CPEHN
California Pan-Ethnic Health Network

February 28, 2013

VIA ELECTRONIC SUBMISSION

Centers for Medicare & Medicaid Services
Department of Health and Human Services
P.O. Box 8016
Baltimore, MD 21244-8016

RE: Comments re: Federal Streamlined Application for Health Benefits

Attention: CMS-10440
Appendix A: List of Questions in the Online Application to Support Eligibility Determinations for Enrollment through the Health Insurance Marketplace and for Medicaid and the Children's Health Insurance Program
Appendix C: Insurance Affordability Programs Paper Application
Appendix D: Health Insurance Paper Application

Dear Sir/Madam:

We appreciate the opportunity to provide comments on the streamlining of eligibility proposed by CMS and provide our recommendations on the draft paper application and the list of questions in the online application.

CPEHN's mission is to improve access to health care and eliminate health disparities by advocating for public policies and sufficient resources to address the health needs of communities of color. We organize multicultural efforts to develop and advance public policies that promote equal treatment and universal access to care. CPEHN is providing these comments on the paper application and the list of questions in the online application in hopes of ensuring that the unique needs of children in mixed-status immigrant and limited-English proficient families are addressed.

These comments are focused on the importance of accessibility for immigrants and communities of color including the over 24.5 million people who are limited-English proficient (LEP), speaking "English less than very well," in the United States. California's population is one of the most diverse in the country with over 100 different languages spoken and an estimated 6 to 7 million citizens and immigrants who are LEP. By 2019, 40% of those enrolled in Medi-Cal and California's Health Benefit Exchange will speak English less than very well.[1] Language barriers have been found to be as significant as the lack of insurance in

[1] UC Berkeley Center for Labor Research and Education and the UCLA Center for Health Policy Research. *California Simulation of Insurance Markets (CalSIM): Version 1.8*. December 2012.

predicting use of health services. Title VI of the Civil Rights Act of 1964 protects against discrimination based on race, color and national origin by entities providing federally-funded and federally-assisted services. The ACA in §1557 extended the protections of Title VI to Exchanges. These factors warrant comment on the draft application through the lens of immigrants' and LEP persons' special circumstances regarding access to coverage and care. With the implementation of the ACA, it is critical to ensure that the single, streamlined application is accessible to all.

General Comments:

CPEHN appreciates HHS' incorporation of initial stakeholder feedback in the design of their online and paper applications. We are especially pleased by HHS' adoption of several of the recommendations of the Institute of Medicine (IOM) for proper collection of data on race, ethnicity and primary language.[2] The inclusion of separate questions on race and ethnicity as well as a statement explaining that the questions will help to ensure equal access to quality of care will go a long way towards helping consumers feel more comfortable providing this data which is critical to improving the quality of care. While this is a great first step, CPEHN provides the following recommendations which we believe will help to make the application process even more accessible to LEP and immigrant families:

Ensuring Cultural and Linguistic Access:

1) Offer of language assistance. We greatly appreciate the inclusion of taglines in Spanish informing individuals how to get help and to get an application in Spanish. Yet estimates are that 23% of Exchange applicants speak a language other than English at home, many of whom will not be Spanish-speakers. CPEHN strongly encourages HHS to ensure that the homepage or cover sheet include taglines in multiple languages or a language portal that directs limited English proficient individuals to translated versions of the application and how to access assistance completing the application (e.g. call center phone number or local assisters, navigators, or certified application counselors who can provide in-language assistance). The website for Covered California (http://www.coveredca.com/), may be an instructive example as it includes a drop-down menu by language directing people to fact sheets and other materials about the Exchange that are available in 13 different languages.

- **Recommendation: Include on the homepage or cover sheet either the following statement in at least 15 languages or a language portal that directs LEP individuals to a webpage for information on how to obtain further assistance.**

  If you do not speak English, we will get an interpreter to help you for no cost to you. Please call (XXX) XXX-XXXX .

[2] "Race, Ethnicity and Language Data: Standardization for Health Care Quality Improvement," Institute of Medicine (IOM), August 31, 2009, http://iom.edu/Reports/2009/RaceEthnicityData.aspx

2) Provide written translations of the application and a glossary of standard terms: It is also important for HHS to translate the application into multiple languages. This will assist applicants as well as applicant filers, navigators, and others who will provide application assistance to LEP individuals. CMS recently received a letter signed by over 270 organizations, including ours, requesting translation of the application in multiple languages (available from NHeLP). This will be helpful for states like California that is committed to translating its streamlined application into the 13 Medi-Cal Managed Care threshold languages. The letter to CMS also urges HHS to develop a robust glossary of terms that explains concepts in plain English, available for both the paper application and online tools such as click throughs, scroll overs, etc. Defining terms such as "cost-sharing," "family" v. "household," "offer" of coverage, are important to ensure consumers understand what they are applying for. The glossary should be translated so as to ensure consistency in the explanation of complicated insurance terminology across languages. An added benefit to translating the glossary is that the translation process can actually help to ensure that the English version is more accessible to individuals with low health literacy.

