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VIA ELECTRONIC SUBMISSION

Office of Management and Budget Via email: OIRA_submission@omb.eop.gov.

Office of Information and Regulatory Affairs

Attention: CMS Desk Officer

Attention: CMS-10440

**Data Collection to Support Eligibility Determinations for Insurance
Affordability Programs and Enrollment through Affordable
Insurance Exchanges, Medicaid and Children's Health Insurance
Program Agencies**

**RE: Comments on 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 – [Paper] Application for Health Insurance**

Ladies and Gentlemen:

The Tennessee Justice Center (TJC) is a public interest law firm advocating on behalf of low-income and uninsured Tennessee families. The Legal Aid Society of Middle Tennessee and the Cumberland provides legal representation for low income persons who live in 48 counties in Middle Tennessee. We are jointly submitting comments on the proposed online [Appendix A] and paper [Appendix C] individual health coverage applications, drafted by the Centers for Medicare and Medicaid Services (CMS), pursuant to the Affordable Care Act (ACA). The draft documents are to fulfill the ACA's requirement for the development and use of a single streamlined application that individuals can submit in order to obtain Medicaid, CHIP or advance premium tax credits (APTC) for which they may be eligible. We applaud the hard work and careful thought given to the development of the draft applications.

While we strongly support the consumer centered nature of the applications, and many of their specific features, we also respectfully suggest several modifications that, we believe, will enhance their effectiveness. We first offer comments on issues that are

common to both the paper and online applications, and then we address the two formats separately. (Although the online application is not yet complete, the questions in Appendix A contain the data that CMS proposes to collect and the structure of the application; the appendix therefore serves as a proxy for the online application, and we therefore refer to it as the online application for purposes of these comments.)

Issues common to both the Online and Paper Applications

Readability

There are a number of opportunities to quickly and easily improve the readability of the applications by merely changing the wording or syntax. We suggest a review of both documents to identify and correct the following problems:

- *Consistency* – For example, the applications refer variously to “insurance,” “coverage” and “benefits.” We recommend not using the term “coverage,” which is unfamiliar to many people.
- *Passive voice* – Substitute active verbs for better comprehension by those with limited reading skills. EXAMPLE: in paper application on page 3: “3. Is PERSON 1 claimed as a dependent on someone else’s tax return?” Substitute: “Does someone else claim PERSON 1 on their tax return?”
- *Compound questions* – Break them into separate questions. EXAMPLE: in paper application on page 3, “Did PERSON 1 have insurance through a job and lose it within the past 3 months?” Substitute: Did PERSON 1 have insurance through a job? [yes/no] If so, did PERSON 1 lose that insurance in the past 3 months? [yes/no]
- *Complexity and length of sentences* – Sentence length needs to be limited to 15 words. In a few places, sentences were 38 words. For low literacy readers, this makes it very difficult for them to grasp and retain the meaning of the sentence while struggling through reading each word. Use simple syntax unless absolutely necessary.
- *Words and Phrases* - Where possible, words used should be those that people use in everyday speech. They are more likely to recognize these words in print if words and phrasing are what they use and hear daily. There were many words in these documents that will be unfamiliar. In some cases, people might know the word if they heard it, but will stumble in print because it is not a word they see often. The difficulty increases if the word is not one that is easy to sound out. Below are a few examples and suggested alternatives.
 - Qualify for – use “meet the rules for”
 - Health coverage – use “health care” or “health insurance”
 - Spouse – use “husband or wife”
 - Will become eligible – use “will be able to get” or “will meet the rules for”
 - Will not be affordable – use “won’t be able to pay for”
 - Required – use “must” as in “You must give us a Social Security Number to apply.”

- Optional – use “You don’t have to tell us this unless you want to.”
- Verify – use “check to see”
- Not currently enrolled – “don’t have it now”
- Give permission – use “give your OK”
- Incarcerated – use “in prison or jail”

There are some words or phrases that have familiar words but the meaning may not be clear. Examples:

- Activities of daily living – use “bathing, dressing, eating, going to bathroom”
- Before taxes – use “before anything is taken out”
- Bi-weekly – use “every 2 weeks” (This was done in one place but not every time.)

