



COMMENTS to the Department of Health and Human Services and Centers for Medicare & Medicaid Services

RE: PRA for CMS Form Numbers 10440 and 10438, the Single Streamlined Applications for the Health Insurance Marketplace

Submitted by Community Catalyst
February 28, 2013

Community Catalyst respectfully submits the following comments to the Department of Health and Human Services (HHS) and Centers for Medicare & Medicaid Services (CMS) in response to the PRA for CMS Form Numbers 10440 and 10438, the Single Streamlined Applications for the Health Insurance Marketplace.

Community Catalyst is a national non-profit advocacy organization dedicated to quality affordable health care for all. Since 1997, Community Catalyst has been working to build the consumer and community leadership required to transform the American health system. With the belief that this transformation will happen when consumers are fully engaged and have an organized voice, Community Catalyst works in partnership with national, state and local consumer organizations, policymakers, and foundations, providing leadership and support to change the health care system so it serves everyone - especially vulnerable members of society.

Community Catalyst is providing these comments on the PRA for CMS Form Numbers 10440 and 10438, the Single Streamlined Applications for the Health Insurance Marketplace, in hopes of ensuring that all children and families, particularly those with mixed immigration statuses and limited English proficiency (LEP) are able to access the forms and the benefits of the Affordable Care Act (ACA).

Barriers:

Immigrant families face a variety of unique barriers to accessing health coverage. Barriers to enrollment in health coverage include a general fear of government and specifically, of prosecution of themselves or family members. Other barriers include language and form accessibility.

Many immigrants fear government agencies or involvement due to negative or even traumatic experiences in their home country. Another fear is of causing harm to their own future immigration process, or exposing other family members to possible prosecution by alerting authorities to personal details of all family members who may have differing statuses than theirs. A final barrier is language and the inability to access information or forms because forms are available in limited languages.

Taken together these are powerful deterrents to immigrant enrollment and particularly challenging for mixed status families where one member, often a child, may be a U.S. citizen but other members have one of dozens of immigration statuses. In the interest of reaching all eligible individuals for inclusion in coverage under the ACA, and supporting the privacy and civil rights of all applicants, we offer the following comments to the draft streamlined application form.

To reassure immigrant families of the safety and value of using the application the following information must be presented clearly and early in the process, to overcome initial fears and those triggered throughout the application:

- Although coverage and subsidies are only available for members of a family who are citizens or lawfully present immigrants, anyone, regardless of status, can fill out the application on behalf of their family.
- If you are not applying for coverage or subsidies for yourself, only for other family members, you are not required at any point to provide a social provide Social Security number (SSN) or information about your immigration status.
- Individuals who may be eligible for coverage or subsidies but do not have an SSN can proceed without supplying an SSN.
- The information provided in the form is solely for determining health program eligibility and will not be used by the Department of Homeland Security/Immigrations and Customs Enforcement, or other federal agencies for enforcement of immigration laws.
- If the application is not available in your language or you cannot read the application you can receive free assistance to understand and fill out the application. (This should include a number to access the services and tag lines in a large variety of languages).

Welcome Message: It is important that in the introductory materials there are welcoming and reassuring messages to all families, but particularly immigrant families that anyone may apply. Assert that coverage is widely available and is different for every family member. Even if you do not think you or your family are eligible, you should fill out the form.

Order of information: Currently the application begins by asking the applicant to create an account; this will be a barrier to utilization for immigrant families, individuals who have been subject to discrimination, and others with concerns about privacy. Therefore, it is crucial that the welcome message and reassurances about the use of this information precede that request to generate an ‘account.’ Detailed information about what data will be collected, how it will be used, and how data matching and automatic data filling will be used, needs to be available as part of the introductory materials.

As mentioned earlier, many immigrant families fear that applying for health coverage or assistance will have a negative impact on their immigration status. This fear, tied to the issue of “Public Charge”¹, is often much broader than the actual public charge inquiry. Immigrant families fear that applications for benefits will impact them at every stage of their immigration process. There is also a common misconception that benefits applications will be held against other family members in their immigration applications. These are persistent and widespread fears that need to be clearly addressed with explicit language, as stated above, clarifying that application for health benefits will not bar any of the family members’ future immigration applications, and will not make them a public charge.

