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HIGHLIGHTS FROM VLA'S COMMENTS ON DCF PROPOSED REGULATIONS ON HEALTH BENEFITS, ELIBILITY AND ENROLLMENT (THE EXCHANGE RULES) BULLETIN NO. 13-12P

1. Guarantee accessibility The average Vermonter should be able to get assistance including in-person help, whether they have a documented disability or not. In addition, AHS has an affirmative duty to assist people with disabilities. These obligations should be met throughout the eligibility determination and enrollment processes.
2. Clarify language in federal rules AHS inserted large sections of proposed and final federal regulations into these proposed state rules. Many of these federal rules are confusing. AHS should not adopt federal regulatory language without reviewing it for clarity and attempting to convey the meaning of the federal rules in plain English.
3. Navigators and certified application counselors The differences between these two types of assistors need to be clarified.
4. State subsidies There was no mention of the state subsidies created by the legislature. These need to be incorporated into the rules.
5. Revision of appeals process CMS has issued proposed regulations on the appeals process, and has not yet issued final regulations. Not all of these proposed changes were addressed in these proposed rules. We expect AHS to do further work on appeals available through the exchange, which may have to be done through emergency rulemaking. We asked that VLA and other stakeholders be involved as soon as possible in the reworking of appeals, so that there is sufficient dialogue to iron out possible problems.

6. Exemption appeals Certain exemptions from the tax penalty for not having insurance can only be determined by the exchange. No proposed rules were included about this. We asked that stakeholders be involved as these are developed because these additions may also have to be done through emergency rulemaking.
7. Authorized representatives The rules create at least four types of representatives who can act on an individual's behalf: appeal, authorized, eligibility and fair hearing. VLA asked that these be reduced to one type of representative, an authorized representative. The federal rules include requirements that these representatives be authorized in writing. This is a problem for VLA and particularly for the Office of Health Care Ombudsman because we often need to act quickly to resolve problems. We asked that VLA be exempt from this requirement.
8. Purpose and scope of Medicaid and EPSDT Existing language was removed. At least some of it should be put back in.
9. Interpretive memoranda/crosswalk problem Over the past thirty years or so, AHS has added memos to the regulations to explain how it interprets and implements certain regulations. Because AHS has not provided a crosswalk between the old rules and these proposed rules, it was impossible to determine which of these memos had been included. We noted three important memos that were not included, and asked AHS to include the gist of all memos.
10. Two new HHS options which could expand coverage AHS should pursue two new options recently provided by CMS: continuous 12-month eligibility for adults and children, and streamlined enrollment of SNAP participants. HHS is offering states a "simple, streamlined request-and-approval process" so that states can readily implement these options by this fall.
11. Eliminate the MAGI cliff through Medicare Savings Program expansion Beneficiaries who are just above the poverty level will face a MAGI cliff when they become eligible for Medicare. Up to that point their eligibility would be determined through the Modified Adjusted Income (MAGI) methodology which has an income limit of 133% FPL and no resource test. After becoming eligible for Medicare, eligibility reverts to the current rules which have an income limit of about 100% FPL and an asset test. This will mean that elderly or disabled Vermonters will lose their Medicaid eligibility and be subject to the significant cost-sharing of the Medicare program simply due to the passage of time. We propose that AHS expand the Medicare Savings Program income limits, specifically QMB, to address this problem.