Key Priorities for FFM Compliance Reviews for the 2014 Benefit Year

Consistent with the Centers for Medicare & Medicaid Services' (CMS) authority under 45 C.F.R. 156.715, CMS will perform compliance reviews of issuers offering Qualified Health Plans (QHPs) in the Federally-facilitated Marketplaces (FFM). For purposes of this document, QHPs include stand-alone dental plans (SADPs), unless otherwise indicated. We intend for these compliance reviews to focus on FFM requirements for QHP certification under Subpart C of 45 CFR part 156 and other key FFM operational standards for those states in which CMS is operating the Marketplace, including states with State Partnership Marketplaces. CMS will review data at both the issuer and the QHP level. Policies, procedures and any other applicable documentation may be requested, as part of the compliance review process, to show compliance with issuer standards. As additional final regulations and operational guidance are published, those standards may be included as part of the compliance reviews.

Table A below lists the regulatory standards governing QHP certification that we anticipate including as part of the FFM compliance reviews for the 2014 benefit year. This list is intended to help QHP issuers understand the key priorities for CMS' 2014 FFM compliance reviews. We note that this list should not be construed as a comprehensive listing of all standards applicable to QHP issuers in the FFMs, nor a limitation on CMS' authority or ability to review compliance with standards not appearing on this list. The compliance review that is the subject of this document is separate from other audits and reviews that may be conducted to ensure compliance with the Affordable Care Act (e.g., MLR audits, policy and rate filing reviews, and reinsurance-eligible plan audits). We have provided illustrative examples, in Table B, of regulatory standards that fall into this second category of requirements that will be monitored for compliance through other review and oversight mechanisms. It is not intended to be an all-inclusive list.

Table A. Regulatory Standards That May Be Included in FFM Compliance Reviews for 2014

QHP Issuer Participation Standards The QHP Issuer must meet Exchange participation standards by:	**45 CFR § 156.200**
▪ Being certified by the Exchange for each health plan offered on the FFM	▪ § 156.200(a)
▪ Complying with FFM processes, procedures, and requirements under Subpart K of Part 155 and, in the small group market, 45 CFR 155.705	▪ § 156.200(b)(2)
▪ Maintaining licensure and good standing in each state in which QHP Issuer offers health insurance	▪ § 156.200(b)(4)
▪ Implementing a quality improvement strategy, reporting quality and outcomes information, and implementing appropriate enrollee satisfaction surveys	▪ § 156.200(b)(5)
▪ Offering at least one gold and one silver plan in the individual and small group markets, and one child-only plan in the individual market	▪ § 156.200(c)
▪ Not discriminating based on race, color, national origin, disability, age, sex, gender identity, or sexual orientation	▪ § 156.200(e)
▪ Providing the same agent/broker compensation for similar coverage offered inside and outside the Exchange	▪ § 156.200(f)
▪ Complying with FF-SHOP participation provisions	▪ § 156.200(g)
QHP Rate and Benefit Information The QHP Issuer must set and report rates by:	**45 CFR § 156.210**
▪ Submitting justifications of rate increases to the Exchange prior to the implementation of the rate increase	▪ § 156.210(c)
▪ Prominently posting justifications of rate increases on the QHP Issuer's website	▪ § 156.210(c)
Marketing and Benefit Design The QHP Issuer must not discourage enrollment of individuals with significant health needs by:	**45 CFR § 156.225** ▪ § 156.225(b)
▪ Not employing marketing practices or benefit designs that will have the effect of discouraging the enrollment of individuals with significant health needs in QHPs	
Delegated and Downstream Entities The QHP Issuer must comply with standards applicable to delegated and downstream entities, such as:	**45 CFR § 156.340** ▪ § 156.340(a)(1)
▪ Ensuring that its delegated/downstream entities not employ marketing practices or benefit designs that will have the effect of discouraging the enrollment of individuals with significant health needs in QHPs	▪ § 156.340(b)
▪ Ensuring that a delegation agreement has been executed in accordance with 45 CFR 156.340(b)	

