

Date: May 10, 2016

## Guidance on Annual Eligibility Redetermination and Re-enrollment for Marketplace Coverage for 2017

### Background

45 CFR 155.335(a)(2) provides that a Health Insurance Marketplace has three options to redetermine eligibility for enrollment in a qualified health plan (QHP) through the Marketplace and insurance affordability programs on an annual basis. 45 CFR 155.335(a)(2)(ii) provides that one of these options is a set of alternative procedures specified by the Secretary for the applicable benefit year. This guidance describes these alternative procedures for benefit year 2017, which are the same as the alternative procedures specified by the Secretary for benefit year 2016,<sup>1</sup> except that the procedures for benefit year 2017 will include a new group for which advance payments of the premium tax credit (APTC) and income-based cost-sharing reductions (CSR) will be discontinued, as highlighted in the guidance describing the alternative procedures for benefit year 2016 and described again in detail in this guidance.

As in years past, the alternative procedures for benefit year 2017 preserve a core feature of the annual redetermination and re-enrollment process that, in general, an enrollee may take no action and maintain coverage across benefit years, which is important in promoting continuity of coverage while limiting administrative burden for enrollees, issuers, and Marketplaces. All Marketplaces using the federal eligibility and enrollment platform will use the procedures specified in this guidance for benefit year 2017<sup>2</sup>.

### 2016 Procedures Retained for 2017

The Secretary's alternative procedures for benefit year 2017 retain the following key components of the alternative procedures for benefit year 2016, as described in the published guidance:

- *Requesting updated data.* The Marketplace will continue to request updated data from IRS for all enrollees on whose behalf APTC or income-based CSRs are being provided, and who have provided authorization to the Marketplace for purposes of annual redetermination. IRS's response will continue to include information on compliance with the filing and reconciliation requirement for tax filers who had APTC provided on their behalf for a prior benefit year.
- *Marketplace notices.* The Marketplace will continue to send a Marketplace Open Enrollment Notice (MOEN) that will include general information about the upcoming Open Enrollment Period, as well as information tailored to the groups listed in the alternative procedures for benefit year 2016, including information specific to the new group for which eligibility information is outdated and APTC and income-based CSR will be discontinued for the 2017 benefit year, described below.

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<sup>1</sup> The alternative procedures described by the Secretary for benefit year 2016 entitled *Guidance on Annual Redeterminations and Re-enrollments for Marketplace Coverage* for 2016, can be found at <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/annual-redeterminations-for-coverage-42215.pdf>.

<sup>2</sup> This includes Federally-facilitated Marketplaces, State Partnership Marketplaces, and those State-based Marketplaces that use the federal eligibility and enrollment platform.

- *Issuer notices.* Issuers will continue to send notices to current enrollees before open enrollment that comply with regulations specified at 45 CFR 147.106 and 45 CFR 156.1255.
- *Redeterminations.* For enrollees who return to the Marketplace to update eligibility information or for the other purposes described in the alternative procedures for benefit year 2016, the Marketplace will continue to redetermine eligibility using updated federal poverty level (FPL) tables, the applicable benchmark plan information, and the applicable percentage indexed for the upcoming benefit year in accordance with 26 CFR 1.36B-3(g). For enrollees who do not return to the Marketplace to obtain an updated eligibility determination and select a QHP<sup>3</sup> by the last day on which a plan selection may be made for coverage effective January 1, 2017 in accordance with the effective dates specified at 45 CFR 155.410(f), the Marketplace will continue to establish eligibility for the upcoming benefit year based on the hierarchy described in the alternative procedures for benefit year 2016, with all references to years advanced by one year, and the addition of the new group for which APTC and income-based CSR will be discontinued, described below.
- *Re-enrollment.* The Marketplace will automatically re-enroll 2016 enrollees who do not select a QHP by the last day on which a plan may be selected for coverage effective January 1, 2017 in accordance with the effective dates specified in 45 CFR 155.410(f), to the extent that the enrollee can be re-enrolled, consistent with 45 CFR 155.335(j).

#### Procedures Newly Applicable for 2017

As noted in the guidance providing alternative procedures for benefit year 2016, where an enrollee 1) was automatically re-enrolled by the Marketplace for benefit year 2016 with APTC or income-based CSR; 2) was also automatically re-enrolled by the Marketplace for benefit year 2015 with APTC or income-based CSR; 3) did not submit an updated application that was used as the basis for enrollment in a QHP for benefit year 2015 or benefit year 2016; 4) does not submit an updated application that is used as the basis for enrollment for benefit year 2017 by the last day on which a plan selection may be made for coverage effective January 1, 2017 in accordance with the effective dates specified at 45 CFR 155.410(f); and 5) has no income information available from IRS for tax year 2014 or tax year 2015, the Marketplace will discontinue APTC and income-based CSR for benefit year 2017. The Marketplace expects few enrollees will fall into this group, and will provide messaging in the MOEN to encourage enrollees who may be in this situation to return to the Marketplace to obtain an updated eligibility determination and select a plan.

