

CHAPTER 3

PREMIUM TAX CREDIT AND COST-SHARING-REDUCTION SUBSIDY

300 INTRODUCTION

300.1 The Affordable Care Act requires most individuals to have health insurance coverage to avoid being subject to an individual shared responsibility penalty. To assist individuals and families who may not be able to afford health insurance coverage, the federal government provides assistance for certain individuals who purchase health insurance through a state insurance marketplace. This chapter discusses the premium tax credit (PTC), advance payments of the premium tax credit (APTC), and the cost-sharing-reduction (CSR) subsidy that are available to certain low-income and moderate-income individuals and families who purchase insurance through the state insurance marketplaces.

300.2 An overview of the PTC and cost-sharing assistance available to individuals is discussed in section 301. Details of the PTC are included in section 302, and section 303 discusses how eligibility for coverage from other sources affects eligibility for the credit. Information on coordinating the credit with the deduction for health insurance premiums for self-employed individuals is presented in section 304. Section 305 provides information on receiving APTC. Discussions of completing **Form 8962** [Premium Tax Credit (PTC)] are in sections 306, 307, and 308. Section 309 discusses the CSR subsidy.

301 OVERVIEW OF PREMIUM TAX CREDIT AND COST-SHARING ASSISTANCE AVAILABLE FOR INDIVIDUALS

301.1 Most individuals (see paragraph 201.1) are required to have minimum essential health insurance coverage (see paragraph 202.2). Premium tax credits are available to help certain individuals pay some or all of their health insurance premiums. Generally, individuals and families whose income is at least 100%, but not more than 400%, of the applicable year federal poverty line (FPL) (see paragraph 301.20) who enroll in a qualified health plan (QHP) (see paragraph 403.3) offered through the individual market of a state insurance marketplace may be eligible for a premium tax credit (PTC) [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 (SLCSP) (see paragraph 302.43) that offers coverage for that individual through the state insurance marketplace serving the area in which the individual lives.

301.2 The PTC is discussed in detail in section 302. Section 303 discusses how eligibility for the credit is coordinated with eligibility for coverage from other sources. Information on coordinating the credit and the deduction for health insurance premiums for self-employed individuals is presented in section 304 and advance payments of the premium tax credit (APTC) are discussed in section 305. Information on completing Form 8962 is included in sections 306, 307, and 308.

301.3 Additionally, some individuals and families qualify for a cost-sharing-reduction (CSR) subsidy to help pay deductibles and copayments normally required by the insurance coverage. Generally, individuals and

families with income that is at least 100%, but does not exceed 250% of the applicable year FPL, who enroll in a silver-level QHP (see paragraph 403.19) 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, the cost-sharing percentage is reduced. The CSR subsidy is discussed in detail in section 309.

301.4 Any amounts received by an individual for the PTC or CSR 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, PL. 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 a PTC and CSR subsidy 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 PTC or the 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. For purposes of qualifying for a PTC or CSR subsidy, 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 9.56% in 2015 (9.66% in 2016) of the individual's household income.

301.7 **Note:** Employees can ask their employer to complete the Employer Coverage Tool Form to determine if the employer plan is affordable for the employee and provides minimum value. Appendix 3E 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 section 801).

301.8 The determination of whether an eligible employer-sponsored plan is affordable for the employee is generally made during the open enrollment period for the employer-sponsored coverage. Employees and eligible family members who do not enroll in the employer-sponsored coverage can complete an application to purchase coverage through the state marketplace. If the state insurance marketplace determines at that time that the cost of employer-sponsored insurance that is the lowest-cost self-only coverage providing minimum value is not affordable for the employee, it will determine if the employee (and any family members) is eligible for APTC. Under a safe harbor rule, the determination of affordability cannot later be changed (i.e., when reconciling APTC to the actual credit amount). See the discussion beginning at paragraph 303.21.

