Georgetown University Health Policy Institute
CENTER FOR CHILDREN AND FAMILIES

The Center on Health Insurance Reforms
Georgetown University Health Policy Institute

OE2: A Round Up of Questions from Consumer Assisters During the Second Year of the Affordable Care Act

As part of our Robert Wood Johnson Foundation-funded project providing technical assistance to navigators and assisters in five states with federally run marketplaces, we have received a broad range of questions since open enrollment began last fall. Many topics come up repeatedly, such as those related to eligibility, tax filing, immigration status, and minimum essential coverage. In this compilation we share the answers to some of our toughest, most frequently asked questions.

The Navigator Resource Guide referenced throughout can be found at:

http://navigatorguide.georgetown.edu/

In this compilation:

TAX FILING ISSUES

Affordability Exemption

Question: An individual can apply for an affordability exemption from the individual mandate when the cost of obtaining coverage for his or her family would be more than 8% of the household income. If an individual requests an affordability exemption on his or her tax return, does it apply to the year just completed?

Answer: Yes, if an individual requests an exemption based on affordability at tax time, using form 8965, it will be based on his or her actual income and apply for the full tax year (the year just completed). The affordability exemption can also be obtained during the year by applying to the marketplace and will be based on projected income and apply for the months remaining in the tax year.

Premium Tax Credits and Prior Year Penalties

Question: Does a person's unpaid tax obligations or penalties from a previous year's tax filing affect their premium tax credits from the Marketplace?

Answer: Consumers do not need to pay off a prior year's tax debt in order to obtain premium tax credits through the Marketplace. However, if a consumer receives advance payments of the premium tax credits, they must file a tax return and reconcile the differences between the advance payments made on their behalf and the actual amount of the credit they are due. Any refunds may be offset against a delinquent tax liability. Note, also, that a consumer who receives advance premium tax credits and does not file an income tax return to reconcile the advance payments will be denied advance payments for the next coverage year.

Proving Coverage at Tax Time

Question: When filing taxes for 2014, taxpayers who had minimum essential coverage must check the box on Form 1040 for full year coverage. Will any proof be required if the coverage was not purchased through a marketplace?

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Answer: If someone had minimum essential coverage (MEC) for the full year, he or she only needs to check the box (found on line 61 of form [1040](#) and on line 38 of form [1040A](#)). They do not need to submit proof of coverage with the tax forms, but insurers, employers, government programs, and marketplaces will be required to report who was enrolled in MEC to the IRS. The IRS will use that reporting to verify what individuals report on their tax forms.

The reporting requirement takes effect for marketplaces for 2014 coverage. Beginning this year, marketplaces will send the [1095-A](#) to each person or family who had coverage through the marketplace in 2014, which will show month-by-month enrollment in marketplace plans. The requirement for employers, insurers and government-sponsored programs (including Medicaid and CHIP) to report coverage to the IRS is delayed for one year. Beginning in 2016, employers, insurers and government-sponsored programs will report MEC enrollment in 2015 on either the 1095-B or 1095-C.

For the 2014 coverage year, employers, insurers, and government-sponsored programs may voluntarily send the 1095-B and 1095-C forms. However, if they do submit these forms to the IRS, they must also furnish a copy to the individual by January 31, 2015. The individual should retain this as proof of MEC. If, in future years, the individual does not receive a 1095, s/he should contact their coverage source to get a copy of the form for their tax records.

DACA and the Individual Mandate

Question: Deferred Action for Childhood Arrivals (DACA) immigrants are not authorized to get a tax credit or purchase insurance through the marketplace. Can you verify they will not be penalized for not having insurance since they are not allowed to use the system but do pay taxes?

Answer: You are correct, DACA youth cannot get premium tax credits in the Marketplace, but they are not subject to the individual penalty. More information from the National Immigration Law Center is available [here](#).

Marital Status Changing Mid-Year

Question: An individual is separated from his wife and assumes the divorce will be finalized in 2015. He is still technically married, but if he indicates he will not file joint taxes he is ineligible for premium tax credits. Does he have to wait until his divorce is finalized, and if so, will he qualify for a special enrollment period even if his divorce does not result in a loss of coverage?

Answer: CMS has advised that applicants for premium tax credits and Medicaid should provide their CURRENT filing status on their application. In other words, a person who anticipates being divorced by the end of 2015 would be considered married when applying for coverage, but he should update his marital status with the marketplace when the divorce is finalized.

COUNTING HOUSEHOLD INCOME

Counting Capital Gains and Gifts

Question: An individual receiving Social Security Disability payments also receives quarterly payments as gifts from his mother. Should he count the quarterly payments from his mom in his calculation of modified adjusted gross income (MAGI)?

Answer: Gifts are not taxable and therefore not countable toward MAGI for either Medicaid or the Marketplace.

Calculating MAGI for Self-Employed

Question: Do self-employed individuals use their net income or profit/loss after deductions when counting income?

Answer: For self-employed individuals, net income or profit/loss after tax-deductible business expenses is what counts toward MAGI. Profit/loss from a business can be found on line 31 of Schedule C. Profit/loss from farming can be found on line 34 of Schedule F.