Translations and Offer of language assistance

Language barriers have been found to predict lack of access to health services. With one out of four expected insurance marketplace applicants speaking a language other than English at home many individuals are at a high risk of being left out of the benefits of health reform.

We strongly recommend that CMS translate the application into fifteen languages. This is the current standard used by Medicare and by the Social Security Administration. This will assist applicants as well as applicant filers, navigators, and others who will provide application assistance to LEP individuals.

¹ Public Charge is an inquiry done during the lawful permanent residency application to ascertain whether an individual will be primarily dependent on public benefits, it excludes health benefits.

Without translated applications, the more than 24 million LEP individuals expected to utilize the Marketplaces and many others who may benefit from different ACA provisions will lack equal access to the coverage options available under the ACA.

We suggest that CMS should work with professional translators and linguists to ensure that the translated terms are correct, have equivalent (or near-equivalent) meaning, and are understandable if a language has multiple variations. We also urge that CMS develop standards for quality assurance.

It is also important that the homepage or cover sheet include taglines in multiple languages or a language portal that directs LEP individuals to translated versions of the application and how to access assistance completing the application (e.g. call center phone number or local assistors, navigators, or certified application counselors who can provide in-language assistance).

We recommend that on the homepage or cover sheet CMS include the following statement in at least fifteen languages or a language portal that directs LEP individuals to a webpage for information on how to obtain further assistance:

If you do not speak English, we will get an interpreter to help you for no cost to you. Please call (XXX) XXX-XXXX.

Assistance for ineligible family members

The applications provide no information or enrollment assistance for family members who are ineligible for coverage under the ACA.

We recommend that when determining an individual is eligible only for Emergency Medicaid, the system provide information and enrollment assistance for health care options available regardless of status, and issue a notice of eligibility to these individuals.

Data collection on race, ethnicity and primary language

We greatly appreciate the recognition of the need to collect comprehensive demographic data. However, we are concerned that CMS did not follow the statutory instructions and include language data collection for all applicants on the draft applications. The collection of demographic data including race and ethnicity collection for all applicants demonstrates the viability of additionally collecting language information for all applicants. Moreover, by only requesting language data information from the household contact, CMS also impedes its compliance with § 4302 since it will not have language data of recipients and participants to utilize in later communications with those individuals (unless it implements post-enrollment collection which historically has been very difficult).

Comprehensive language data is essential to ensuring nondiscrimination and compliance with Title VI of the Civil Rights Act and § 1557 of the ACA². Having comprehensive language data is also critical to address health disparities and service planning. Marketplaces need to know the languages of applicants so they can ensure provision of appropriate language services – both oral and written – in their offices, call centers, and by subcontractors. Collecting this data once on the application will save time and money since the Exchange can share this data with health plans, providers, navigators, assisters, certified application counselors, brokers and others who will be assisting limited English proficient individuals.

² HHS, *Supporting Statement for Data Collection to Support Eligibility Determinations for Insurance Affordability Programs and Enrollment through Affordable Insurance Exchanges, Medicaid and Children's Health Insurance Program Agencies* at 6.

Further, only collecting this data from the household contact will likely misrepresent and significantly undercount the needs of LEP individuals. Given the well-documented barriers LEP individuals face in accessing services and healthcare, it is likely that if a household has an English-speaking member, that individual will be the household contact. Yet an estimated 23 percent of Marketplace applicants will speak a language other than English at home, demonstrating the significant need to identify language needs so that appropriate assistance can be provided for all applicants.

We also suggest that to increase the likelihood of a response to these voluntary questions the application include the following statement explaining the reason for explaining the need for this data:

We ask for your race, ethnicity and language so that we can review application information to make sure that everyone gets the same access to health care. This information is confidential and it will not be used to decide what health program you are eligible for. You do not have to provide your race and ethnicity to complete the application.

Conclusion

By addressing these issues of framing, language access, data collection and data utilization the proposed form will be much more accessible to individuals from immigrant and mixed status families.

Respectfully submitted,



Robert Restuccia
Executive Director
Community Catalyst