

Dept. of Health and Human Services

§ 155.520

comply with the data exchange requirements in §§ 155.260, 155.270, and 155.345(i); and

(2) Comply with all data sharing requests made by HHS.

[78 FR 54136, Aug. 30, 2013, as amended at 81 FR 12344, Mar. 8, 2016]

§ 155.515 Notice of appeal procedures.

(a) *Requirement to provide notice of appeal procedures.* The Exchange must provide notice of appeal procedures at the time that the—

(1) Applicant submits an application; and

(2) Notice of eligibility determination is sent under §§ 155.310(g), 155.330(e)(1)(ii), 155.335(h)(1)(ii), and 155.610(i).

(b) *General content on right to appeal and appeal procedures.* Notices described in paragraph (a) of this section must contain—

(1) An explanation of the applicant or enrollee's appeal rights under this subpart;

(2) A description of the procedures by which the applicant or enrollee may request an appeal;

(3) Information on the applicant or enrollee's right to represent himself or herself, or to be represented by legal counsel or another representative;

(4) An explanation of the circumstances under which the appellant's eligibility may be maintained or reinstated pending an appeal decision, as described in § 155.525; and

(5) An explanation that an appeal decision for one household member may result in a change in eligibility for other household members and that such a change will be handled as a re-determination of eligibility for all household members in accordance with the standards specified in § 155.305.

§ 155.520 Appeal requests.

(a) *General standards for appeal requests.* The Exchange and the appeals entity—

(1) Must accept appeal requests submitted—

(i) By telephone;

(ii) By mail;

(iii) In person, if the Exchange or the appeals entity, as applicable, is capable of receiving in-person appeal requests; and

(iv) Via the Internet.

(2) Must assist the applicant or enrollee in making the appeal request, if requested;

(3) Must not limit or interfere with the applicant or enrollee's right to make an appeal request; and

(4) Must consider an appeal request to be valid for the purpose of this subpart, if it is submitted in accordance with the requirements of paragraphs (b) and (c) of this section and § 155.505(b).

(b) *Appeal request.* The Exchange and the appeals entity must allow an applicant or enrollee to request an appeal within—

(1) 90 days of the date of the notice of eligibility determination; or

(2) A timeframe consistent with the state Medicaid agency's requirement for submitting fair hearing requests, provided that timeframe is no less than 30 days, measured from the date of the notice of eligibility determination.

(c) *Appeal of a State Exchange appeals entity decision to HHS.* If the appellant disagrees with the appeal decision of a State Exchange appeals entity, he or she may make an appeal request to the HHS appeals entity within 30 days of the date of the State Exchange appeals entity's notice of appeal decision or notice of denial of a request to vacate a dismissal.

(d) *Acknowledgement of appeal request.* (1) Upon receipt of a valid appeal request pursuant to paragraph (b), (c), or (d)(3)(i) of this section, the appeals entity must—

(i) Send timely acknowledgment to the appellant of the receipt of his or her valid appeal request, including—

(A) Information regarding the appellant's eligibility pending appeal pursuant to § 155.525; and

(B) An explanation that any advance payments of the premium tax credit paid on behalf of the tax filer pending appeal are subject to reconciliation under 26 CFR 1.36B-4.

(ii) Send timely notice via secure electronic interface of the appeal request and, if applicable, instructions to provide eligibility pending appeal pursuant to § 155.525, to the Exchange and to the agencies administering Medicaid or CHIP, where applicable.

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(iii) If the appeal request is made pursuant to paragraph (c) of this section, send timely notice via secure electronic interface of the appeal request to the State Exchange appeals entity.

(iv) Promptly confirm receipt of the records transferred pursuant to paragraph (d)(3) or (4) of this section to the Exchange or the State Exchange appeals entity, as applicable.

(2) Upon receipt of an appeal request that is not valid because it fails to meet the requirements of this section or § 155.505(b), the appeals entity must—

(i) Promptly and without undue delay, send written notice to the applicant or enrollee informing the appellant:

(A) That the appeal request has not been accepted;

(B) About the nature of the defect in the appeal request; and

(C) That the applicant or enrollee may cure the defect and resubmit the appeal request by the date determined under paragraph (b) or (c) of this section, as applicable, or within a reasonable timeframe established by the appeals entity.

(D) That, in the event the appeal request is not valid due to failure to submit by the date determined under paragraph (b) or (c) of this section, as applicable, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe determined by the appeals entity that failure to timely submit was due to exceptional circumstances and should not preclude the appeal.

(ii) Treat as valid an amended appeal request that meets the requirements of this section and § 155.505(b).

(3) Upon receipt of a valid appeal request pursuant to paragraph (b) of this section, or upon receipt of the notice under paragraph (d)(1)(ii) of this section, the Exchange must transmit via secure electronic interface to the appeals entity—

(i) The appeal request, if the appeal request was initially made to the Exchange; and

(ii) The appellant's eligibility record.

(4) Upon receipt of the notice pursuant to paragraph (d)(1)(iii) of this sec-

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tion, the State Exchange appeals entity must transmit via secure electronic interface the appellant's appeal record, including the appellant's eligibility record as received from the Exchange, to the HHS appeals entity.

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§ 155.525 Eligibility pending appeal.

(a) *General standards.* After receipt of a valid appeal request or notice under § 155.520(d)(1)(ii) that concerns an appeal of a redetermination under § 155.330(e) or § 155.335(h), the Exchange or the Medicaid or CHIP agency, as applicable, must continue to consider the appellant eligible while the appeal is pending in accordance with standards set forth in paragraph (b) of this section or as determined by the Medicaid or CHIP agency consistent with 42 CFR parts 435 and 457, as applicable.

(b) *Implementation.* If the tax filer or appellant, as applicable, accepts eligibility pending an appeal, the Exchange must continue the appellant's eligibility for enrollment in a QHP, advance payments of the premium tax credit, and cost-sharing reductions, as applicable, in accordance with the level of eligibility immediately before the redetermination being appealed.

§ 155.530 Dismissals.

(a) *Dismissal of appeal.* The appeals entity must dismiss an appeal if the appellant—

(1) Withdraws the appeal request in writing or by telephone, if the appeals entity is capable of accepting telephonic withdrawals.

(i) Accepting telephonic withdrawals means the appeals entity—

(A) Records in full the appellant's statement and telephonic signature made under penalty of perjury; and

(B) Provides a written confirmation to the appellant documenting the telephonic interaction.

(ii) [Reserved]

(2) Fails to appear at a scheduled hearing without good cause;

(3) Fails to submit a valid appeal request as specified in § 155.520(a)(4); or

(4) Dies while the appeal is pending, except if the executor, administrator, or other duly authorized representative