3) Solicit Stakeholder Input and Conduct Consumer Testing with LEP consumers
While we know HHS has a very short time period to complete the online and paper applications, we look forward to further opportunity for input. In particular, we look forward to the ability to evaluate and provide input and assistance on the online application "Help Text" as it is being developed, and Instructions sheet for filling out the paper application as those are both critical features to ensure the applications are understandable and consumer friendly. We also look forward to reviewing notices resulting from applications as they are developed to inform applicants about their eligibility status. Once developed, CMS should further test the online application with consumers, including LEP and mixed status families, using real families/scenarios in on-line environment. CMS should also provide a survey, particularly for online application users, to ensure feedback from consumers. We also support and encourage HHS to refine these instruments beyond the October 1, 2013 launch based on data and feedback.

Improving the Quality of Care:

1) Demographic data collection. We strongly support collection of data on race and ethnicity, and also support collection of data on primary language. This data should be asked of all family and household members, not just the household contact. Additionally per the Office of Minority Health (OMH) guidance we urge HHS to collect data on ancestry or ethnic origin as this will help HHS measure the impact and accessibility of programs for emerging immigrant/refugee populations (e.g. Sudanese, Haitan etc.).[3] Collection of this data is critical for enforcing nondiscrimination laws, as well as for assisting insurers, navigators and healthcare providers, and establishing national standards for sound policymaking. We suggest that the request for data include an explanation of the reason (note: there appears to be an explanation in the online application but no explanation on the paper application), to increase the likelihood of a response to these voluntary questions.

[3] See CPEHN's "Recommendations on Data Collection for Race, Ethnicity, Primary Language, Disability Status, Gender and Sexual Orientation," May 3, 2012 AB 1296 Stakeholder meeting attached.

- **Recommendation: Collect preferred language of all family and household members, applicants and non-applicants.**

- **Recommendation: Collect data on ancestry or ethnic origin per the OMH guidance, using U.S. Census Data Q. 13.**

- **Recommendation: Include a statement on the paper application explaining the need for this data, such as that provided in the Online Application form (p. 22) below:**

  > This information will be used to help the U.S. Department of Health and Human Services (HHS) better understand and improve the health of and health care for all Americans. This information is confidential and won't impact your eligibility for health coverage, your health plan options, or your costs in any way.

Strengthening Accessibility for Immigrant Families

Parents in many mixed-status immigrant households are afraid to apply for and enroll their family members in health coverage, given hostility, language barriers, and threats some have experienced when seeking services from government agencies. To promote enrollment of all eligible persons, compliance with civil rights and privacy laws and reduction of administrative errors and costs, the applications at minimum need to avoid creating obstacles to participation, and strive to create a gateway to health care that is welcoming, informative, credible, and secure.

1) Messages for immigrants, presented at a timely point in the application process, should clearly communicate information such as the following:

- Only citizen and lawfully present members of immigrant families are eligible for services, but ineligible adults are encouraged to file applications on behalf of eligible family members.
- Ineligible, non-applicant family members will never be required to provide their citizenship or immigration status in order to apply for others in their family.
- Non-applicants are not required to provide Social Security numbers (SSNs) nor are applicants who do not have SSNs.
- Information regarding immigration status and SSNs will be used solely to administer the health care program and not for immigration enforcement purposes.
- Free language services will be provided to assist persons with limited-English proficiency (LEP).

Many such messages will only be effective if provided when the application filer is considering beginning the application, and at key times when sensitive questions are asked.

2) Include on the Home Page or Cover Sheet should: "Important Information for Immigrants". On the home page or cover sheet, there need to be messages to the potential

application filer of an immigrant family that convey welcome and reassurance. Immigrants often assume that they are not eligible for health coverage, and this confusion can be overcome by encouraging immigrant families to apply, and parents to apply for an eligible child. The application begins by asking the application filer to create an account, asking a filer for an immigrant family to begin revealing personally-identifiable information (PII) before receiving assurances about how PII that is collected will be used and what data sources will be tapped for information. This design fails to address immigrant concerns about questions of non-applicants regarding immigration status or SSNs.

