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Health Care Reform (PPC)

Chapter 3 Premium Tax Credit and Cost-sharing-reduction Subsidy

301 Overview of Premium Tax Credit and Cost-sharing Assistance Available for Individuals

301 Overview of Premium Tax Credit and Cost-sharing Assistance Available for Individuals

301.1 Beginning in 2014, most individuals (i.e., nonexempt individuals, see paragraph 201.11) are required to have minimum essential health insurance coverage. To assist low-income and moderate-income individuals and families who do not qualify for Medicare, Medicaid, CHIP, TRICARE, or any other applicable state or local public program, and who are not offered affordable minimum essential coverage that provides a certain minimum value through an employer, premium tax credits may be available. The credits help certain individuals enrolled in qualified health plans (QHPs) (see paragraph 403.3) pay their health insurance premiums. Generally, individuals and families whose income is at least 100%, but not more than 400%, of the federal poverty line (FPL) (see paragraph 301.17), who enroll in a QHP offered through the individual market of a state insurance marketplace, may be eligible for a premium tax credit [IRC Sec. 36B(c)(1); Regs. 1.36B-2(a) and -2(b)]. The credit amount is computed on Form 8962 [Premium Tax Credit (PTC)] and is based on the premium cost for a benchmark plan, which generally is the second lowest cost silver plan (see paragraph 302.48) that offers applicable coverage for that individual through the state insurance marketplace serving the area in which the individual lives. The premium tax credit is discussed in detail in section 302, and advance payments of the premium tax credit are discussed in section 303. Information on completing Form 8962 is included in section 304.

301.2 Additionally, some individuals and families qualify for a cost-sharing-reduction subsidy to help pay deductibles and copayments normally required by the insurance coverage. Generally, individuals and families with income that does not exceed 250% of the FPL who enroll in a silver-level QHP (see paragraph 403.15) offered through the individual market of a state insurance marketplace may be eligible for this subsidy [HHS Reg. 45 CFR 155.305(g)(2)(iii)]. Silver plans normally require 30% cost sharing. However, for those eligible for the subsidy, this cost-sharing percentage will be less, since some of the out-of-pocket expenses will be covered by the subsidy. The cost-sharing-reduction subsidy is discussed in detail in section 305.

301.3 **Note:** Generally, individuals are not eligible for the premium tax credit or a cost-sharing-reduction subsidy if they are eligible to enroll in Medicaid. Many states have expanded Medicaid eligibility to include individuals whose income does not exceed 138% of the federal poverty level for their applicable family size. In those states, individuals generally are not eligible for the premium tax credit or

cost-sharing-reduction subsidy unless their income is above that threshold. See the discussion beginning at paragraph 302.26.

301.4 Any amounts received by an individual for the premium tax credit or cost-sharing-reduction subsidy are not taken into account in determining an individual's eligibility for benefits or assistance under any federal program, or state and local program financed (in whole or in part) with federal funds (Affordable Care Act, P.L. 111-148, Sec. 1415).

301.5 **Observation:** *Amounts received*, for this purpose, include monies paid directly to the insurer or the insurance plan for premiums or reimbursements for out-of-pocket expenses.

Determining Eligibility

301.6 Eligibility determination for premium tax credits and cost-sharing-reduction subsidies is coordinated simultaneously with an individual's enrollment in a QHP through the individual market of a state insurance marketplace. Generally, to be eligible for the premium tax credit or cost-sharing-reduction subsidy, an individual must demonstrate that he or she does not have access to affordable employer-sponsored health insurance coverage that provides a certain minimum value. Employer-sponsored minimum essential coverage is considered affordable for the employee and any related individual who is eligible for coverage under the employer-sponsored plan because of his or her relationship to the employee, if the employee's required contribution for the lowest-cost self-only coverage that provides minimum value does not exceed 9.5% (in 2014; 9.56% in 2015) of the individual's household income.

301.7 **Note:** HHS has developed a form that employees can ask their employer to complete that indicates whether the employer plan provides minimum value and provides information needed to calculate whether the coverage is affordable. Appendix 3F reproduces the form. Additionally, as part of the notice of availability of state insurance marketplaces that certain employers must provide to employees, employers that offer employer-sponsored coverage must disclose if the coverage provides minimum value and is intended to be affordable. See the discussion in section 801.

