



February 28, 2013

Office of Management and Budget
Office of Information and Regulatory Affairs
Attention: CMS Desk Officer

Re: CMS-10440 (OCN: 0938-NEW); Data Collection to Support Eligibility Determinations for Insurance Affordability Programs and Enrollment through Affordable Insurance Exchanges, Medicaid and Children's Health Insurance Program Agencies

To Whom It May Concern:

The Secretary of Health and Human Services is required by section 1413 of the Affordable Care Act (ACA) to develop a single, streamlined application form to be used in the application for coverage through Exchange and Insurance Affordability Programs, including Medicaid and CHIP. The Center for Medicare & Medicaid Services (CMS) has drafted a template for a paper version of this application form for state use. Minnesota appreciates the opportunity to offer the attached comments and suggestions to achieve the desired result of maximizing an applicant's ability to complete the form satisfactorily, and identifying those who qualify or do not qualify for financial assistance programs.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Schowalter".

James Schowalter
Commissioner
Minnesota Management and Budget

A handwritten signature in black ink, appearing to read "Lucinda Jesson".

Lucinda Jesson, JD
Commissioner
Minnesota Department of Human Services

Comments, Model Paper Application for Financial Assistance

Model FA paper application:

Minnesota would like to use the model paper application for the Minnesota Exchange and MAGI-based Medicaid and CHIP applications. However, Minnesota would need some modifications specific to our state, and would hope that such changes would not alter the integrity of the document, or the characterization of it as a CMS model form.

We recommend that CMS allow flexibility in defining whether states are in accordance with CMS single, streamlined paper application. We also recommend that CMS provide states with an electronic version of the final paper application. This will allow states to make state-specific edits and modifications more expeditiously, and will promote continuity in terms of flow and general content of the paper application. We strongly urge CMS to be flexible, swift, and accommodating in reviewing states' supplemental forms.

Immigration status, step 2:

If a person is not a U.S. citizen or national, the application form asks if the person has "eligible immigration status." This question only has a "yes" box. The application then directs the person to page 20 for a list of "eligible immigration statuses" and to add specific information about their document type and ID number to the application form. We are concerned about the use of the word "eligible" in this context, because it will not guarantee eligibility in all IAP in every case. For example, an adult who is a lawful permanent resident, the first status on the list, is not eligible for Medicaid during the 5-year bar period. We recommend using "Immigration Status List," or "Lawful Immigration Status List," or "Authorized Immigration Status List" for the title on page 20. We also recommend reordering this section, so that applicant is directed to consult page 20 before they answer whether they have an authorized or lawful immigration status. The current order of the questions and information in this section suggests to the reader that page 20 will help them discern their document type and ID number, which it does not.

Persons age 26 or younger, step 2:

We are puzzled by some of the questions for people under age 26. What is the purpose of asking if the individual had insurance through a job that was lost in the last 3 months? What information is being sought by asking if the person age 26 or younger has a 'parent who lives outside the home'?

Your Family's Health Insurance, step 3:

Some of the questions seeking information about other insurance use terms and questions that will not be easily understood by applicants. The person is asked if anyone is offered health coverage from a job, and if yes, whether the plan is a state health benefit plan. If this question is intended to determine whether the person receives health coverage as a state or other government employee or as a family member of same, we think the question should be asked that way.

The applicant is asked to name the lowest cost, self-only health plan and in doing so to consider only plans that meet the minimum value standard. Applicants should be directed to obtain this information from the employer. We suggest replacing “you can ask your employer for this information. See page 21” with a statement in bold type, such as: **“You may need to ask the employer for this information. Use the form on page 21 to request this from the employer.”** While the applicant may be able to name the lowest cost plan, however, without being given information from the employer the applicant is unlikely to be familiar with the minimum value standard concept.

The last question on page 15 is “Do you think the employer’s coverage is affordable? Yes/No.” We recommend removing this question because the application filer’s opinion is not relevant to the analysis of affordable coverage, and this question may mislead the applicant to think his/her opinion is a factor. A similar question appears on page 16: “Check here if you think this insurance will not be affordable next year.” We recommend this question also be removed.

