



April 21, 2014

VIA ELECTRONIC SUBMISSION

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attn: CMS-9949-P
P.O. Box 8013
Baltimore, MD 21244-1850

**RE: CMS-9949-P, Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond
Proposed Rule Changes at § 155.420, Special Enrollment Periods**

To Whom it May Concern:

As a 19 year recipient of an AmeriCorps grant through the Corporation for National and Community Service (CNCS), the **National Association of Community Health Centers and its Community HealthCorps program** thanks and respectfully submits to the Centers for Medicare and Medicaid Services, Department of Health and Human Services the foregoing comments to the proposed regulations in CMS-9949-P. We specifically submit these comments with respect to the proposed changes to 45 CFR 155.420, the provisions for special enrollment periods, and in response to the solicitation for comments regarding “whether there are other situations in which an individual loses coverage, such as AmeriCorps coverage, and should be provided with a special enrollment period.” (See 79 Fed. Reg. 15838-15839, Mar. 21, 2014.)

Each fiscal year, AmeriCorps provides opportunities for tens of thousands of individuals, youth through seniors, to perform national service for their communities on critical issues ranging from disaster relief and improving educational outcomes to providing access to health care and helping military members and their families. These are all issues which would otherwise go unaddressed due to lack of capacity and funding. Although it operates under the auspices of many sub-grantees, the program is often described as the “domestic Peace Corps.” And, since its inception in 1993, over 820,000 AmeriCorps members have served over 1 billion hours to our country.

Depending on the duration of an individual’s term of service, some AmeriCorps members receive a modest living allowance and health care coverage while serving, and upon completion of the program, are eligible for an education award valued up to maximum amount of the Pell Grant for the year. We provide this brief history and summary of benefits to illustrate that the monetary benefits to the AmeriCorps members are modest at best, but have not, thus far, been a deterrent to those who wish to serve. Moreover, we would offer that these modest benefits have

been an incentive for many of the 820,000 people to serve, and any inadvertent penalization of AmeriCorps member for accepting these benefits, particularly the AmeriCorps minimum benefits for health care coverage offered through the sub-grantee programs, would be counterproductive to years of at least 20 years of progress made at the federal and community level.

We believe that an inadvertent penalization of AmeriCorps members for accepting the AmeriCorps minimum benefits for health care coverage occurs because of the conflicting requirements for “minimum essential coverage” (hereinafter also referred to as MEC) under the Affordable Care Act (hereinafter also referred to as the ACA) and the “AmeriCorps minimum benefits” required under the Edwards M Kennedy Serve America Act and its related regulations. Through these comments, we will also offer support for an at least partial but impactful solution in providing AmeriCorps members with a special enrollment period for a limited period prior to and following the end of a term of service.

Programs, or organizations, that are awarded an AmeriCorps grant are required to provide or make available health care coverage to all AmeriCorps members serving in positions that may be considered full-time (i.e., require at least 1,700 hours of service over the course of 9-12 months). (See 42 USC § 12594(d).) To meet this requirement, a program must offer health care coverage that meets the minimum benefits set forth at 45 CFR 2522.250(b) and the final AmeriCorps grant provisions each year. When required, the minimum benefits are as follows:

- a. Physician services for illness or injury
- b. Hospital room and board
- c. Emergency room
- d. X-ray and laboratory
- e. Prescription drugs
- f. Limited mental/nervous disorders
- g. Limited substance abuse coverage
- h. An annual deductible of no more than \$250 charges per member
- i. No more than \$1,000 total annual out-of-pocket per member
- j. A 20% co-pay or a comparable fixed fee with the exception of a 50% co-pay for mental and substance abuse care
- k. A maximum benefit of at least \$50,000 per occurrence or cause

In early 2013, HHS proposed to designate certain types of coverage as MEC, including “AmeriCorps coverage offered to AmeriCorps volunteers,” but the final federal rules published in June 2013 specifically *excluded* AmeriCorps’ health care benefits as MEC, although it maintained its inclusion of Peace Corps volunteers. Late last year, one of only two major providers of these affordable benefits to program submitted an application to HHS to seek certification of its package of the AmeriCorps minimum benefits as “minimum essential coverage” under the ACA. The application to HHS was denied, but coverage was able to continue beyond December 31, 2013 through indefatigable efforts made by the provider, the field of sub-grantee programs and sentiments expressed by AmeriCorps members and alumni.

Although coverage was allowed to continue, thousands of AmeriCorps members who entered the program at organizations around the country with the expectation that the health insurance coverage they were being offered under one set of federal regulations would be sufficient are now faced with an unanticipated reality that another federal regulation has determined their coverage to be insufficient and not allowed them access to coverage through the exchange after they complete their term of national service at any time outside of the open enrollment period.

The impact of this is great and affects the majority of AmeriCorps members currently insured through their program—many who will exit prior to the next open enrollment phase in November 2014. The reality is that AmeriCorps programs generally start their program years at or around August 1st and end at or around July 31st of the following year. As such, most AmeriCorps members year after year will complete a term of service, thus ending coverage, outside of the open enrollment period for obtaining minimum essential coverage through the Exchanges.

Additionally, because their benefits were not considered MEC under the ACA, they are not provided a special enrollment period specifically for ending an AmeriCorps term of service. In other words, ending a term of service through AmeriCorps is currently not a qualifying life event that would provide for a special enrollment period. Further, AmeriCorps members are in a specific group where the large majority remain covered by plans that meet the requirements set forth by 45 CFR 2522.250(b) but not the ACA. We note that grantee programs, or organizations, generally cannot switch to plans for health care coverage that provide minimum essential coverage under the ACA because doing so is directly cost-prohibitive and would absolutely result in either a reduction or elimination of grants, leaving thousands unemployed.

AmeriCorps members are in urgent need of a special enrollment period to be effective upon their last day of service, otherwise known as the exit date, which would be the qualifying life event. We, therefore, propose and support a designation of exiting an AmeriCorps program as a qualifying life event which triggers the special enrollment period. We specifically note that the circumstances leading to the exit should not matter, since coverage ends when service ends and is not dependent upon the type of exit.

We further propose that flexibility be allowed for multiple situations which may arise for an AmeriCorps member exiting the program, and therefore support a regulatory provision that would require the Exchange to permit AmeriCorps members a period of up to 60 days prior to and/or following an exit date to access the special enrollment period as set forth by other existing regulations.

These requests are made notwithstanding any continued efforts to have the AmeriCorps minimum benefits designated as “minimum essential coverage” under the Affordable Care Act. We propose and support a special enrollment period for AmeriCorps members, regardless.

NACHC has submitted under separate cover comments regarding the patient navigator rules.

We thank you for your consideration of the above comments and hope that our recommendations will be adopted into the final rules.