



Date: September 18, 2014

From: Center for Consumer Information and Insurance Oversight, Centers for Medicare & Medicaid Services

Subject: Shared Responsibility Guidance – Filing Threshold Hardship Exemption

The individual shared responsibility provision (26 USC 5000A) requires individuals to have qualifying health care coverage (known as minimum essential coverage), qualify for an exemption, or make a shared responsibility payment when filing their federal income tax returns. The Affordable Care Act provides nine categories of exemptions.¹ Among these are an exemption for individuals with household income below the applicable return filing thresholds and an exemption for individuals who experienced a hardship, as determined by the Secretary of Health and Human Services (the Secretary), with respect to the capability to obtain coverage under a qualified health plan.

The Centers for Medicare & Medicaid Services (CMS) published final regulations on exemptions from the shared responsibility payment on July 1, 2013. In this regulation, CMS enumerated several categories of hardship exemptions. One such hardship exemption (finalized at 45 CFR 155.605(g)(3)) applies to an individual who was not required to file an income tax return for such calendar year because his or her gross income was below the filing threshold, but who nevertheless filed a return, claimed a dependent with a return filing requirement, and as a result, had household income exceeding the applicable return filing threshold. Under previously published CMS and IRS guidance, this exemption may be claimed through the tax filing process.

The Secretary, in coordination with the IRS and Treasury Department, has determined that any individual who does not have enough gross income to meet the minimum threshold for having to file a tax return also should be entitled to a hardship exemption. Accordingly, in this guidance, the Secretary is exercising her authority under 26 USC 5000A(e)(5) to provide that all individuals with gross income below the filing threshold are entitled to a hardship exemption,

¹ 26 USC 5000A(d) and (e). These categories of exemptions are: individuals who do not have access to affordable coverage; individuals with household income below the federal income tax filing threshold; members of federally recognized Indian tribes; individuals who experience a hardship; individuals who experience a short coverage gap; members of certain religious sects; members of a health care sharing ministry; incarcerated individuals; and individuals who are not lawfully present.

regardless of whether they file a return and regardless of whether they claim a dependent. Pursuant to this guidance, this exemption may be claimed through the tax filing process, but individuals who are eligible for this exemption and do not file tax returns will be exempt without having to take any further action. If an individual qualifies for this exemption, the exemption applies to the individual, the individual's spouse (if filing jointly or if no return is filed), and anyone the individual claims or could have claimed as a dependent.

The IRS and Treasury Department intend to publish guidance allowing individuals who are eligible for this exemption to claim it on their tax returns, if they choose to file them. CMS intends to propose to amend 45 CFR 155.605(g)(3) in this regard to include this hardship exemption in future rulemaking.