

## § 156.330

(4) To States to carry out section 1311 of the Affordable Care Act.

(c) *Penalties.* A QHP issuer that fails to report the information described in paragraph (a) of this section to HHS on a timely basis or knowingly provides false information will be subject to the provisions of subsection (b)(3)(C) of section 1927 of the Act.

[77 FR 18469, Mar. 27, 2012, as amended at 86 FR 24292, May 5, 2021]

### Subpart D—Standards for Qualified Health Plan Issuers for Specific Types of Exchanges

SOURCE: 78 FR 54143, Aug. 30, 2013, unless otherwise noted.

#### § 156.330 Changes of ownership of issuers of Qualified Health Plans in Federally-facilitated Exchanges.

When a QHP issuer that offers one or more QHPs in a Federally-facilitated Exchange undergoes a change of ownership as recognized by the State in which the issuer offers the QHP, the QHP issuer must notify HHS of the change in a manner to be specified by HHS, and provide the legal name and Taxpayer Identification Number (TIN) of the new owner and the effective date of the change at least 30 days prior to the effective date of the change of ownership. The new owner must agree to adhere to all applicable statutes and regulations.

[78 FR 65096, Oct. 30, 2013]

#### § 156.340 Standards for downstream and delegated entities.

(a) *General requirement.* Effective October 1, 2013, notwithstanding any relationship(s) that a QHP issuer may have with delegated and downstream entities, a QHP issuer maintains responsibility for its compliance and the compliance of any of its delegated or downstream entities with all applicable Federal standards related to Exchanges. The applicable standards depend on the Exchange model type in which the QHP is offered, as described in paragraphs (a)(1) and (2) of this section.

(1) QHP issuers participating in Exchange models that do not use the Federal platform, including State Exchanges and State Exchange SHOPS.

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QHP issuers maintain responsibility for ensuring their downstream and delegated entities comply with the Federal standards related to Exchanges, including the standards in subpart C of this part with respect to each of its QHPs on an ongoing basis, as well as the Exchange processes, procedures, and standards in accordance with subparts H and K of part 155 and, in the small group market, §§155.705 and 155.706 of this subchapter, unless the standard is specifically applicable to a Federally-facilitated Exchange or FF-SHOP;

(2) QHP issuers participating in Exchanges that use the Federal platform, including Federally-facilitated Exchanges, FF-SHOPS, SBE-FPs, and SBE-FP-SHOPS. QHP issuers maintain responsibility for ensuring their downstream and delegated entities comply with Federal standards related to Exchanges, including the standards in subpart C of part 156 with respect to each of its QHPs on an ongoing basis, as well as the Exchange processes, procedures, and standards in accordance with subparts H and K of part 155 of this subchapter and, in the small group market, §§155.705 and 155.706 of this subchapter if applicable to the Exchange type in which the QHP issuer is operating. QHP issuers are also responsible for their downstream and delegated entities' compliance with the standards of §155.220 of this subchapter with respect to assisting with enrollment in QHPs, and the standards of §§156.705 and 156.715 of this subchapter for maintenance of records and compliance reviews if applicable to the Exchange type in which the QHP issuer is operating.

(b) *Delegation agreement specifications.* If any of the QHP issuer's activities or obligations, in accordance with paragraph (a) of this section, are delegated to other parties, the QHP issuer's agreement with any delegated or downstream entity must—

(1) Specify the delegated activities and reporting responsibilities;

(2) Provide for revocation of the delegated activities and reporting standards or specify other remedies in instances where HHS or the QHP issuer determines that such parties have not performed satisfactorily;

(3) Specify that the delegated or downstream entity must comply with all applicable laws and regulations relating to the standards specified under paragraph (a) of this section;

(4) Specify that the delegated or downstream entity must permit access by the Secretary and the OIG or their designees in connection with their right to evaluate through an audit, inspection, or other means, to the delegated or downstream entity's books, contracts, computers, or other electronic systems, including medical records and documentation, relating to the QHP issuer's obligations in accordance with Federal standards under paragraph (a) of this section until 10 years from the final date of the agreement period;

(5) All agreements between issuers offering QHPs through an Exchange and delegated or downstream entities the issuers engage to support the issuer's activities on an Exchange must include language stating that the relevant Exchange authority may demand and receive the delegated or downstream entity's books, contracts, computers, or other electronic systems, including medical records and documentation, relating to the QHP issuer's obligations in accordance with Federal standards under paragraph (a) of this section until 10 years from the final date of the agreement period.

[78 FR 54143, Aug. 30, 2013, as amended at 87 FR 27392, May 6, 2022]

**§ 156.350 Eligibility and enrollment standards for Qualified Health Plan issuers on State-based Exchanges on the Federal platform.**

(a) In order to participate in a State-based Exchange on the Federal platform, a QHP issuer must comply with HHS regulations, and guidance pertaining to issuer eligibility and enrollment functions as if the issuer were an issuer of a QHP on a Federally-facilitated Exchange. These requirements include—

(1) Section 156.285(a)(4)(ii) regarding the premiums for plans offered on the SHOP, for plan years beginning prior to January 1, 2018;

(2) Section 156.285(c)(5) and (c)(8)(iii) regarding the enrollment process for

SHOP, for plan years beginning prior to January 1, 2018; and

(3) Section 156.715 regarding compliance reviews of QHP issuers, to the extent relating directly to applicable eligibility and enrollment functions.

(4) Section 156.265(d) of this subchapter regarding binder payments and premium payment deadlines.

(b) HHS will permit issuers of QHPs in each State-based Exchange on the Federal platform to directly enroll applicants in a manner that is considered to be through the Exchange, as if the issuers were issuers of QHPs on Federally-facilitated Exchanges under § 156.1230(a), to the extent permitted by applicable State law.

(c) If the State-based Exchange on the Federal platform does not substantially enforce a requirement in paragraph (a) of this section against the issuer or plan, then HHS may do so, in accordance with the enforcement remedies in subpart I of this part, subject to the administrative review process in subpart J of this part.

[81 FR 12351, Mar. 8, 2016, as amended at 81 FR 94181, Dec. 22, 2016; 83 FR 17069, Apr. 17, 2018]

**Subpart E—Health Insurance Issuer Responsibilities With Respect to Advance Payments of the Premium Tax Credit and Cost-Sharing Reductions**

SOURCE: 78 FR 15535, Mar. 11, 2013, unless otherwise noted.

**§ 156.400 Definitions.**

The following definitions apply to this subpart:

*Advance payments of the premium tax credit* has the meaning given to the term in § 155.20 of this subchapter.

*Affordable Care Act* has the meaning given to the term in § 155.20 of this subchapter.

*Annual limitation on cost sharing* means the annual dollar limit on cost sharing required to be paid by an enrollee that is established by a particular qualified health plan.

*De minimis variation* means the allowable variation in the AV of a health plan that does not result in a material difference in the true dollar value of