

Appeals, Notices, and Other E-Communications

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Consumer Communications

Information conveyed by the Exchange, State Medicaid agency, or State CHIP agency related to determination or re-determination of IAP eligibility



May include
Interim Eligibility
Determination

Not included:

- Applications
- Notices from issuers to consumers
- Notices from Exchanges/State Medicaid/CHIP agencies to issuers

Requirements

Sources

- IAP/QHP – Affordable Care Act Sections 1411, 1413 & 2201, 45 CFR Part 155
- Medicaid – Social Security Act Title XIX, 42 CFR Parts 431 and 435
- CHIP – Social Security Act Title XXI, 42 CFR Part 457

In general: Communications on eligibility determinations must provide the decision on the application and, if a denial of eligibility, must convey reason for determination, citation to specific regulation, and explanation of appeals rights

- Exchange regulations are more specific while Medicaid/CHIP regulations provide broader guidance
- Exchange regulations require that notices be “written”
- Medicaid/CHIP regulations require communications on how to access benefits and availability of benefits for specific populations (e.g., children, pregnant women)

State may have additional requirements in law or regulations, or as a result of court orders

Additional federal guidance anticipated

Possible Design Variables

Exchange model	<ul style="list-style-type: none">▪ FFE Determination▪ FFE Assessment▪ State-Based Exchange
Application Entryway	<ul style="list-style-type: none">▪ Exchange▪ State Medicaid Agency▪ State CHIP Agency
Application Modality	<ul style="list-style-type: none">▪ Paper▪ Electronic
Household Composition	<ul style="list-style-type: none">▪ Individual▪ Family – Single Status▪ Family – Mixed Status
Communication Type	<ul style="list-style-type: none">▪ Process Update▪ Additional Information Request (May include Interim Eligibility Determination)▪ Final Eligibility Determination
Communication Approach	<ul style="list-style-type: none">▪ Coordinated – Multiple communications but eligibility determination message coordinated across IAPs▪ Combined – Single communication that delivers eligibility determination across all IAPs

Final Eligibility Determination: Examples

Triggering Event: Eligibility Determination	Communication/Content
<p>Eligible for Medicaid/CHIP</p>	<ul style="list-style-type: none"> ▪ Approval of Medicaid/CHIP eligibility: determination, right to appeal, instructions to appeal ▪ Medicaid/CHIP population specific benefits information ▪ Opportunity request Medicaid eligibility determination on non-MAGI basis
<p>Eligible for PTC/CSR (ineligible for Medicaid/CHIP)</p>	<ul style="list-style-type: none"> ▪ Approval of PTC/CSR eligibility: Determination, right to appeal, instructions to appeal ▪ Denial of Medicaid/CHIP eligibility: Consideration of applicant as ineligible for Medicaid/CHIP, opportunity to request full Medicaid/CHIP determination (for assessment models) ▪ Opportunity request Medicaid eligibility determination on non-MAGI basis
<p>Eligible for QHP (ineligible for IAP)</p>	<ul style="list-style-type: none"> ▪ Approval of QHP eligibility: Determination, right to appeal, instructions to appeal ▪ Denial of PTC/CSR eligibility: Determination, right to appeal, instructions to appeal ▪ Denial of Medicaid/CHIP eligibility: Consideration of applicant as ineligible for Medicaid/CHIP, opportunity to request full Medicaid/CHIP determination ▪ Opportunity request Medicaid eligibility determination on non-MAGI basis

Additional Information Request: Examples

Triggering Event	Communications/Content
Appears Medicaid/CHIP eligible but verification not reasonably compatible for citizenship/immigration status	<ul style="list-style-type: none">▪ Request for additional information (documentation)▪ “Reasonable period” to respond▪ Temporary eligibility during “reasonable period”
Appears Medicaid/CHIP eligible but verification not reasonably compatible for other eligibility criteria	<ul style="list-style-type: none">▪ Request for additional information (explanation or documentation)▪ “Reasonable period” to respond
Appears Medicaid/CHIP eligible but needs to submit full application (presumptive eligibility)	<ul style="list-style-type: none">▪ Presumptive eligibility▪ Instructions and timeframe to submit full application for full eligibility determination
Appears PTC/CSR/QHP eligible but verification not reasonably compatible	<ul style="list-style-type: none">▪ Request for additional information (explanation or documentation)▪ 90 days (or more) to respond▪ Temporary eligibility (using applicant’s attestation) and applicant must understand PTC/CSR subject to reconciliation

Process Update: Examples

Triggering Event	Communications/Content
Status of Application	<ul style="list-style-type: none">▪ Currently being evaluated
Handoff between Exchange/Medicaid/CHIP	<ul style="list-style-type: none">▪ Transfer to Exchange for evaluation for PTC/CSR▪ Transfer to State Medicaid for evaluation for non-MAGI eligibility▪ Additional details forthcoming from Exchange/State Medicaid/CHIP

42 CFR § 1411(f)(1) – Federal Appeal

- “[T]he Secretary [of HHS], in consultation with the Secretary of the Treasury, the Secretary of Homeland Security, and the Commissioner of Social Security shall establish procedures by which the Secretary or one of such other Federal officials – (A) hears and makes decisions with respect to appeals of any determinations under subsection (e);...”
- Subsection (e) of § 1411 covers issues that arise during the process in which applicant’s information is verified



45 C.F.R § 155.355 – Individual Appeals

- The Exchange must include the notice of the right to appeal and instructions regarding how to file an appeal in any eligibility determination notice issued to the applicant in accordance with § 155.310(g) [initial eligibility determination], § 155.330(e)(1)(ii) [mid-year redetermination], or § 155.335 (h)(1)(ii) [annual redetermination] of this subpart.

Proposed Rules included appeals on list of essential Exchange functions. Final Rule removed appeals, but HHS noted:

- “... [W]e intend to address the content and manner of appeals of individual eligibility determinations in future rulemaking. We have removed this from the list of minimum functions at this time. We note, however, that § 155.335 provides that Exchange eligibility notices includes notice of the right to an appeal.” 77 F.R. 18324

Additional federal guidance anticipated





Medicaid: Social Security Act § 1902z(3) and 42 C.F.R. § 431.200 et. seq

- Requires fair hearings for denied Medicaid applications
- Detailed requirements on notice content, timing, hearings, rights, etc.

CHIP: Federal Law 42 C.F.R. § 457.1100 – 457.1190

- Full fair hearing rights apply if CHIP is part of Medicaid
- State flexibility in designing appeals system applies if CHIP program is separate from Medicaid

1

Coordination/Integration of IAP Appeals

- To what extent will appeals be coordinated or integrated across QHP/APTC and Medicaid/CHIP determinations?
- If appeals processes are integrated, which agency has final say?
- To what extent will standards and processes vary across IAP programs (live/phone/mail hearings, decision makers, aid continuing, etc.)?

2

Federal Appeals Process

- What does federal appeals process mean for States?
- Who is responsible for appeals?
- What is the timeframe?

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IRS

- What is the role of the IRS? What appeals processes will be utilized for reconciliation of tax subsidies?

Melinda Dutton

Partner, Manatt Health Solutions

mdutton@manatt.com

212.790.4522