301.8 Generally, the determination of whether an eligible employer-sponsored plan is affordable is made prior to the beginning of the coverage (i.e., during an open enrollment period). If the state insurance marketplace determines at that time that employer-sponsored insurance is not affordable, it will determine if the employee (and any family members) is eligible for advance payments of the premium tax credit. Under a safe harbor rule, the determination of affordability cannot later be changed (i.e., when reconciling advance payments of the credit to the credit amount actually due). See the discussion at paragraph 302.82.

301.9 **Note:** The 9.5% (in 2014; 9.56% in 2015) affordability test for the premium tax credit and cost-sharing-reduction subsidy is different from the 8% (in 2014; 8.05% in 2015) of household income test that is used for purposes of the individual shared responsibility penalty. See the discussion beginning at paragraph 201.62 for further discussion of affordability for purposes of the individual shared responsibility penalty.

301.10 The amount of the premium tax credit is based on an individual's income for the year to which the

credit relates. Therefore, an individual's actual credit amount cannot be determined until after year end. However, to provide real-time assistance, the state insurance marketplace is able to provide advance payments of the credit (i.e., during the calendar year to which the credit relates). Generally, the amount of the advance payments is determined by using prior year income tax data [Affordable Care Act, P.L. 111-148 Sec. 1411(b)(3)(A); HHS Reg. 45 CFR 155.320(a)]. Any advance payments received by the individual are trued-up (i.e., reconciled) with the actual credit amount the individual is entitled to on Form 8962 [Premium Tax Credit (PTC)], filed with his or her personal income tax return for the year. Reconciling advance payments of the premium tax credit is discussed beginning at paragraph 303.33. Completing Form 8962 is discussed in section 304.

301.11 The prior year income tax data is also used to project the individual's income for purposes of the cost-sharing-reduction subsidy. However, unlike the premium tax credit, there is no true-up of the eligibility after the end of the year. All individuals who receive advance payments of the premium tax credit, or qualify for a cost-sharing-reduction subsidy are required to report any changes in family size or income to the marketplace, so that amounts can be redetermined and advance payments adjusted (or cost-sharing reductions changed) based on the change in circumstances (see paragraph 301.18).

301.12 In general, individuals initially apply for premium tax credit advance payments and the cost-sharing-reduction subsidy during an annual open enrollment period that begins during the year before the calendar year for which coverage is provided. For example, for the 2014 calendar year, the open enrollment period was October 1, 2013-March 31, 2014, and an individual's 2012 income tax return information was used to determine eligibility. Individuals initially enrolling in coverage through a state insurance marketplace for the 2015 calendar year apply for premium tax credit advance payments and cost-sharing-reduction subsidies during the open enrollment period that began November 15, 2014, and goes through February 15, 2015, and the individual's eligibility determination is based on 2013 income tax return information.

301.13 For individuals renewing coverage, those enrolled in a QHP in 2014 who received advance credit payments and/or cost-sharing reductions for 2014 should receive an annual open enrollment notification with information on enrolling in 2015 coverage and contacting the marketplace to obtain an updated eligibility determination. If the individuals authorized the marketplace to obtain their most recent tax return information for the purposes of annual redetermination, the notice will include a projected eligibility determination for the premium tax credit and cost-sharing-reduction subsidy based on their updated income and family size as reported on their 2013 income tax return, all other eligibility information on file, and plan premiums for 2015. Individuals enrolled in a QHP in 2014 who received credits or subsidies and did not provide authorization for the marketplace to obtain updated tax data for annual redetermination will not receive a redetermination for credits or subsidies until an authorization is provided or they contact the marketplace (HHS Reg. 45 CFR 155.335). See the discussion beginning at paragraph 303.8 for additional information on renewing coverage with a premium tax credit and the annual redetermination notices.

301.14 The HHS and IRS anticipate that for most individuals using prior year income data (and family

size) will be adequate to determine eligibility for the cost-sharing-reduction subsidy and advance payments of the premium tax credit. However, for those individuals and families who are not eligible using the prior year data, current-year information will be analyzed to see if they are eligible. See the discussion beginning at paragraph 202.42 on what information the state insurance marketplace considers when an individual is applying for insurance coverage and financial assistance.