Agent/Broker Standards The QHP Issuer must ensure compliance by its appointed agents/brokers, as downstream/delegated entities, in the following areas:	**45 CFR § 156.340**
▪ Satisfying applicable FFM registration and training requirements	▪ § 156.340(a)(3)
▪ Maintaining licensure and good standing in each state in which the agent/broker operates	▪ § 156.340(a)(3)
▪ Executing the FFM Privacy / Security Agreement and (if applicable) the General Marketplace Agreement	▪ § 156.340(a)(3)
▪ Using the required disclaimers if an agent/broker non-FFM website is used to assist with QHP selection	▪ § 155.220(e)
Network Adequacy Standards The QHP Issuer must maintain a sufficient provider network by:	**45 CFR § 156.230**
▪ Ensuring that services, including access to mental health and substance abuse services, are accessible without unreasonable delay	▪ § 156.230(a)(2)
▪ Publishing a provider directory online or providing a hard copy upon request	▪ § 156.230(b)
▪ Identifying providers that are not accepting new patients in the provider directory	▪ § 156.230(b)
Essential Community Providers The QHP Issuer must ensure access to Essential Community Providers (ECPs) by:	**45 CFR § 156.235**
▪ Including a sufficient number and geographic distribution of ECPs to ensure access for low-income, medically underserved individuals in the QHP's service area	▪ § 156.235(a),(b)
▪ Paying appropriate reimbursement to federally qualified health centers for covered services provided to QHP and non-QHP enrollees	▪ § 156.235(e)
Health Plan Applications and Notices The QHP Issuer must ensure the readability of Health Plan Application and Notices by:	**45 CFR § 156.250**
▪ Making these documents accessible for individuals in accordance with the Americans with Disabilities Act and for individuals with limited English proficiency	▪ § 156.250
Rating Variations The QHP Issuer must provide parity with respect to the cost of coverage offered inside and outside the Exchange by:	**45 CFR § 156.255**
▪ Charging the same premium rate without regard to whether the plan is offered through an Exchange, directly from the issuer, or through an agent	▪ § 156.255(b)

Enrollment Periods for Qualified Individuals The QHP Issuer must follow a defined enrollment process for the individual market by:	**45 CFR § 156.260**
▪ Enrolling qualified individuals during the initial and subsequent annual open enrollment periods	▪ § 156.260(a)
▪ Allowing for special enrollment periods in cases of specific triggering life events	▪ § 156.260(a)
▪ Complying by the rules governing effective dates of coverage, as established by the Exchange	▪ § 156.260(a)
▪ Providing accurate communication of effective dates of coverage	▪ § 156.260(b)
Enrollment Process for Qualified Individuals The QHP Issuer must adhere to the required enrollment processes for the individual market by:	**45 CFR § 156.265**
▪ Allowing for enrollment through the Exchange rather than only direct enrollment through the QHP Issuer	▪ § 156.265(b)
▪ Safeguarding enrollment information with respect to personally identifiable information	▪ § 156.265(c)
▪ Providing new enrollees with an enrollment information package that meets readability and accessibility standards for individuals with disabilities or limited English proficiency	▪ § 156.265(e)
▪ Reconciling enrollment files with the Exchange no less than once a month	▪ § 156.265(f)
▪ Acknowledging receipt of enrollment information provided to the QHP Issuer by the Exchange	▪ § 156.265(g)
Termination of Coverage for Qualified Individuals The QHP Issuer must adhere to termination of coverage processes in the individual market by:	**45 CFR § 156.270**
▪ Terminating coverage only under certain permitted circumstances	▪ § 156.270(a)
▪ Providing termination of coverage notices promptly to affected enrollees	▪ § 156.270(b)
▪ Establishing a policy for handling terminations of coverage due to nonpayment of premium	▪ § 156.270(c)
▪ Following the special termination guidelines for recipients of the advance payment premium tax credits	▪ § 156.270(c),(d),(e),(g)
▪ Providing payment delinquency notices to affected enrollees	▪ § 156.270(f)
▪ Maintaining termination of coverage records in accordance with Exchange standards	▪ § 156.270(h)
▪ Complying with the rules for effective dates of termination of coverage	▪ § 156.270(i)