#### *Failure to File and Reconcile Group*

As Marketplace regulations 45 CFR 155.305(f)(4) specify, an enrollee may not be determined eligible for APTC if the tax filer for the household did not comply with the requirement to file an income tax return

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<sup>3</sup> If an enrollee returns to the Marketplace and obtains an updated eligibility determination by the last day on which a plan selection may be made for coverage effective January 1, 2017 in accordance with the effective dates specified at 45 CFR 155.410(f), but does not select a plan, and does not add or remove QHP-eligible individuals to the application or change his or her ZIP code or county of residence, the Marketplace will use the updated eligibility determination as the basis for auto re-enrollment.

for that year and reconcile the APTC for the year for which APTC was received. For benefit year 2016, the enrollees on an application fell into this group if their application contained qualified individuals who were enrolled in a QHP with APTC or income-based CSR; authorized the Marketplace to request updated tax return information for use in the annual redetermination process; and IRS indicated in response to the Marketplace's request for updated tax return information that APTC was provided for the tax filer in 2014, but IRS does not have a 2014 tax return on file. Where an enrollee was in this group and did not contact the Marketplace to obtain an updated eligibility determination that could be used as the basis for enrollment by the last day on which a plan selection could be made for coverage effective January 1, 2016 in accordance with the effective dates specified at 45 CFR 155.410(f), the Marketplace discontinued APTC and income-based CSR for benefit year 2016.

During the first year of implementation of these procedures regarding tax filing and reconciliation, in response to the Marketplace's request for updated tax data, IRS indicated where a tax filer on whose behalf APTC was provided for 2014 had not yet filed a tax return for that year.

Beginning in September 2016, IRS will expand the data it provides upon request from a Marketplace to include three different indicators regarding the tax filing status for the household. These indicators will separately distinguish whether APTC was paid on the tax filer's behalf, and for the same year, the tax filer a) did not file a tax return and did not request an extension; b) did not file a tax return but did request an extension<sup>4</sup>; or c) did file a tax return but did not reconcile the APTC using Form 8962. For eligibility redeterminations for the 2017 benefit year, IRS will provide the Marketplace with tax filing and reconciliation information for the tax year 2015, or prior year if applicable.

Under the alternative procedures for benefit year 2017, where 1) an enrollee is on an application on which one or more enrollees is receiving APTC or income-based CSR; 2) the enrollee authorized the Marketplace to request updated tax return information for use in the annual redetermination process; 3) IRS indicated in response to the Marketplace's request for updated tax return information that APTC was provided for the tax filer, but the tax filer did not file a tax return; and 4) the enrollee does not contact the Marketplace to obtain an updated eligibility determination that results in APTC or income-based CSR and is used as the basis of enrollment by the last day on which a plan selection can be made for coverage effective January 1, 2017 in accordance with the effective dates specified at 45 CFR 155.410(f), the Marketplace will discontinue APTC and income-based CSR for benefit year 2017.

#### *Auto-re-enrollment*

With respect to re-enrollment, we note that 45 CFR 155.335(j) was amended in *Patient Protection and Affordable Care Act: Notice of Benefit and Payment Parameters for 2017*, 81 FR 12203 (Mar. 8, 2016). The relevant amendments are discussed in the preamble to the final rule.

#### Operational Updates

In addition to the newly applicable policy changes described above, CMS will continue to build on the operational improvements made as part of the Federally-facilitated Marketplaces' annual redetermination and re-enrollment process in 2016 to further smooth the process for enrollees and issuers. For example, in addition to the standard messaging in the MOEN, we also plan to provide

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<sup>4</sup> The IRS response for a tax filer who requested an extension and did not file by the extended deadline will fall into groups a) or c), as applicable.

specialized language for enrollees residing in states that expanded eligibility for Medicaid since the most recent open enrollment period.

With respect to re-enrollment, prior to open enrollment for benefit year 2016, issuers expressed a desire to work with CMS to find a solution to ease the burden of processing the large volume of QHP re-enrollments through the Marketplace in a timely manner. In response to this feedback, for benefit year 2016, the Marketplace sent preliminary re-enrollment transactions to issuers that were invisible to enrollees in advance of the last day on which a plan selection could be made for coverage effective January 1, 2016 in accordance with the effective dates specified at 45 CFR 155.410(f). The FFM intends to send preliminary 2017 re-enrollment transactions in the same fashion, and is actively working to send a larger share of re-enrollment transactions earlier in the cycle.

CMS will continue to work to implement the suggestions of issuers, consumer advocates, and other stakeholders where feasible.