301.15 **Observation:** When applying for coverage through a state insurance marketplace, the individual discloses current year income, not prior year income. On the last page of the application, HHS explains that it also uses information available from electronic databases (which include prior-year income tax return information from the IRS) to determine eligibility for financial assistance.

301.16 Income eligibility is based on the individual's household income (either prior year or current year) compared to the federal poverty line (FPL). The FPL amount that is used to determine eligibility for advance payments of the premium tax credit and the amount of cost-sharing-reduction subsidy is the most recently published FPL as of the first day of the regular enrollment period for coverage for a calendar year [IRC Sec. 36B(d)(3)(B); Reg. 1.36B-1(h)]. For example, when applying for assistance for the 2015 calendar year during the open enrollment period that began in November 2014, the 2014 FPL is used.

301.17 **Federal Poverty Line (FPL)**

For purposes of the premium tax credit and cost-sharing-reduction subsidy, the *federal poverty line* (FPL) has the meaning given to the term *poverty line* in the Social Security Act (SSA) Sec. 2110(c)(5) [IRC Sec. 36B(d)(3)(A)]. The SSA section refers to the Community Services Block Grant Act [42 USC 9902(2)], which states the *poverty line* is the official poverty line defined by the Office of Management and Budget, based on the most recent data available from the Census Bureau. The Department of Health and Human Services (HHS) revises the FPL annually. The FPL varies by family size and whether the individual resides in the 48 contiguous states (including the District of Columbia), or Alaska or Hawaii. The 2013 and 2014 FPL and the calculated 400% amounts are in Appendix 3A.

Example 3-1: Determining eligibility for advance payments of the premium tax credit.

Eric requested an eligibility determination for advance payments of the premium tax credit for 2014 coverage during open enrollment in November 2013. Eric's 2012 household income (based on information in his 2012 income tax return) was compared to the FPL for 2013 (i.e., the most recent FPL available as of the first day of 2014 open enrollment). Based on the information available, the marketplace projects Eric's 2014 income, and determines whether he is eligible for the premium tax credit.

Variation: Assuming Eric enrolls in a QHP and is eligible for a premium tax credit in 2014, he will receive an annual open enrollment notification prior to the start of the open enrollment period for 2015 coverage with information about the 2015 open enrollment

period and his redetermination of eligibility. If Eric authorized the marketplace to obtain his most recent tax return information and adjust the level of any premium tax credits for which he is eligible, this notice will also include a projected eligibility determination for the premium tax credit based on his updated income (i.e., using his 2013 income tax return) and family size, other eligibility criteria on file, and 2015 plan premiums.

Change in Circumstances

301.18 An individual requesting an eligibility determination for advance payments of the premium tax credit or a cost-sharing-reduction subsidy may not be eligible based on information in a prior year's income tax return (see paragraph 301.10). However, if current-year information provided on the application shows that the individual may be eligible for financial assistance, then the eligibility determination is based on the current-year information provided. For example, if an individual's current-year income has decreased substantially (e.g., 20%) from the prior year, or he or she is unemployed in the current year, the current-year information will be used for financial assistance determination purposes. The marketplace may ask for additional documentation (e.g., payroll stubs, substantiation of unemployment benefits) to support the current-year income data shown on the application. Additionally, current-year information is used when individuals have a change in family size, marital status, or other household circumstances. Finally, in situations where the individual was not required to file an income tax return in a prior year, current-year information is used for eligibility determinations. Alternate procedures that can be used for eligibility determination are in HHS Reg. 45 CFR 155.320(c)(3).

Example 3-2: Showing eligibility for premium assistance and cost-sharing-reduction subsidy with a change in circumstances.

Assume the same facts as in Example 3-1 and that, based on his 2013 income information, Eric was not eligible for advance payments of the premium tax credit or the cost-sharing-reduction subsidy. However, during 2014, Eric's wages were cut by 25%. Since he had a significant income reduction in the current year, he may be able to qualify for advance payments of the premium tax credit and a cost-sharing-reduction subsidy. Eric's current-year income will be used for eligibility determination. The marketplace may request documentation (e.g., a recent pay stub) to verify the change in circumstances.

301.19 **Note:** Advance payments of the premium tax credit must be reconciled to the actual premium tax credit to which the individual is entitled for the calendar year in Part 2 of Form 8962, which is filed with the individual's personal income tax return. See the discussions beginning at paragraphs 303.33 and 304.10.

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