CHCANYS Defining New Directions
Community Health Care Association of New York State

New York's Health Benefit Exchange: Network Contracting Checklist and Considerations

The New York State Health Benefit Exchange has issued an invitation to health insurance plans to participate in the Exchange. In order to become **Qualified Health Plans** in the Exchange, the plans must comply with State and Federally applicable network requirements. In New York, plans wishing to participate in the Exchange must make their network submissions to the State by **April 12, 2013.**

The Exchange health insurance products are **new *commercial* products** with unique networking requirements. For this reason, you may now be receiving new contracts from plans with which you already have established relationships for Medicaid or other commercial products.

The purpose of this document is to

- clarify federal rules relating to FQHC reimbursement rates
- identify considerations in Exchange contracting, and
- provide resources for Centers as they prepare for Exchange implementation.

Federal Rules

Section 1302(g) of the ACA law requires that, in the context of the Exchange:

> If any item or service covered by a qualified health plan is provided by a Federally-qualified health center as defined in [the Medicaid section of the] Social Security Act to an enrollee of the plan, the offeror of **the plan shall pay** to the center for the item or service an amount that is not less than the amount of payment that would have been paid to the center under Section 1902(bb) of such Act [*i.e.*, the PPS rate]. *Emphasis added*.

In other words, **there will be NO State wrap payment** to make up the difference between your Exchange product negotiated rate and PPS.

Checklist: Considerations for QHP/Exchange Contractual Discussions

☐ Both the Center and its attorney should carefully review the contract and **ALL** associated contract documents (including all exhibits, fee schedules, utilization management program guidelines and policy and procedure manuals).

☐ Rates

- Are the rates in conformance with the federal requirement?
- Centers are free to negotiate rates with the plans, but remember that the State will NOT pay a wrap for a differential between PPS and your negotiated Exchange product rate.

☐ Are you currently contracted with the insurer? If yes, do the terms of the proposed agreement extend to the insurer's other products as well as the Exchange product(s)? If yes, this is an "all-product" contract. By signing an all-product Agreement, you will be agreeing to be on the provider panel for all current and future products offered by that payer. Additionally, if you are currently contracted with the insurer now offering you an all-product contract, this agreement will supersede your existing contract(s) if you sign it – **including any provisions relating to contracted rates.**

☐ Carefully review the provisions to make sure that the requirements of the Exchange product are not more onerous than your current contract.

☐ Make sure you have a clear understanding of both issuer and CHC responsibilities as outlined by the agreement.

☐ You can negotiate! You are NOT required to simply accept a contract. Items you may wish to negotiate include:

- **Notice. Example:** Requiring 30 days prior written notice to all changes that impact policies procedures and reimbursement under the agreement and include language that give contracted CHCs 30 days to respond to the proposed changes
- **Rates.** Carefully analyze proposed rates and existing rates – for all products covered by the contract -- for the purpose of establishing a fair and competitive reimbursement structure.
- **Term.** Consider setting the initial term of the Agreement in such a way that CHC risk is limited. The longer the term of the contract, the greater the risk especially in a new market being established.
- **Eligibility.** Outline eligibility verification mechanism within the scope of the document.
- **Termination & Arbitration.** Include tightly worded termination and arbitration provisions (with advice of legal counsel).
- **Denials.** How are payments for denied claims handled?

Sample Questions

Our FQHC has contracted with a Medicaid managed care plan for years and has had a great relationship with them. They never had a commercial product until they decided to participate in the Exchange. The contract they sent us looks identical to our Medicaid contract, except now it includes their individual commercial product and their Medicaid product. Can't we just sign it?

Of course. However, if you accept the negotiated reimbursement for both products, remember there will be NO WRAP for the Exchange product. If the plan has always been in the Medicaid space, they may not be aware of rules for FQHCs in the commercial product context.

Our center has been contracting with a plan for years for their small group product and their Medicaid product. The plan just sent us a 5-year contract for their Medicaid, Exchange and other products and wants us to accept a percentage of Medicare as our rates for their products. What should we be concerned about?

If you sign this contract, it will supersede your existing contract. Are the terms consistent? The new contract is not limited to just two products. Are you prepared to take all products (e.g., other commercial products, Medicare) offered by the insurer – at the rate identified in the contract? Finally, be aware of the term of the contract – will these terms work for you for 5 years?

Can we identify different rates for different products?

You are free to negotiate your terms and rates with the insurer. It is possible that you could have one rate for your Medicaid product (contemplating a wrap) and another rate for the plan's commercial products.

Resources: Preparing for Qualified Health Plan (QHP)/Exchange Agreements

- Review information relating to Qualified Health Plan rules and requirements at http://www.healthbenefitexchange.ny.gov/invitation.

- Review the final rule regarding standards related to essential health benefits actuarial value and accreditation 78 Fed. Reg.12834 et seq. (2/25/13) (http://www.gpo.gov/fdsys/pkg/FR-2013-02-25/pdf/2013-04084.pdf)
- While not applicable to the New York Health Benefit Exchange, recent federal guidance on the State-Federal Partnership Exchange may provide guidance:
    - CCII0/CMS Guidance on the State Partnership Exchanges (1/3/13) (http://cciio.cms.gov/resources/files/partnership-guidance-01-03-2013.pdf)
    - CCII0/CMS' Letter to Issuers on FFE and State Partnership Exchanges (3/1/13)) (http://cciio.cms.gov/resources/files/issuer-letter-3-1-2013.pdf)
- NACHC Managed Care Handbook: A Practical Guide for Health Centers: http://iweb.nachc.com/Purchase/ProductDetail.aspx?Product_code=GD_MANAGED_12
- Collaborative Arrangements: A Guide for Health Centers and Their Partners http://iweb.nachc.com/Purchase/ProductDetail.aspx?Product_code=GD_COLLAB_11