

# Recommendations for the 2023 Notice of Benefit and Payment Parameters

## Equity

1. **Immigrant eligibility.** CCIIO should classify DACA people and people with special immigrant juvenile status as lawfully present and therefore eligible for APTCs, CSRs, BHP, and enrollment into Marketplace coverage.
2. **Data collection.** Marketplaces should collect data showing key demographic characteristics for each household member enrolling in a marketplace plan, including race, ethnicity, spoken language, sexual orientation, and gender identity. Such data should be collected, organized, and reported in consistent ways. Agents, brokers, navigators, application assisters, and others who help consumers enroll should be trained in the importance of such data and in culturally competent methods of its collection. Exchanges should work with carriers to supplement exchange-collected demographic data, where gaps occur.
3. **Translation.** All notices from marketplaces relating to eligibility determinations, data matching issues, or potential termination of coverage should be translated automatically into the consumer's preferred written language.

## Enrollment and renewal

4. **Administrative funding to support enrollment.** CCIIO should raise FFM user fees as needed to improve the user experience on healthcare.gov and to provide consumers with necessary assistance through navigators, the FFM call center, and other channels.
5. **Brokers and agents who enroll people into Marketplace plans.**
  - a) **Early disclosure.** They should be required to disclose commissions at the start of their relationships with clients. The information should be available to customers as they are "window shopping," before they provide personal information.
  - b) **They should have a fiduciary duty** to act in their clients' best interests.
  - c) **Plans that do not comply with ACA requirements** should ideally not be shown to consumers. If they must be shown, they should be shown in ways that clearly distinguish them from ACA-compliant plans. That includes listings on separate URLs, and separate pages as well as very prominent disclosure of missing consumer protections.
  - d) **Web-broker listings** should not be allowed to provide preferential treatment to particular plans based on the web broker's commission.
  - e) **Web brokers should be required to execute a warm hand-off to Medicaid agencies**, not just provide information and referral, when clients appear eligible for Medicaid or CHIP.
  - f) **Plans that do not meet ACA standards should not be marketed to people eligible for Medicaid or CHIP.**
  - g) **Enrollment of eligible clients into Medicaid** should be required of agents and brokers as a condition of marketplace certification or preferential access to significant marketplace sales leads.
  - h) **Website functions that take people to brokers and agents, including "find help," should also take them to navigators** and other application assisters that do not have financial interests in enrolling consumers into any particular health plan or form of coverage.

6. **Back-end eligibility data.** Navigators, agents and brokers, and other application assisters whose clients have given informed consent should gain caseload-level access to back-end eligibility data on healthcare.gov, with appropriate accompanying standards protecting privacy and data security. That would let such assisters proactively identify and overcome technical barriers to enrollment and renewal their clients may not fully understand as well as track potential follow-up actions clients may need to take to ensure that enrollment is finalized.
7. **No-wrong door eligibility determination.** CCIIO should return to the Obama Administration's original proposed rule for coordinating eligibility determination between the Marketplace and State Medicaid and CHIP programs. If a Medicaid- or CHIP-eligible person applies at the Marketplace, the Marketplace should determine Medicaid and CHIP eligibility, whenever possible, rather than force applicants to remain uninsured while their files are transferred to and fully processed by the state.
8. **Meaningful difference.** CCIIO should strengthen meaningful difference requirements so that an insurer cannot amass market share by offering numerous plans at a single metal level with premiums that vary hardly at all, confusing consumers and depressing APTC values.
9. **Nudges for low-income consumers to move from bronze to silver.** Exchanges should be authorized to experiment with strategies that encourage such moves. When a consumer with income at or below 200% of the federal poverty level selects a bronze plan, strategies to encourage a move to silver could include targeted, personalized notices and streamlined enrollment pathways into the lowest-cost silver plan offered by the carrier whose bronze plan the consumer initially selected.