



# Health Care Reform in Indian Country

Self-Governance Communication & Education

*Self-Governance Tribes Striving Towards Excellence in Health Care*

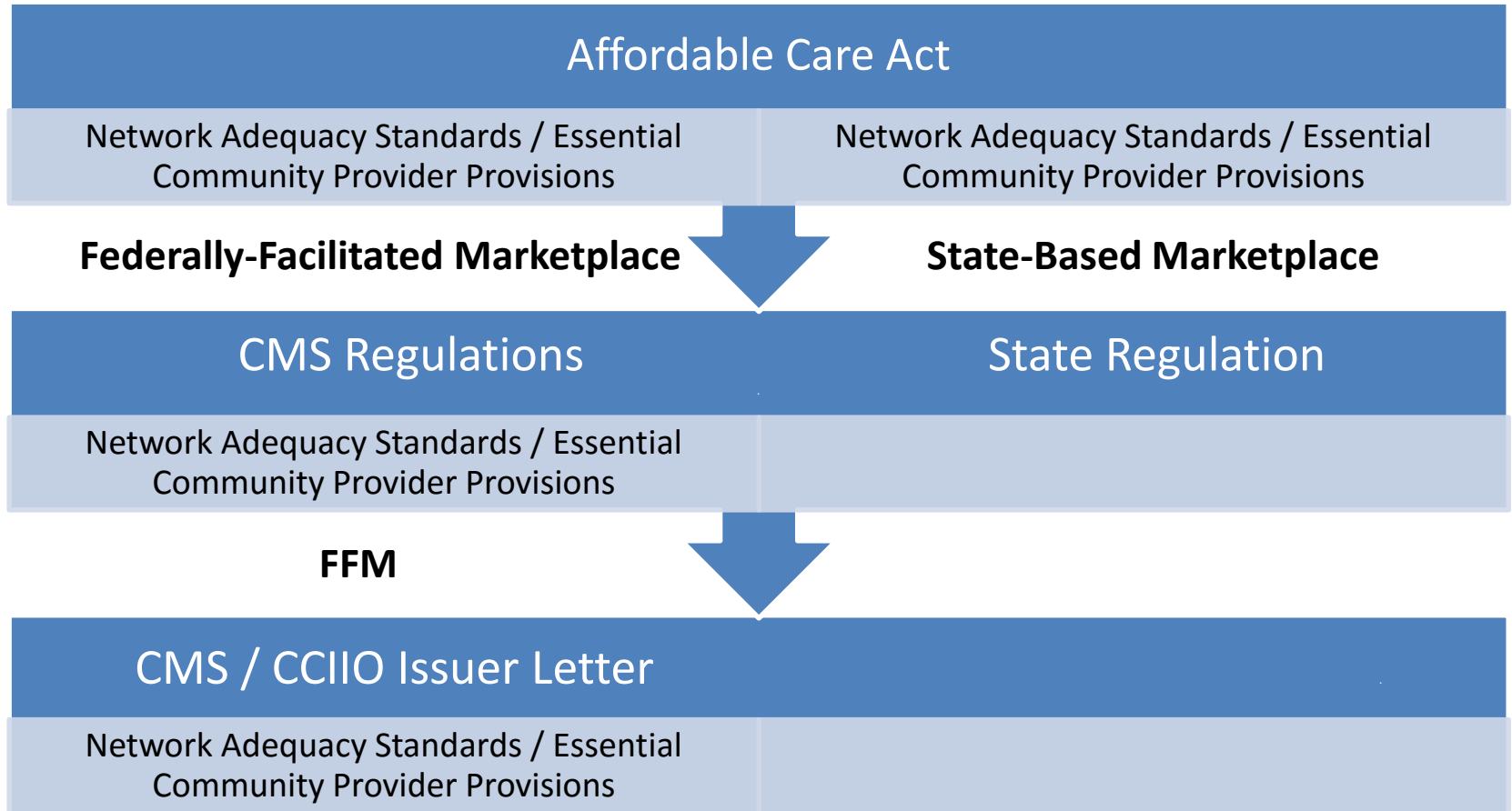
**Qualified Health Plans (QHPs),  
Essential Community Providers (ECPs) and  
Indian Health Care Providers (IHCPs):**

**How does the “HHS ECP List” fit with the QHP  
issuer contracting requirements?**

December 16, 2015

# ACA Network Adequacy and Essential Community Provider (ECP) Provisions

## All Marketplaces



# Summary of Requirements on QHP Issuers Regarding Indian Health Care Providers

(required for FFMs; optional for “plan management” and SBM states)

## For a QHP to be certified for a Federally-Facilitated Marketplace (FFM), QHP issuer must:<sup>1</sup>

- Network Adequacy (§156.230)
  - Maintain a network that is sufficient in number and types of providers, including providers that specialize in mental health and substance abuse services, to assure that all services will be accessible without unreasonable delay
- Essential Community Providers (ECPs) (§156.235)
  - Contract with at least 30 percent of available ECPs in each plan’s service area to participate in the plan’s provider network
  - *Offer contracts to all available Indian health care providers in the service area, applying the special terms and conditions required by Federal law and regulations as referenced in the recommended model QHP addendum for Indian health care providers developed by HHS*
  - Make offers that are in “good faith”, meaning offer must contain terms – including payment rates – that a willing, similarly-situated, non-ECP provider would accept or has accepted.

## For a QHP in a “plan management” or State-Based Marketplace (SBM):

- CMS stated, “We urge State Exchanges to employ the same standard when examining adequacy of ECPs as outlined in §156.235, including the requirement that issuers offer contracts to all Indian health providers in the plan’s service area.”

<sup>1</sup> Closed panel / HMO QHPs are not subject to the ECP requirements.



# Other Indian Health Care Provider-related Provisions

- **Section 206 reimbursement** (in all Marketplaces):
  - “Section 206 of the Indian Health Care Improvement Act (IHCIA) (25 USC § 1621e) provides for a right of recovery from an insurance company and other third party entities, including QHP issuers, for reasonable charges billed by an Indian health care provider when providing services, or, if higher, the highest amount the third party would pay for services furnished by other providers. This right of recovery applies whether the Indian health care provider is in a plan network or not. Further details can be found at <http://www.ihs.gov/ihcia/>.” [CCIIO 2016 Issuer Letter]



# Accessing ACA and Federal Regulations and Guidance

- Affordable Care Act (ACA)  
<http://housedocs.house.gov/energycommerce/ppacacon.pdf>
  - Network adequacy and ECP standards
    - ACA §1311(c)(1)(B) and (C)
- Code of Federal Regulations (CFR)  
<http://www.ecfr.gov/cgi-bin/ECFR?SID=7f8540b42be198e365873efe5f15dcb8&page=browse>
  - Network Adequacy (§156.230)  
<http://www.ecfr.gov/cgi-bin/text-idx?SID=a7b95e21f7fa10433fd5851016387747&mc=true&node=20150227y1.92>
  - ECP Standards (§156.230)  
[http://www.ecfr.gov/cgi-bin/text-idx?SID=e66a23f97d3d022a412790df2c7a1633&mc=true&node=se45.1.156\\_1230&rgn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=e66a23f97d3d022a412790df2c7a1633&mc=true&node=se45.1.156_1230&rgn=div8)
- Guidance document: CCIIO 2016 Issuer Letter
  - <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2016-Letter-to-Issuers-2-20-2015-R.pdf>

