood Asthma Leadership Coalition (CALC) convened in June of 2012 with a primary purpose of engaging diverse stakeholders to advance policy proposals that will improve childhood asthma management and symptom prevention. Relying on a strong foundation of evidence-based policy analysis to inform its work, one of CALC's primary goals is to increase patient access to the multi-component interventions that make up effective asthma control. Access to affordable health insurance is critical to ensure that patients, especially children, receive effective asthma treatment and management.

All children — especially those with asthma — must have stable, continuous, and high quality health insurance coverage, the foundation of comprehensive health care. Because asthma is disproportionately concentrated among lower income children, Medicaid and the Children's Health Insurance Program (CHIP) coverage is essential. Unfortunately, many low-income children are not enrolled in insurance options for which they are eligible. In 2010, 4.4 million uninsured children were eligible for Medicaid or CHIP, yet unenrolled.<sup>1</sup> The barriers to enrollment in Medicaid and CHIP — procedural hurdles, lack of knowledge of eligibility, complex coverage scenarios where parents and children are not eligible for the same coverage, citizenship requirements, etc. — are likely to persist for low-income children entering the state Exchanges in 2014.

We appreciate the opportunity to comment on the implementation of the Navigator program. Navigators can and should play a significant role in combating enrollment barriers that hinder low-income children from entry into Medicaid, CHIP and state Exchanges. We outline several modifications to the proposed rule that we think will make the Navigator program stronger and

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<sup>1</sup> Kenney GM, Lynch V, Huntress M, Haley J, Anderson N. Medicaid/CHIP Participation Among Children and Parents: Timely Analysis of Immediate Health Policy Issues. The Urban Institute & the Robert Wood Johnson Foundation. December 2012. Available at <http://www.urban.org/UploadedPDF/412719-Medicaid-CHIP-Participation-Among-Children-and-Parents.pdf>

more effective at making affordable health insurance accessible for the millions of currently uninsured or underinsured children.

Our comments are detailed below.

## **I. Facilitating Medicaid & CHIP Enrollment [§155.215(b)(2)(ii)]**

While the Navigator program will be fundamental to facilitating enrollment in the new state Exchanges, Navigators are not limited to assisting consumers who qualify for Exchange plans. As emphasized in the preamble, Sections 1311(d)(4)(K) and 1311(i) of the Affordable Care Act and 45 CFR § 155.210 direct Navigators to:

“...provide fair and impartial information to consumers about health insurance, the Exchange, QHPs, and insurance affordability programs including premium tax credits, **Medicaid** and the **Children’s Health Insurance Program (CHIP)**(emphasis added).”<sup>2</sup>

We support the continued emphasis on the ability of Navigators to aid in enrollment in a variety of insurance options. Navigators well-versed in Medicaid and CHIP in addition to Exchange options are important for achieving higher levels of enrollment among uninsured children. It is very likely that a family seeking help with purchasing exchange coverage from a Navigator will discover that one or more of their children are already eligible for Medicaid/CHIP. According to the Urban Institute, of the 4.4 million Medicaid/CHIP-eligible-but-uninsured children, approximately 1.8 million have an uninsured parent who is currently eligible for Medicaid or could become eligible for the Medicaid Expansion in 2014.<sup>3</sup> Many of the remaining eligible-but-uninsured children have parents who could qualify for exchange subsidies in 2014.<sup>4</sup> Where families have mixed eligibility (when a parent and child qualify for different coverage options), Navigators must be competent to counsel families on multiple private and public options.

We applaud CMS for including Medicaid and CHIP among the subject-matter training areas required for all Navigators in Federally Facilitated Exchanges under §155.215(b)(2).

## **II. HHS Training Module: Expand Training Requirements to Include Competencies on Low-Income and Medically-Underserved Populations. [§155.215(b)(2)]**

An important component of the Navigator program is its mission of reaching out to underserved, underrepresented, and vulnerable populations. This intent is made clear in the preamble, which states:

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<sup>2</sup> 78 Federal Register 20581 at 20583. April 5, 2013.

<sup>3</sup> Kenney GM, Lynch V, Huntress M, Haley J, Anderson N. Medicaid/CHIP Participation Among Children and Parents: Timely Analysis of Immediate Health Policy Issues. The Urban Institute & the Robert Wood Johnson Foundation. December 2012. Available at <http://www.urban.org/UploadedPDF/412719-Medicaid-CHIP-Participation-Among-Children-and-Parents.pdf>

<sup>4</sup> *Id.*

“Navigators are an important resource for all consumers, particularly communities that are underserved by and underrepresented in the current health insurance market.”<sup>5</sup>

Children in low-income families should certainly be considered a part of this “underserved” and “underrepresented” population. Not only do low-income children often lack access to care, they are also disproportionately at risk for a multitude of adverse health conditions, including asthma.

The NPRM proposes to amend 42 CFR §155.215 to set standards for the HHS training module. The module is designed to cover information relevant to both individual and SHOP Exchanges and includes training in content areas related to two important categories of underserved/underrepresented populations: (i) persons with disabilities and (ii) individuals with limited English proficiency. However, the proposed module does not include training on addressing the needs of low-income individuals. We think this is an oversight. While Navigators are required to be trained to understand the Medicaid/CHIP programs, this is not the same as understanding the complex barriers that low-income populations face in accessing healthcare.