Also, the application provides no information about the effect of applying for health insurance on an individual's chances of having a Lawful Permanent Resident (green card) application approved by DHS. Many immigrants are concerned that applying for help paying for coverage may result in DHS deeming them inadmissible as a "public charge." Finally, an offer of free language assistance needs to be conveyed to an application filer who is limited-English proficient (LEP), providing a phone number for interpretation in many languages where assistance completing the form is available, in English with taglines.

- **Recommendation: Provide information on the home screen or cover sheet that addresses the above application barriers faced by immigrant and LEP families, such as the following sample messages:**

    - Families that include immigrants are welcome to apply. You do not have to provide immigration status or a Social Security number (SSN) for those in your family who are not seeking health insurance. For family members who do not apply, we can give you information about other ways to get health care.
    - We will keep all the information you provide private and secure as required by law. We will use personal information only to check if you are eligible for health insurance. No information on this application will be used for immigration enforcement.
    - Applying for help with health insurance costs will not make you a "public charge" and won't affect your immigration status.

3) Assistance for ineligible family members. The applications provide no information or enrollment assistance for family members who are ineligible for coverage under the ACA. The application should provide such assistance for any/all federal, state and local health care options that are available regardless of immigration status.

- **Recommendation: When determining an immigrant eligible for Emergency Medicaid but not full-scope Medicaid, provide information and enrollment assistance for all health care options available regardless of status, and issue a notice of eligibility to these individuals.**

Other Critical Issues:

1) Screen for Medicaid/CHIP Eligibility first
To make the online and paper applications even more consumer friendly for low-income individuals and families, (i.e. those eligible for Medicaid and CHIP), we encourage the application allow those without complex scenarios or tax households to have their Medicaid/CHIP eligibility decided first, so they can get coverage more quickly without having to provide unnecessary information (for example, about Employer Sponsored Insurance). Starting with Medicaid/CHIP eligibility determination also allows them to avoid some tax filing questions if they do not file or will not need APTCs.

2) Collect more information to facilitate a complete Medicaid Assessment
We recognize that the single streamlined application is not intended to collect all of the information necessary for a full traditional Medicaid *determination*. However, we believe it should collect more information in order to facilitate a complete Medicaid *assessment*.

This is critical for at least three reasons:

- Many traditional Medicaid-eligible individuals who are not identified will be enrolled in the Medicaid Expansion and end up with an ABP benefits package, instead of the traditional Medicaid package that better meets their needs.
- Some traditional Medicaid-eligible individuals who are not identified will be enrolled in the Exchange and end up with a private market benefits package, instead of the traditional Medicaid package that better meets their needs.
- Most alarmingly, in states that do not implement a Medicaid Expansion, many traditional Medicaid-eligible individuals who are not identified will have *no other coverage option*, and remain uninsured. For example, in most states that do not expand Medicaid, non-pregnant women at 75% of FPL will *only* be eligible for a family planning expansion (if one is available).

Therefore, HHS should implement rules to ensure more potential Medicaid eligibility is identified through assessment and solicit enough information on the application to achieve that. HHS should collect information to adequately assess eligibility based on disability determination, Breast and Cervical Cancer Treatment Program (BCCTP) eligibility, potential to qualify as medically needy, limited-scope family planning, and other traditional Medicaid categories. HHS should also consider collecting this and other information (for example, related to medical frailty) to identify individuals who will be eligible for ABP exemptions.

3) Enhance user-friendly formatting

- As currently proposed, the paper application asks many questions that are unnumbered, making it hard to reference them or find them on a page. This would include a greater use of pull-out boxes and visual signs (such as “stop” signs indicating an important term or concept that an applicant will need to understand). For example, on Step 2 of the paper application, the “yearly income” section applies only to people who have unsteady income – this would be a good place to put something like “Stop: Do you have irregular or unsteady income? Tell us more about your situation”;

- Additionally, the use of pop-up work sheets (or scroll over/hover tool) that provide tips and tools for applicants to use to help them to fill-out the application (for example, a work sheet that identifies the list of income that should not be included in reportable income, such as child support, pre-tax deductions, etc.) would be helpful. The outcome of the worksheet should be pre-populated back into the actual application

- Use consistent terminology throughout the document, for example, uniform language about how Social Security Numbers (SSNs) will be used

- Provide throughout the applications the option for an applicant to click "don't know."

4) Disability Status, gender identity and sexual orientation
Please see the attached document for specific recommendations regarding proposed questions on disability status, gender identity and sexual orientation.

We thank CMS for your consideration of these comments and recommendations.

Sincerely,

Director Policy Analysis, MPP