



July 30, 2012

Michael M. Hash, Interim Director
Center for Consumer Information and Insurance Oversight
Centers for Medicare & Medicaid Services
7501 Wisconsin Avenue, Room 738G.05
Bethesda, MD 20814

Dear Interim Director Hash:

AARP appreciates the opportunity to comment on the Center for Consumer Information and Insurance Oversight (CCIIO) "Verification of Access to Employer-Sponsored Coverage Bulletin" issued on April 26, 2012.

Proposed Approach

AARP agrees that Exchanges would best be able to perform verification of access to employer-sponsored coverage if they had access to authoritative data bases that capture the relevant information, but recognizes, along with CCIIO, that such data sources do not yet exist. As a result, AARP supports the need for a two-stage strategy for proceeding as set out in the Bulletin: a proposed interim strategy for verification for 2014 and 2015, with consideration of a longer-term strategy starting in 2016. In supporting that overall approach, AARP is seeking clarification in a number of areas, in particular to assure that the employee does not become the default collector of data that are otherwise difficult to access.

Proposed Interim Strategy for 2014 and 2015 Plan Years

CCIIO sets out a two part approach for the interim strategy for the initial two years.

Collection and Communication of Employer-Sponsored Coverage Information:
CCIIO notes its intent to propose a standardized method that individuals and employers could voluntarily use to facilitate the collection and communication of employer-sponsored coverage information necessary to complete an Exchange application.

AARP understands that CCIIO is not able at this time to specify what that standardized method will be, but stresses that clarity and simplicity for the employee needs to be a core feature of the approach. It will be far easier and more accurate for Exchanges and employees to learn from employers in a standardized manner whether the employer offers coverage meeting the minimum value standard, and what its lowest cost benefit plan is for single individuals (or families, depending on the Department of Treasury's future decisions on the affordability standard), rather than have each employee wend their way through that process. As CCIIO notes, a standardized method will impose fewer transactional demands on employers as well.

Verification: CCIIO sets out a pre-enrollment and post-enrollment verification approach. Again, AARP awaits further details and emphasizes the need to mitigate the burden on the individual as well as on employers and Exchanges.

CCIIO notes sources of information exist that may help with pre-enrollment verification. AARP believes it will be helpful to differentiate the two types of information attested to by the individual that will be subject to verification. One is verification of employment status, which appears to be the data bases that CCIIO is referencing as currently available (State Directory of New Hires or State quarterly wage database). The second is verification of whether the employer offers coverage of minimum value that is affordable for the employee, which would appear to require the additional information noted in the first section.

CCIIO notes that the Exchange regulations set out a process for resolving inconsistencies when the attestation is not reasonably compatible with other sources of electronic information available to the Exchange. The Exchange would accept the individual's attestation for 90 days and require further information from the applicant. If the Exchange does not have information that is inconsistent with the attestation, it could accept the attestation with additional verification in the post-enrollment period.

In such cases where reliable electronic data are not available and the Exchange has accepted an individual's attestation, CCIIO notes the need for post-enrollment verification. It is considering requiring Exchanges to screen a representative sample of enrollees manually, comparing data submitted by a selection of applicants with information gathered directly from employers.

AARP urges CCIIO to clarify what is being verified, and the consequences for those in the sample, as well as for others who might be in similar situations. Three key issues subject to verification exist:

- The individual was or was not employed;
- The employer did or did not offer minimum essential coverage; and
- The coverage was or was not affordable for that individual.

The first is relevant to the individual case; the second could be relevant to all of that employer's employees seeking coverage in the Exchange; and the third could also be relevant to a broader group of that employer's employees (especially if the information on the lowest cost benefit package available is wrong). A number of questions need clarification: What are the consequences of the findings? Are those in the sample subject to loss of coverage, penalties, or other sanctions? Especially for questions two and three, are there consequences for individuals who were not in the sample but employed by those same employers?

In addition, AARP believes it is equally important for a post-enrollment verification to include a sample of those whose attestations were denied as well as those accepted, in order to assure the same level of accuracy for denials as for approvals.

Finally, CCIIO notes that employers that provide clear and accurate information to a potential data base in advance of application, as part of the initial collection and communication of information, will facilitate pre-enrollment verification, and minimize the need for post-enrollment verification and the burden it imposes on Exchanges, employers and individuals. AARP believes this offers an opportunity for CCIIO and Exchanges to provide a clear incentive for employers to provide the information to a standardized data base by establishing explicit policy that minimizes or eliminates the post-enrollment verification for employees of such employers.

Approach to Verification for Exchange Plan Years in 2016 and Later

AARP appreciates CCIO's recognition of the likely evolution of data and data sources during the initial interim stage of verification in 2014 and 2015, and the agency's desire to identify or develop data sources that would facilitate real-time verification of access to employer-sponsored coverage information. At this time, we defer to others with more expertise in employer reporting and data sources to provide information on such sources to CCIIO.

AARP does believe, however, that CCIIO is correct to note the possibility of leveraging the reporting required by the ACA under sections 6055 and 6056 of the Internal Revenue Code. Section 6055 requires all who provide minimum essential coverage during a calendar year to submit an annual report with specific data elements, and section 6056 requires reports of larger employers subject to the shared responsibility requirements. While the initial reporting cycles for those sections do not lend themselves to the initial stage of the verification process, AARP believes that CCIIO is correct to seek approaches to leveraging those mechanisms, with modifications, for the longer-term.

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Thank you for the opportunity to comment on this important matter. If you have any questions, please feel free to contact Leah Cohen Hirsch on our Government Affairs staff at 202-434-3770.

Sincerely,

A handwritten signature in black ink, appearing to read "David Certner", with a long horizontal flourish extending to the right.

David Certner
Legislative Counsel and Legislative Policy Director
Government Affairs