



Date: August 12, 2016

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

Subject: Guidance on Health Coverage Tax Credit Hardship Exemption

This guidance provides information about a hardship exemption that may be claimed through the tax filing process for individuals who qualify for the Health Coverage Tax Credit (HCTC) but who are not enrolled in HCTC-qualifying health insurance coverage. This hardship exemption applies only for certain months in 2016.

A. Background

The Health Coverage Tax Credit (26 USC 35), also known as the HCTC, helps eligible individuals and their families pay for the cost of HCTC-qualifying health insurance coverage by providing a tax credit equal to 72.5 percent of the applicable premium. In general, eligible individuals are individuals receiving certain trade adjustment assistance and individuals who are age 55 or older and are receiving payments from the Pension Benefit Guaranty Corporation. An individual is not an eligible individual if he or she has certain other specified health coverage, including Medicare. The HCTC expired at the end of 2013 but was reinstated in 2015, retroactive to 2014.

Prior to the HCTC's expiration, advance HCTC payments assisted individuals with their premium payments. These advance payments were included in the reinstated HCTC and the same process to provide them that was operating previously was expected to be in operation by July 2016. However, the IRS has announced that the previous advance payments process will not be in place by July 2016; instead a limited interim process will begin in the second half of 2016, with the full process to be reinstated by January 2017. Some eligible individuals who expected this assistance beginning in July 2016 may not have access to the interim process or may not wish to use the interim process. These individuals may pay the full amount of their qualifying health insurance premium and claim the HCTC when filing their 2016 federal income tax returns. Others may be unable to make the premium payments without the assistance provided by advance HCTC payments and may cancel health insurance coverage in 2016.

Under the Affordable Care Act (ACA), the individual shared responsibility provision (26 USC 5000A) requires each individual to either have qualifying health care coverage (known as minimum essential coverage), qualify for an exemption, or make an individual shared

responsibility payment when filing his or her federal income tax return.¹ The ACA provides nine categories of exemptions.² One exemption is 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.

B. Hardship Exemption

The Secretary, in coordination with the IRS and the Treasury Department, has determined that any individual who is not enrolled in HCTC-qualifying health insurance coverage for one or more months between July and December 2016, but would have been eligible for the HCTC if enrolled, will be entitled to a hardship exemption from the individual shared responsibility provision for the months during that period that he or she was HCTC-eligible. Accordingly, in this guidance, the Secretary is exercising authority under 26 USC 5000A(e)(5) to provide that all individuals who are eligible individuals (within the meaning of 26 USC 35(c)) or qualifying family members (within the meaning of 26 USC 35(d)) who are not enrolled in HCTC-qualifying health insurance coverage for one or more months between July and December 2016 are entitled to a hardship exemption for the months during that period they were HCTC-eligible.

The IRS and the Treasury Department intend to publish guidance allowing individuals who are eligible for this exemption to claim it on their tax returns.

¹ For more information on the individual shared responsibility provision, see <https://www.irs.gov/affordable-care-act/individuals-and-families/individual-shared-responsibility-provision>.

² 26 USC 5000A(d), (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.