Accreditation of QHP Issuers The QHP Issuer must be accredited by:	**45 CFR § 156.275**
▪ Meeting the accreditation standards of an HHS-recognized accrediting entity in the applicable categories based on the QHP Issuer's area of operation	▪ § 156.275(a)(1)
▪ Authorizing its accrediting entity to release to the Exchange and HHS its accreditation survey and any other required information (e.g., corrective action plans, summaries of findings)	▪ § 156.275(a)(2)
▪ Following the accreditation timeline set forth by the Exchange	▪ § 156.275(b)
▪ Maintaining accreditation as long as the QHP issuer offers QHPs	▪ § 156.275(b)
Additional Standards Specific to FF-SHOP The QHP Issuer offering a QHP through an FF-SHOP must adhere to additional FF-SHOP standards by:	**45 CFR § 156.285**
▪ Accepting payments from the FF-SHOP on behalf of the qualified employer or an enrollee	▪ § 156.285(a)(1)
▪ Following established rate-setting timelines	▪ § 156.285(a)(2)
▪ Charging the same rate for the entire plan year	▪ § 156.285(a)(3)
▪ Following open and special enrollment periods	▪ § 156.285(b)(1) - (3)
▪ Adhering to the rules governing effective dates of coverage	▪ § 156.285(b)(4)
▪ Complying with the enrollment timeline and process for the SHOP	▪ § 156.285(c)(1)
▪ Receiving electronic enrollment information from the SHOP and safeguarding personally identifiable information received	▪ § 156.285(c)(2)
▪ Providing enrollment information packages to new enrollees	▪ § 156.285(c)(3)
▪ Reconciling enrollment files with the FF-SHOP at least monthly	▪ § 156.285(c)(4)
▪ Acknowledging receipt of enrollment information per SHOP standards	▪ § 156.285(c)(5)
▪ Adhering to the applicable qualified employer's plan year for purposes of enrolling qualified employees	▪ § 156.285(c)(6)
▪ Providing notices regarding termination of coverage to enrollees and qualified employers	▪ § 156.285(d)(1)(ii)
▪ Following the applicable rules for effective dates for termination of coverage	▪ § 156.285(d)(1)(iii)
▪ Terminating coverage for all employees of a withdrawing qualified employer	▪ § 156.285(d)(1)(i)
Nonrenewal and Decertification of QHPs The QHP Issuer must follow nonrenewal and decertification processes by:	**45 CFR § 156.290**
▪ Adhering to notification standards when the QHP Issuer is not seeking recertification	▪ § 156.290(a)(1)
▪ Fulfilling benefit coverage obligations to enrollees	▪ § 156.290(a)(2)
▪ Fulfilling reporting obligations to the Exchange	▪ § 156.290(a)(3)
▪ Providing written notices of termination of coverage to affected enrollees in a timely manner	▪ § 156.290(a)(4), (b)
▪ Following the specific termination standards governing decertification by the Exchange	▪ § 156.290(c)

Table B. Examples of Regulatory Standards Monitored Through Other Oversight Mechanisms.

The QHP Issuer must comply with benefit design standards, including provision of Essential Health Benefits and following cost-sharing limits, with respect to each of its QHPs	45 CFR § 156.200(b)(3)
The QHP Issuer must pay applicable user fees to HHS	45 CFR § 156.200(b)(6)
The QHP Issuer must comply with the standards related to the risk adjustment program	45 CFR § 156.200(b)(7)
The QHP Issuer must adhere to any requirements imposed by a state in connection with its Exchange	45 CFR § 156.200(d)
The QHP Issuer must set rates for the entire benefit or plan year	45 CFR § 156.210(a)
The QHP Issuer must submit rate and benefit information to the Exchange	45 CFR § 156.210(b)
The QHP Issuer must meet the standards related to the administration of cost-sharing reductions and advance payments of the premium tax credit	45 CFR § 156.215(a)
The QHP Issuer must comply with any applicable state laws and regulations regarding marketing of health insurance coverage	45 CFR § 156.225(a)
The QHP Issuer must demonstrate consistent application of premium variations by geographic rating areas	45 CFR § 156.255(a)
The QHP Issuer must process enrollment in accordance with all enrollment process requirements	45 CFR § 156.265(a)
The QHP Issuer must comply with applicable state laws prohibiting abortion coverage in QHPs and must follow financial standards for the segregation of funds for abortion services	45 CFR § 156.280(a),(d),(e)