Counting Social Security Benefits for Children

Question: When a child receives survivor benefits from the Social Security Administration, does that income count?

Answer: Social Security benefits for tax filers are always counted as part of household income. However, there is slight variation when considering whether to count Social Security benefits for children and tax dependents. That will depend on their tax filing status. If they are required to file taxes, it will count; if they aren't required to file taxes, it doesn't count. To determine whether or not children must file taxes, IRS rules say if they have $6,300 in earned income or $1,000 in unearned income (not counting the Social Security benefits), they are required to file taxes. So if they meet either threshold, they must file taxes and will include their Social Security benefits when counting income. For more detailed information on counting Social Security benefits, see this blog [post](#).

EMPLOYER COVERAGE

Minimum Essential Coverage vs. Minimum Value

Question: An individual is offered job-based coverage. Her company is claiming this is minimum essential coverage under the ACA, but it only covers preventive services and nothing else. Company representatives confirmed that it does not meet the ACA's standards for minimum value. Employees can add a limited benefit plan, but to add that increases the cost to more than 9.5% of income. How is this possible? The company materials are deceptive. Who can we report this to?

Answer: Under federal rules, employer-based health insurance will almost always meet the requirement to be minimum essential coverage (MEC). This would even include a plan that only covers preventive services, such as the one you reference in your email. This means if you are enrolled in this type of plan, you will meet the individual mandate requirement to have insurance and not pay a tax penalty.

There are circumstances, however, in which an individual who has access to employer-sponsored insurance may still qualify for a marketplace plan and premium tax credits. Under current rules, an employer plan must be both adequate and affordable. Minimum value (MV) comes into play when determining whether an employer-sponsored plan is adequate. To meet MV, an employer-sponsored plan, on average, must cover 60% of the total cost of medical services for an enrollee. To be considered affordable, the premium for self-only employer-based coverage must be less than 9.56% of household income for 2015. If an employer plan fails either the affordability or the adequacy test, employees may be eligible for a marketplace plan with premium tax credits. Under temporary rules, however, some employer plans can meet minimum value even if they don't cover hospital or physician services, but employees offered those plans won't be barred from qualifying for premium tax credits. Read more about that here.

It can be tricky to figure out whether an employer plan meets minimum value, particularly with some of the materials employers are sending to employees. One tool is the Summary of Benefits and Coverage (SBC), which must include statements on whether a plan meets MEC and whether it meets MV. Under federal law, the SBC must be provided to employees when they are enrolling in coverage and upon request.

As for reporting employer practices, the U.S. Dept. of Labor Employee Benefits Security Administration, found here, oversees implementation of ACA provisions for employer-sponsored plans. The ACA also provides whistleblower protection for employees who report their employers for failing to provide a SBC or discouraging an employee from applying for premium tax credits. More information can be found here.

Employer Responsibility

Questions: I understand employers with 50 or more employees must offer insurance to full-time employees and dependents (up to age 26) but are not required to offer to spouses. If they fail to do so, the employer may be subject to a tax penalty. Would the "family glitch" still apply to spouses?

Answer: For 2015, the employer mandate provisions apply only to employers with 100 or more employees. In addition, employers won't face a penalty for failing to offer coverage to dependents in 2015. Beginning in 2016, the ACA's employer mandate extends to employers with 50 or more employees, and they will be required to offer benefits to dependent children. They will NOT be required to offer coverage to spouses. We have a couple FAQs on this in our Navigator Guide at Section 2.2.1 and 2.2.2, along with other common questions about employer-based coverage.

If an employer does not offer coverage to employees' spouses, then those spouses (assuming they meet other eligibility requirements) could apply for premium tax credits in the marketplace. If they're not eligible for the employer's plan, they won't face the family glitch.

OTHER ISSUES

Change in Smoking Status

Question: Is there any tax relief for a consumer that is a smoker at the time of enrollment but quits during his/her enrollment period? Or, doe s/he need to wait for the next open enrollment period to be a "non-smoker"?

Answer: An insurer is not required to lower premium rates if a consumer quits smoking outside of open enrollment. See FAQ 4.1.11 in the online Navigator Guide.

Court Decree to Provide Health Insurance

Question: The court has issued an order for an ex-husband to pay child support and health insurance for the children. The divorce decree gives custody to the ex-wife. What can the husband do to get the tax credit when the ex-wife has custody of the children? The parents live in different states.

Answer: They should check the details of the divorce decree to see if dad must buy the policy or if he must just cover the cost of insurance. It may be that the agreement requires dad to pay for the insurance, but doesn't specify how the insurance must be provided.

If mom claims the child as a tax dependent, only she can apply for premium tax credits for the child, based on her household income. If they have an amicable divorce and depending on the details of dad's obligation under the divorce decree, she could apply for a marketplace plan with premium tax credits and have dad reimburse her for the cost of insurance. Keep in mind that the child support she receives does not count as income for her.

Otherwise, dad should be able to apply for a child-only plan in the state where the child resides with mom, without financial assistance.