There were also some phrases that require specialized knowledge beyond the capacity of even most sophisticated readers to understand. Examples:

- Minimum value standard
- Eligible immigration status
- Federally recognized tribe
- *Use of parentheses* – Low literacy readers tend to skip things in parentheses. On the paper application, there is a significant amount of information in parentheses. Some of it is critical to understanding what is being asked. We recommend deleting the parentheses except for instances where it is being used to explain an acronym. In those cases, we recommend putting the acronym first and the explanation in parentheses. Example: “Supplemental Security Income (SSI)” should be written as “SSI (Supplemental Security Income).” In a few places, it clearer to use what is currently in parentheses and delete the word it explains. EXAMPLE: “incarcerated (in prison or jail)” is clearer as “in prison or jail.”

“Contact” vs. “Authorized Representative” vs. Navigators/Assisters/Certified Application Counselor

These different roles are a potential source of confusion and conflation. It will be important to make clear the differences between them.

Perjury sections

The paper application currently says: “I have provided true answers to all the questions on this form to the best of my knowledge. I know that there may be a penalty if I’m not truthful.”

The Individual Questionnaire currently says: “I’m signing this application under penalty of perjury. This means that I’ve provided true answers to all the questions on this form to the best of my knowledge. I know that if I’m not truthful, there may be a penalty. “

This needs to be re-written to make it clear that it is referring to deliberate misinformation, not honest mistakes. Suggested re-write: “By signing this form, I am

saying all my answers on this form are true. I have not lied on purpose. Lying on purpose on this form is against the law. If I lied, I may have to pay a fine or go to jail.”

Accessibility

We applaud your efforts to capture language and disability information. For those efforts to be fully effective, and for the application process to be accessible, it is important that both applications be translated into at least the 15 most commonly used languages, and that they be available in formats useable by individuals with disabilities. The online application of course affords more flexibility, and we believe interactive translations should be available online. The cover sheet for the paper application should have taglines in the 15 languages informing the person of the availability of free telephone translation and assistance. The cover sheet should also provide notice of the availability of applications in Braille and the ability to apply by telephone or TTY. We believe these adaptations are minimally required by the ACA, Title VI of the Civil Rights Act of 1964, Section 504 of the 1973 Rehabilitation Act, and by the Americans with Disabilities Act.

It is important to collect information on language on an individual basis. “Preferred Language Spoken (if not English)” is asked, in Step 1 of the Paper Application and at page 6, Questions E(a) and (2) of the Online Questionnaire, for the household as a whole. It is a practical necessity, as well as a legal obligation, to collect this information for each person on the application.

Clarity about the minimal requirements for filing

We strongly recommend that you make clear what is minimally required to submit an application for the important purpose of guarding the application date from which coverage will be calculated. We understand the desirability of ensuring that the application is as complete as possible at the time of filing, and we support the use of various messages to encourage applicants to be as thorough as possible. But it should be clear that, to establish the date of application, it is only necessary for a person to submit:

- Names of people for whom coverage is sought
- Birthdate(s)
- At least one contact address (mail, email and/or phone)

The application need not include a date of filing, since the system, regardless of application format, should have the capacity to date stamp the application with the date of receipt.

Appendix A – List of Questions in the Online Application

“My account”- Terminology

The online application contemplates the creation by the applicant of a unique record described as “My account.” The account is the vehicle for submission of information on eligibility by the applicant and the collection of data from other government agencies (e.g., IRS, Department of Homeland Security, etc.) to support an automated determination of eligibility for Medicaid, CHIP or the new advance premium tax credit (APTC).

The term “My account” is common in commercial online settings but is problematic in this context. “Account” connotes possible financial liability (e.g., an account with the electric company or other creditor), which may mislead and deter prospective Medicaid beneficiaries who are eligible for free coverage. Moreover, in many cases it will not function like an actual account, in the sense of an ongoing record that encompasses the various transactions affecting coverage of the applicant and those on whose behalf she is applying. The “account” may only be a temporary record until the exchange sends the application material to the state Medicaid or CHIP agency, which will open a separate record that will be the ongoing case record.