301.9 **Note:** The 9.56% in 2015 (9.66% in 2016) affordability test for the PTC and CSR subsidy is different from the 8.05% in 2015 (8.13% in 2016) of household income test that is used for purposes of the individual shared responsibility penalty. See the discussion beginning at paragraph 205.1 for further discussion of affordability for purposes of the individual shared responsibility penalty.

301.10 Individuals who have access to employer-sponsored health insurance coverage may decide to enroll in coverage through a state marketplace, and not seek an APTC eligibility determination (i.e., they pay the full premium amount for the coverage throughout the year). When filing their federal income tax return, these individuals can then determine if they are eligible for a PTC, and claim the full amount (if eligible) on their tax return. In this situation, the employee uses information reported on **Form 1095-C** (Employer-Provided Health Insurance Offer and Coverage) from his or her employer to determine if affordable coverage was offered for the calendar year. Generally, Forms 1095-C are provided to the employee by January 31 of the year following the reporting year.

301.11 The IRS has provided an extension for providing the 2015 Form 1095-C to employees. The form must be provided by March 31, 2016 (instead of January 31). Therefore, some employees may file their

federal income tax return before they receive the 2015 Form 1095-C. These individuals must rely on other information provided by the employer to determine if affordable coverage was offered for 2015 to complete Form 8962 and determine if they are eligible for a PTC and, if so, the amount of the credit.

301.12 Individuals who rely on other information because they file their 2015 federal income tax return before receiving Form 1095-C are not required to amend their return once they receive a Form 1095-C, even if the information reported on the Form 1095-C does not agree with the other information they used to complete Form 8962 and their income tax return (IRS Notice 2016-4). However, the Form 1095-C should be kept with their other tax records.

301.13 **Income Determination.** The amount of the PTC is based on the individual's actual household income (see paragraph 302.25) for the credit year. Therefore, the PTC amount for any given year cannot be determined until the individual files a federal income tax return for that year. However, to provide real-time assistance, the state insurance marketplace can provide APTC during the calendar year to which the credit relates. The amount of the advance payments is based on an individual's projected income and family size, which is determined using information provided or verified by the IRS and the Social Security Administration (SSA), and information provided by the individual when completing the marketplace application.

301.14 The SSA verifies social security numbers for all individuals included in the application and provides the total amount of any social security benefits received by the applicant or other individuals included in the marketplace application. The IRS verifies an individual's income and family size based on the individual's most recently filed federal income tax return. For eligibility in 2016, the 2014 income tax return information is used. A flowchart illustrating the flow of information to verify an individual's income for determining the advance payment amount is in Appendix 4C. See the discussion in section 804 regarding the information that the IRS provides and how the information is used by HHS and the marketplaces.

301.15 Based on the information verified and provided by the IRS and SSA, the marketplace calculates the individual's APTC amount, if any. If, based on the IRS and SSA information, the individual does not qualify for advance payments, the income and family size information that the individual provided on the marketplace application may be used. On the marketplace application, an individual discloses wage income (including tips, if any) before taxes from his or her current job (if employed) and other income received during the month in which the application is completed. Additionally, how often that income is received is reported (e.g., weekly, bi-weekly, monthly). The individual also must disclose if his or her income is expected to change during the year and, if so, the expected income for the current year and the next year (if it is expected to be different).

301.16 Any APTC received by the individual is reconciled with the actual credit amount the individual is entitled to on **Form 8962** [Premium Tax Credit (PTC)], which is filed with his or her annual personal income tax return. See section 305 for additional discussion on APTC and section 306 for a discussion on reconciling APTC with the actual PTC allowed on Form 8962.

301.17 The individual's projected income is also used for purposes of the CSR subsidy. However, unlike the PTC, there is no reconciliation after the end of the year. See section 309 for additional information on the CSR subsidy.

301.18 **Caution:** All individuals who receive APTC or qualify for a CSR subsidy are required to report any changes in family size or income during the year to the marketplace, so that amounts can be redetermined and advance payments adjusted (or cost-sharing reductions changed) for the remainder of the year based on the change in circumstances.

