On November 23, 2012, the United States Department of Health and Human Services ("HHS") published a Federal Register notice announcing that the National Committee for Quality Assurance ("NCQA") and URAC were recognized accrediting entities for purposes for fulfilling the accreditation requirement for certification of qualified health plans ("QHPs").

Section 1311(c)(1)(D)(i) of the Patient Protection and Affordable Care Act ("PPACA") requires health plans to be accredited by a recognized accrediting entity in order to be certified as QHPs and operate in the Affordable Insurance Exchanges, including the federally-facilitated and State Partnership Exchanges. The ACA requires all states to establish an Affordable Insurance Exchange on or before January 1, 2014. If a state does not establish an exchange or elects not to have an exchange approved by January 1, 2013, HHS will create and operate a federally-facilitated exchange within the state. An issuer must demonstrate that each plan offered on an Exchange is a QHP.

This notice follows HHS's final rule published July 20, 2012, titled "Patient Protection and Affordable Care Act; Data Collection to Support Standards Related to Essential Health Benefits; Recognition of Entities for the Accreditation of Qualified Health Plans." That rule finalized 45 C.F.R. § 156.275, "Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers" ("Exchange Rule"), which set forth the requirements for recognition as an accrediting entity.

HHS's recognition of NCQA and URAC is the first phase of a two-phase process by HHS for recognizing accrediting entities. Recognized accrediting entities shall accredit QHPs on the Exchange's required timeline based upon the local performance standards codified in 45 C.F.R. 156.275(a)(1). HHS's recognition of NCQA and URAC as accrediting entities in phase-one is effective until it is rescinded or the interim phase-one process is replaced by the phase-two process.

On November 26, 2012, HHS published a new proposed rule that would amend the phase-one recognition process and allow additional accrediting entities to apply for recognition. Within 60 days of receiving the complete application, HHS would be required to publish notice in the Federal Register identifying the applicant accrediting entity, along with a summary by HHS of whether the applicant meets the criteria for recognition, and provide a minimum 30-day public comment period. After close of the public comment period, HHS would publish the names of accrediting entities that are recognized and that are not recognized to provide QHP accreditation. Applicants that are not recognized may reapply for recognition following the same application procedure.

HHS plans to adopt a criteria-based review for the phase-two process through further rulemaking.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.