It is easier to find fault with “My account” than to come up with a better alternative. The challenge is complicated by the fact that the title needs to convey confidence that the private information it contains is secure, without misleading the person about the reality that the information will be shared with certain government agencies. The term should be understandable by applicants with limited vocabularies.

We would avoid traditional Medicaid terms like “case” or “record” that have other negative connotations (e.g., welfare case, criminal record). Some of the terms we would suggest for your consideration are:

- “About Me”
- “About You”
- “My Info”
- “My Records”
- “My Facts”
- “My Folder”

We strongly recommend that you create a capacity for a person to start the application, leave it and return to it, without losing data already entered but without any of the information being shared with a government agency before the person authorizes it. We are concerned about creating an account only if the person is willing to share information before he or she has decided they are ready to submit the application.

Use of online aids

We are grateful that the creation of an interactive online application affords the capacity to add numerous aids to understanding and completion of the application. We urge you to create the option for applicants to be able to use sidebar worksheets, similar to those used by TurboTax. They should be able to use the worksheet as a preliminary

tool without committing the information to the application, but then be able to transfer the contents of the worksheet into the application if they decide they are satisfied with it, without having to re-enter the information. “Pop-ups” and “hovers” should be used liberally. So should icons and color-coding to cue applicants.

Appeal

In the Individual Questionnaire it says you have 90 days to appeal. A sentence needs to be added saying when the 90 days start. Is it when they get a letter? Is it the date on the letter, the postmark day or the day it is received? Assuming the paper applications also have appeal deadlines, this should be included in those as well as currently they don’t reference one.

Appendix C – [Paper] Application for Health Insurance

Formatting

We realize that the paper format greatly limits your flexibility in comparison to the online application. We suggest greater use of icons (e.g., stop signs, hand signals, etc.)

A word of caution about the use of colors. Although color coding can generally be useful, and we recommend its use in the online application, we recommend caution in using color in the paper application. Many people will have to make photocopies of pages for extra household members, and those copies will often not capture the colors of the original. Also, some state eligibility agencies do not have color scanning capabilities and may therefore lose colors on scanned applications.

Social Security Number (Step 2 on Paper Application)

The person should not be asked for an SSN at the beginning of the process. It will deter many people who are fearful of sharing such information and are uncertain whether they want to apply. It will deter many immigrants who are themselves undocumented but, if asked later in the process, would otherwise submit an application on behalf of family members who are eligible.

This part was not clear. The explanation that an SSN is required if you are applying and optional if you are not needs to be in larger font. It looks to be a 9 pt font. Nothing should be smaller than a 12 pt as many people have difficulty with small print, especially if they are over 50.

“Optional” and “required” are not clear terms, especially since they are not part of a sentence to give clues to the meanings. It would be clearer to say “Everyone applying for health insurance must give their SSN (Social Security Number) if they

have one. If you don't apply, you don't have to give your SSN. But giving your SSN will make applying faster. We use SSNs to check income and other information. It lets us see if you meet the rules to get help paying for insurance. If someone doesn't have an SSN, call 1-800-XXX-XXXX or visit www.placeholder.gov.

Renewal of Coverage

This section on page 18 in the paper application needs much more explanation. It is not clear what the advantages or disadvantages of this are or why someone might want to choose it. Does it save them time each year? Does it keep them from having to fill out more forms? It also asks if anyone on the application is eligible for Medicaid. If they are just not applying, will they know the answer? As an added obstacle, this section has a lot of words that will be unfamiliar in print to low literacy readers and it looks hard to read.

This was explained much better in the Individual Questionnaire, although the language could still be further simplified.

Thank you again for the extraordinary work that has been done on the single streamlined applications. Thank you, too, for your consideration of these comments, which we hope you will find useful.

Sincerely yours,

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