



Lessons from California:

Exchange Eligibility Appeals under the Affordable Care Act

THE ISSUE:

Section 1411(f) of the Affordable Care Act requires the HHS Secretary to establish an appeals process related to eligibility determinations made by Exchanges, including among other things, eligibility for enrollment in a QHP and eligibility for premium tax credits and cost-sharing reductions. The federal Department of Health & Human Services (HHS) published [final rules](#) on August 30, 2013 that address the notice and hearing requirements for these eligibility appeals as well as obligations of the Exchange appeals entities who hear these appeals (and the relationship between Exchange appeals and Medicaid/CHIP appeals).

While Covered California and other state-based exchanges are responsible for providing due process rights, including notice and the opportunity for a hearing, states have a great deal of flexibility in how they structure their appeals system. California wisely chose to integrate its Exchange appeals system with the existing Medi-Cal state fair hearing system. The appeals system is in place and being used today.

STRATEGY AND ACTIONS:

NHeLP and other advocates actively participated in the drafting of Exchange [appeal regulations](#), which were adopted through emergency rulemaking. Building off of the federal regulations, advocates were able to get additional protections and standards added to the state Exchange regulations so that they worked seamlessly with Medi-Cal appeal procedures in areas such as informal review and expedited appeals and hearing procedures.

Advocates also played an integral role in a stakeholder group to develop clear appeals and hearing [policies and procedures](#) for all state and county agencies, including Covered California. This group was led by the Presiding Administrative Law Judge of the new ACA Bureau within the State Hearings Division, part of the California Dept. of Social Services which conducts all state hearings on insurance affordability programs. We also helped craft and finalize over a dozen specific consumer notices and model letters to be used in the appeals process on issues such as dismissals, conditional withdrawals, expedited hearings, among others (these are available upon request). This collaborative effort with advocates helped to ensure a transparent and effective Exchange and Medi-Cal eligibility appeals process is in place.

Advocates will continue to work to codify all of these appeal protections in state law through [AB 617](#), a bill still moving through the legislative process.

ADDITIONAL RESOURCES

[Health Advocate on
Due Process](#)

[Covered California
Appeals Form](#)

[Covered California
Complaint](#)

[Federal Appeals form
for California](#)