301.19 After the first year an individual receives APTC and/or a CSR subsidy, the marketplace will send a notice to the individual regarding what information is needed (and what steps the individual must take) to ensure that advance payments or the subsidy can be continued when coverage is renewed for the next calendar year. The notice must include the expected PTC amount based on the information the marketplace has, and specify the additional information that should be submitted to adjust the amount of any advance payments being made. See the discussion beginning at paragraph 401.45 on renewing coverage.

301.20 **Income Compared to the Applicable Year FPL.** Eligibility for the PTC and CSR subsidy is based on the individual's household income (see paragraph 302.25) compared to the applicable year federal poverty line (FPL). For these purposes, the *FPL* is the official poverty line defined by the Office of Management and Budget, based on the most recent data available from the Census Bureau [IRC Sec. 36B(d)(3)(A); Social Security Act (SSA) Sec. 2110(c)(5)]. The FPL is revised annually and varies by family size and location [i.e., the 48 contiguous states (including the District of Columbia), Alaska, or Hawaii]. The FPLs for the most recent two years are in Appendix 3A. The appendix also has the calculated 400% amounts, which represent the income limits for PTC purposes (see paragraph 302.6).

301.21 The *applicable year FPL* that is used to calculate the PTC, determine eligibility for APTC, and determine the amount of CSR subsidy allowed, 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 APTC or a subsidy for the 2016 calendar year during the open enrollment period that began in November 2015, the applicable year FPL is 2015.

301.22 **Note:** See section 306 for how the applicable year FPL is used when calculating the actual PTC allowed for a calendar year and, if the taxpayer has excess advance payments, determining the amount that must be repaid.

Example 3-1: Determining eligibility for APTC or CSR subsidy.

Eric requests an eligibility determination for APTC for 2016 coverage during open enrollment in November 2015. Information from Eric's most recent tax return (which would be his 2014 income tax return), the 2015 FPL (i.e., the most recent FPL available as of the first day of 2016 open enrollment), and his current income information from the marketplace application are used to determine if Eric is eligible for APTC or a CSR subsidy.

302 PREMIUM TAX CREDIT

302.1 *Applicable taxpayers* (see paragraph 302.6) are eligible for a premium tax credit (PTC) to help pay for health insurance coverage in a qualified health plan (QHP) obtained in the individual market through a health insurance marketplace [IRC Sec. 36B(a)]. This section discusses the PTC, including who is eligible for the credit (see paragraph 302.6) and the amount of the credit (see paragraph 302.35). Individuals eligible for the PTC may receive advance payments of the credit (APTC). See section 305 for information on receiving APTC. See section 403 for a detailed discussion on qualified health plans.

302.2 **Note:** Many opponents of the Affordable Care Act questioned whether the credit could be provided to individuals in states that used a federally facilitated or federal partnership marketplace instead of a state-based marketplace. The Supreme Court determined that the credit is available in all state marketplaces (*King*).

302.3 The PTC is calculated and reconciled with APTC by completing **Form 8962** [Premium Tax Credit (PTC)], which is filed with the taxpayer's annual individual income tax return (i.e., Form 1040, 1040A, or 1040NR). Generally, individuals who are eligible for the credit will receive a **Form 1095-A** (Health Insurance Marketplace Statement). The amounts reported on Form 1095-A are used to complete Form 8962. See the discussion on reconciling APTC beginning at paragraph 305.17. See sections 306, 307, and 308 for guidance on completing Form 8962.

302.4 **Caution:** Certain individuals are allowed to purchase coverage through a marketplace in *catastrophic plans* (see paragraph 403.29) that only pay benefits after a certain level of out-of-pocket expenses are paid by the individual. Catastrophic plans do not qualify for the PTC [IRC Sec. 36B(c)(3)(A); Reg. 1.36B-1(c)]. If an individual inadvertently received APTC for enrollment in a catastrophic plan, the entire amount of the advance payments must be repaid.

302.5 The PTC is a refundable income tax credit. Therefore, if the credit amount exceeds the individual's regular income tax and/or alternative minimum tax (AMT) liability, the excess is refundable to the taxpayer.