Draft Connector Program Regulations Amendments

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Overview

1. Overview of recommended changes
2. Health Connector Program regulations background
3. Recommended changes
4. Proposed next steps
Since the ConnectorCare regulations were first promulgated in 2013, as part of ACA implementation, the Health Connector has identified areas in the regulations that would benefit from clarification.

- The regulations have not been updated since 2013
- Except for reinstatement payment deadline updates, these amendments are intended to clarify existing policies and operational processes, not create new ones
- As detailed in this deck, staff respectfully request that the Board issue for public comment draft amendments to the regulations at 956 CMR 12.00 to better reflect current Health Connector practice:
  - Expand scope to include all Health Connector programs, not just ConnectorCare
  - Clarify eligibility effective dates to match federal law
  - Update appeals/hearings language
  - Update and clarify premium processes
  - Generally clean up the regulations
- If the Board votes to issue draft regulations today, staff will return to the Board in December to review comments received and finalize the regulations
As the Board of Directors knows, to administer its programs, the Health Connector relies on a combination of statutes, regulations, and operational policies.

- Example:
  - Federal and state law outline eligibility to enroll into Qualified Health Plans (QHPs)
  - Federal and Health Connector regulations outline at a high level the enrollment process, such as the ability to require enrollees to pay their first month’s premium in advance of effectuating coverage
  - Health Connector operational policies outline enrollment procedures, such as the due date to effectuate coverage for a particular month, scenarios when a binder payment is or is not required, and available payment methods
Current ConnectorCare regulations have guided the Health Connector in implementing updates to state law, passed in 2013 in response to the ACA, in order to administer the state subsidies provided on top of the APTC framework.

- In 2013, the Health Connector issued new regulations at 956 CMR 12.00 to operate the ConnectorCare program, largely modeled on the earlier Commonwealth Care program regulations.
- ConnectorCare relies on the federal Affordable Care Act (ACA) eligibility rules for Advance Premium Tax Credits (APTC), and layers on additional premium and cost-sharing subsidies, funded by the Commonwealth.
- The Health Connector operates other programs, also governed by the ACA, including for individuals eligible for APTC only, non-group coverage for individuals not eligible for subsidies, dental, and small group coverage.
- Over the past five years, certain provisions in this regulation held over from the Commonwealth Care regulations have proven to be unnecessary.
- Further, because the regulations do not include every Health Connector program, there is no single source of legal authority for the full scope of the Health Connector’s business.
Proposed Update: Expand scope to include all Health Connector programs

Addressing Health Connector programs outside ConnectorCare unifies and consolidates disparate Health Connector requirements and provides transparency and accountability for members.

- To date, the Health Connector has relied on statute, operational policy, and federal regulations to operate its full suite of programs beyond ConnectorCare, including for APTC-only and unsubsidized individuals, small groups, and dental enrollees.
- The proposed updates to 956 CMR 12.00 reflect all of those programs in Health Connector regulations.
- Except as otherwise called out, these updates are not intended to alter current Health Connector policy or operations regarding any of these programs.
- In addition, recent changes in federal regulation regarding the Small Business Health Options Program (SHOP) mean that there is a regulatory vacuum for Health Connector for Business, which these regulations would fill.
  - Note that Massachusetts State Law requiring the Health Connector to operate a small business exchange is unchanged, but does not provide the same level of operational detail as contained in the prior federal SHOP regulations.
Proposed Update: Streamline/Clarify Eligibility Effective Dates

Clarifications to regulatory language around effective dates will help members and applicants know what to expect when their eligibility changes.

- The Health Connector’s eligibility system (the HIX) and Health Connector policy each reflect federal regulations regarding eligibility effective dates.
- Proposed updates to Health Connector regulations reword those rules to more clearly reflect current HIX behavior, policy, and federal regulations.
Proposed Update: Appeals/Hearings Updates

Amendments to the appeals process outlined in the regulations parallel the expansion to all Health Connector program types as well as clarify existing appeal rights and practices.

- Carrying through the addition of all Health Connector Programs, the proposed amendments account for those programs in the appeals process
- Clarify that special enrollment periods are appealable, consistent with federal regulations
- Clearly incorporate federal Exchange appeals rules, including bases for dismissal
- Codify existing standards regarding the bases for hearings decisions, including that the decision is based on a preponderance of the evidence
**Proposed Update: Clarify and Update Premium Processes**

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<th>Topic</th>
<th>Amendments</th>
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| Premium Waiver/Reductions    | ▪ Codify existing rule that the most that can be waived is the portion of premium equal to the minimum premium for an individual’s ConnectorCare Plan Type  
▪ Clarify and document current processes regarding the applicability of premium waivers to prospective enrollment, periods of delinquency, and premium owed in order to reinstated following a termination |
| Reasons for Premium Changes  | ▪ Clarify bases for premium changes, and peg premium change effective dates to eligibility change effective dates                                                                                           |
| Reinstatement Deadlines*     | ▪ Provide flexibility to the Health Connector to operationalize a reinstatement payment deadline that is consistent with the regular premium payment deadline  
  ▪ This streamlined process would reduce member confusion and improve administrative efficiency  
  *Unlike other amendments, this may result in a change to current operations |
## General Clean Up

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<tr>
<th>Topic</th>
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<tbody>
<tr>
<td>Language and definitions</td>
<td>▪ Where possible, use language used elsewhere (e.g. in Health Connector policy, federal regulations, etc.) in these regulations&lt;br&gt;▪ Add new definitions for new concepts&lt;br&gt;  •  <em>E.g.</em> “Connector Program,” “Dental Plan,” “Small Employer,” etc.&lt;br&gt;▪ Remove or update other definitions&lt;br&gt;  •  <em>E.g.</em>, “Abuse,” “Adverse Eligibility Determination,” “Health Care Provider,” and “Service Area” all removed because no longer used&lt;br&gt;  •  <em>E.g.</em> “Household,” “Federal Poverty Level,” and “Resident” all updated to more closely follow federal definitions</td>
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<td>Provisions outside Health Connector purview</td>
<td>▪ Removed reference to Health Plan recovery rights in the event a third party is found liable for an accident or injury&lt;br&gt;▪ Removed language regarding Health Connector right to recoup money on behalf of a health care provider&lt;br&gt;▪ Removed reference to mechanisms for adjudicating disputes with health plans</td>
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<td>Miscellaneous</td>
<td>▪ Corrected typos</td>
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Regulation Amendment Process Timeline

October 2019
- 10/10: Present proposed regulation amendments for Board Vote to begin process
- 10/11: Send out Local Government Advisory Committee Letters
- 10/25: Give notice of public hearings & notice to Regulations Division (includes small business impact)

November 2019
- 11/15: First possible day for public hearing (21 days after notice of hearing)
- 11/22: Proposed deadline for accepting written comments
- 11/29: File amended small business impact statement

December 2019
- 12/6: Memo to Board of Public hearing and final regulations
- 12/12: Hold Board vote on final version of proposed regulations
- 12/13: File final regulations with Secretary of State
- 12/27: Publication of adopted final version of proposed regulations in the CMR

Public Comment Period 10/25 - 11/22
Vote

Health Connector staff recommend that the Board issue the draft regulation amendments at 956 CMR 12.00, as proposed.