We think that requiring Navigators to be trained to be sensitive to the needs of low-income populations is important, and we urge CMS to include such training as a requirement for Navigator certification.

### **III. Meaningful Access Standards: Expand Standards to Require Access by Low-Income Populations. [§155.215]**

The proposed rule amends 42 CFR §155.215 to require Navigators to provide culturally and linguistically appropriate services and to establish standards for assisting persons with disabilities. While we think both of these amendments will greatly assist persons with disabilities and limited English proficiency to gain access to Navigator services, we reiterate that these are not the only vulnerable populations that Navigators will need to assist. Low-income individuals have historically faced difficulty enrolling in programs to which they are entitled. As described previously, there are an estimated 4.4 million uninsured children who are eligible for Medicaid or CHIP, yet unenrolled.

The poorest of the poor face many distinct obstacles that prevent them from becoming enrolled, including gaps in awareness and understanding of the programs and inability to weather burdensome enrollment procedures.<sup>6</sup> While poverty overlaps with disability and with limited English proficiency, we think that Navigator programs should be expected to offer

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<sup>5</sup> 78 Federal Register 20581 at 20583. April 5, 2013.

<sup>6</sup> Kaiser Commission on Medicaid and the Uninsured. Enrolling Uninsured Low-Income Children in Medicaid and SCHIP. January 2009. [http://www.kff.org/medicaid/upload/2177\\_06.pdf](http://www.kff.org/medicaid/upload/2177_06.pdf).

consumer assistance in a manner that is sensitive to the specific issues that low-income populations face. We urge CMS to include such a requirement under §155.215.

**IV. HHS Training Module For States without Medicaid Expansion: Expand “Outreach and Education Methods” Category to Include Additional Outreach/Education Training in non-Expansion States. [§155.215(b)(2)]**

Focusing on low-income populations as part of the Navigator requirements is especially important in states that choose not to expand their Medicaid programs. Research shows that when parents are eligible for insurance, their children are more likely to become enrolled. If all states were to expand Medicaid, it is estimated that 2.9 million children who are currently eligible for Medicaid or CHIP but not enrolled would be expected to enroll, reducing the number of uninsured children by more than half.<sup>7</sup> However, many states are not expanding their Medicaid programs due to the June 2012 Supreme Court decision: as of March 2013, 15 states have determined that they will *not* participate in the Medicaid expansion, and several more states are undecided.<sup>8</sup> The Congressional Budget Office (CBO) estimates that in 2022, as a result of the Court’s decision, 3 million more people will remain uninsured, 1.5 million of which are individuals (mostly children) that are currently eligible for Medicaid/CHIP.<sup>9</sup> Prior to the Court’s decision, these children would have been expected to enroll in Medicaid/CHIP, but, without the Medicaid expansion in place for their parents, these children will be less likely to become aware of and enroll in programs to which they are entitled.<sup>10</sup>

Where states do not expand Medicaid, there is a distinct need for Navigator programs to reach out and address enrollment for Medicaid/CHIP-eligible children. Navigators working in non-Expansion states will face a different set of outreach challenges when parents are not eligible and, therefore, not enrolling their eligible children. The proposed training module content standards give mention to “*outreach and education methods and strategies*” under §155.215(b)(2)(xiv), but we think this outreach/education training needs to be specially tailored for Navigators working in non-Expansion states so that these personnel can best assist children in enrollment. We urge CMS to develop specific training for Navigators in non-Expansion states either through this proposed rule or through subsequent guidance.

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<sup>7</sup> Kenney GM, Dubay L, Zuckerman S, and Huntress M. Opting Out of the Medicaid Expansion under the ACA: How Many Uninsured Adults Would not Be Eligible for Medicaid? *Urban Institute: Health Policy Center*. July 5, 2012. Available at: <http://www.urban.org/UploadedPDF/412607-Opting-Out-of-the-Medicaid-Expansion-Under-the-ACA.pdf>.

<sup>8</sup> The Advisory Board Company. Where each state stands on ACA’s Medicaid expansion: A roundup of what each state’s leadership has said about their Medicaid plans. March 04, 2013. Available at: <http://www.advisory.com/Daily-Briefing/2012/11/09/MedicaidMap#lightbox/1/>. Accessed April 29, 2013.

<sup>9</sup> Estimates for the Insurance Coverage Provisions of the Affordable Care Act Updated for the Recent Supreme Court Decision. *Congressional Budget Office*. July 2012. Available at: <http://www.cbo.gov/sites/default/files/cbofiles/attachments/43472-07-24-2012-CoverageEstimates.pdf>.

<sup>10</sup> *Id.*

Thank you for the opportunity to provide these comments. We appreciate your careful consideration of our recommendations and look forward to working with you to further improve Medicaid and CHIP enrollment for all children, especially those with asthma. If you have any questions or would like to contact the Childhood Asthma Leadership Coalition, please contact Mary-Beth Harty at [mbharty@gwu.edu](mailto:mbharty@gwu.edu).

Sincerely,

Childhood Asthma Leadership Coalition  
First Focus  
Merck Childhood Asthma Network