Signature page, step 5:

The information provided under step 5 preceding the signature contains an attestation to information never requested in the application form itself. The application filer is asked to sign under penalty of perjury to this statement:

I can confirm that no one applying for health insurance on this application is incarcerated (detained or jailed) or living in a medical facility.

We do not agree with this approach and recommend that it be stricken and replaced with something that will make sense to the application filer. First, no such information was asked for regarding each individual in the preceding pages of the application, so what would the person be attesting to? Second, if the application filer would answer yes if asked this question about one or more individuals on the application, a way of providing this information should be available so that the application filer could still sign the application. We recommend that incarceration be a question on the application, such as “Is anyone incarcerated?” and not a statement. Since living in a medical facility does not bar an individual from Medicaid or participation in a QHP, the purpose of this declaration is unclear.

Renewal of Coverage, Step 5:

This section provides the application filer with choices for authorizing future use of income data, including tax return data, but does not address authorization for the current application. We recommend adding a statement to the form that tells the application filer he or she is agreeing to the release of income information, including IRS data, for all individuals who want health care by signing and submitting the initial application.

Authorized Representative, Step 5:

The ACA creates several new consumer assistance roles, and it is critical that individuals in these roles understand the parameters of their access to client information, the requirements they need to serve in their respective roles, their obligations as well as the limits of their responsibilities. We suggest CMS provide clear and precise language on the paper application to ensure applicants understand what it means to designate an authorized representative, and individuals who agree to serve as authorized

representatives understand their responsibilities. We suggest that the form state the requirement that an authorized representative be 18 years or older, and if an authorized representative is designated on the application, that the authorized representative also be required to sign the application. Suggested language might be:

Do you want someone to act on your behalf as an authorized representative?

An authorized representative is a person authorized to act on your behalf as an applicant or enrollee of this agency. In most cases, authorized representatives have the same responsibilities and rights as applicants and enrollees. An authorized representative will receive forms, notices, and premium notices on your behalf. An authorized representative must be at least 18 years old and know your circumstances in order to provide necessary information.

Other requirements related to the use of an authorized representative need to be addressed on the model application:

- The section allowing the application filer to name an authorized representative does not adequately describe that the application filer is consenting to the sharing private information, including income data, with the authorized representative. We think a more clear statement is needed. We believe the phrase, “to act on all future matters with this agency,” is far too broad. We suggest this replacement: “By signing, you allow this person to sign your application, to get private information about you from this application process that includes income information, and to act for you in future application and renewal processes, until you withdraw your permission.”
- Because the above designation will not apply to an appointed agent (such as a court-appointed guardian, custodian, or an attorney-in-fact), these individuals need a place to indicate their status.
- An authorized representative must agree to meet certain obligations specified in regulations; for Medicaid, the authorized representative “must agree to maintain, or be legally bound to maintain, the confidentiality of any information regarding the applicant or beneficiary provided by the agency.” 42 CFR §435.923(d) (2). The Exchange must “ensure” that the authorized representative agree to maintain confidentiality and is responsible for fulfilling his/her responsibilities. 45 CFR 155.227(a) (3) and (4). These assurances could be met by having a separate section in the model application for the acknowledgement and agreement of the authorized representative.

Missing items, blind:

In Minnesota’s experience, people who are blind may not self-identify as disabled, and we therefore recommend a separate question for that status, or ask if someone is blind or disabled.

Missing items, veteran status:

The model paper application does not ask any questions to identify qualified noncitizens who are veterans with an honorable discharge or who are on active duty status. In the January 22, 2013, Notice of Proposed Rulemaking, 78 FR 4594, 4615, CMS requested comments on the appropriate verification procedures for this population, to discern individuals, spouses and dependents who are exempt from the five-year waiting period applicable to certain noncitizens. In the absence of an electronic data source,

the paper application will likely need to include a question to identify this population. We suggest: “Is anyone on active duty with the United States military? Has anyone been honorably discharged from the United States military?”

Missing items, noncitizen qualification for emergency medical condition:

The application does not contain a question to help identify a noncitizen eligible for coverage of an emergency medical condition under Medicaid. We believe it must do so.