The Centers for Medicare & Medicaid Services (CMS) Jan. 17 issued a proposed rule, which would implement the standards governing health insurance issuers and the Health Insurance Marketplaces for 2020. In the rule, CMS proposes the benefit and payment parameters for qualified health plan (QHP) issuers selling in the marketplaces, as well as additional policies intended to lower premiums, incentivize the use of generic drugs, enhance the consumer experience, increase market stability and reduce regulatory burden. In addition, CMS proposes changes to the navigator program, as well as an increase in the annual maximum out-of-pocket spending limit. CMS seeks comments on, but does not propose any changes to, two potentially controversial issues: the insurer practice of “silver loading” and the automatic re-enrollment process.

The AHA appreciates that most of the proposed changes are more modest, which may help support the gains that have been made in marketplace stability. We strongly support the agency in not moving forward with changes in policy related to silver loading or automatic re-enrollment, both of which are important tools to support access to affordable coverage.

**Key Takeaways**

- CMS seeks comments on “silver loading” and automatic re-enrollment, but is not proposing changes to either policy at this time.
- CMS proposes a number of changes to prescription drug benefits, intended to incentivize greater use of low-cost, generic drugs.
- CMS proposes an update to the premium adjustment percentage, which would result in updated annual maximum out-of-pocket limitations of $8,200 for an individual and $16,400 for a family (up from $7,900 and $15,800, respectively).

**Major Provisions**

**Silver Loading:** CMS does not propose any changes in policy to curtail silver loading, but rather affirms its support for a legislative solution that would appropriate cost-sharing reduction payments, and therefore end the need for silver loading. In addition, CMS seeks comments on

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1 Silver loading is a practice adopted by many insurers, in response to the absence of cost-sharing reduction payments. By “loading” the additional costs only onto silver plan premiums, premium tax credits rise in turn, protecting most consumers from facing increases in their premiums.
ways that the administration could address silver loading in future rulemaking, applicable no sooner than plan year 2021, in lieu of legislative action.

**Automatic Re-enrollment:** CMS seeks comments on the automatic re-enrollment process, noting an interest in future action on this policy no sooner than plan year 2021. During the 2018 plan year, almost 2.9 million, or 24 percent of all enrollees, were automatically re-enrolled in their 2017 plan, or a different plan by the same issuer, because they did not actively dis-enroll or select a new plan.²

**Prescription Drug Benefit:** CMS proposes a number of changes to prescription drug benefits, including allowing individual market, small group market, and large group market issuers to make mid-year updates to their formularies. In addition, CMS proposes to exempt certain expenditures from the maximum out-of-pocket limit, including the additional amount a consumer spends on cost-sharing for a brand name drug when a medically appropriate generic is available and the amount a consumer saves when using a drug manufacturer coupon.

**Premium Adjustment Percentage:** CMS proposes to change the premium index to use estimates of projected private individual and group market health insurance premiums, rather than using employer-sponsored insurance premiums as it has done in prior years, which would result in a 1.3 percent increase. The premium adjustment percentage drives several calculations, including the annual maximum out-of-pocket limitation, affordability exemption determinations and the assessable employer shared responsibility payment.

**Out-of-Pocket Cost Limitations:** Based on the proposed update to the premium adjustment percentage, the annual maximum out-of-pocket limitation will increase to $8,200 for an individual and $16,400 for a family. For cost-sharing reduction plans, the annual maximum limitation on cost sharing will be $2,700 (individual) and $5,400 (family) for those with household incomes between 100-200 percent of the federal poverty level and $6,550 (individual) and $13,100 (family) for those households with incomes between 200-250 percent of the federal poverty level.

**Navigator Program:** CMS proposes changes in navigator program grant recipients’ requirements. For example, navigators may, but would no longer be required to perform certain activities, such as post-enrollment assistance. In addition, CMS proposes to scale back the training requirements for navigators. Going forward, navigator training will be focused broadly on four key areas: (i) the needs of underserved and vulnerable populations; (ii) eligibility and enrollment rules and procedures; (iii) the range of QHP options and insurance affordability programs; (iv) and privacy and security standards. Previously, grantees were required to undergo training on 20 specific topics.

**Special Enrollment Periods (SEPs):** CMS proposes to create a new SEP for individuals with off-exchange coverage if their household income falls and they become newly eligible for premium tax credits on the exchange.

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**Risk Adjustment:** CMS proposes to recalibrate the 2020 model using a combination of 2017 MarketScan® data and 2016 and 2017 enrollee-level EDGE data, consistent with prior years’ recalibration. The agency also proposes changes to the risk adjustment data validation audits, including various approaches to incorporate prescription drugs into the risk adjustment data validation processes.

**User Fees:** CMS proposes to decrease both the federally-facilitated exchange (FFE) and state-based exchange on the federal platform (SBE-FP) user fees. The FFE user fees will decrease from 3.5 percent to 3.0 percent, and the SBE-FP user fees will decrease from 3.0 percent to 2.5 percent. Last year, the SBE-FP user fees increased from 2.0 percent in plan year 2018 to 3.0 percent in plan year 2019.

**Next Steps**

Comments on the proposed rule are due Feb. 19. For more information, contact Ariel Levin, AHA senior associate director for state issues, at alevin@aha.org.