



**Date:** March 31, 2014

**Subject:** Victims of Domestic Abuse

CMS is committed to addressing the needs of victims of domestic abuse, one of which may be an increased need for health care. The Department of the Treasury recently clarified<sup>1</sup> that a married individual who is living apart from his or her spouse at the time of filing an income tax return for 2014, and is unable to file a joint return as a result of domestic abuse, will be permitted to claim a premium tax credit while filing a tax return with a filing status of married filing separately.

#### Advance Payments of the Premium Tax Credit (APTC) and Cost-Sharing Reductions (CSR)

This guidance provides two options for Marketplaces to ensure that this rule can be immediately implemented for the purpose of determining eligibility for advance payments of the premium tax credit (APTC) and cost-sharing reductions (CSR). First, a Marketplace can elect to determine victims of domestic abuse who meet the criteria described above, including attesting to an expected filing status of married, filing separately, eligible for APTC and CSR to the extent that they are otherwise eligible. Alternatively, a Marketplace may elect to permit such individuals to indicate on the application that they are unmarried, without fear of penalty for misreporting marital status, and determine them eligible for APTC and CSR on that basis. The Federally-facilitated Marketplace will take the latter approach. Forthcoming regulations from the Department of the Treasury are expected to provide that these approaches will provide the same results, which will ensure that a Marketplace's choice of option will not adversely impact a consumer's eligibility for APTC or CSR. We also note that to the extent that a consumer's marital situation (including intent to file a joint return) changes after initial application, regulations at 45 CFR 155.330(b) require him or her to report such changes to the Marketplace within 30 days.

#### Special Enrollment Periods

The open enrollment period in 2014 ends on March 31, 2014. In order to ensure that, in light of the Department of the Treasury's recent clarification, eligible individuals who are victims of domestic abuse can enroll in a qualified health plan through the Marketplace with APTC and CSR, CMS is clarifying the availability of a special enrollment period in the Federally-facilitated Marketplaces ending on May 30, 2014, which is 60 days after the issuance of this guidance on March 31, 2014.

45 CFR 155.420(d)(9) specifies that a special enrollment period will be available when "[t]he qualified individual or enrollee, or his or her dependent, demonstrates to the Exchange, in accordance with

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<sup>1</sup> Treasury Notice 2014-23.

guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide.”

In accordance with this provision, CMS has determined that in the Federally-facilitated Marketplaces, an eligible individual who is married and is a victim of domestic abuse, and his or her dependents, as described in 45 CFR 155.420(a)(2), have met “exceptional circumstances” qualifying them for a special enrollment period under 45 CFR 155.420(d)(9). Accordingly, This special enrollment period will be available through May 30, 2014 during which an eligible individual who is married and a victim of domestic abuse may apply for and enroll in coverage for the individual and his or her dependents through the Federally-facilitated Marketplace.

State-based Marketplaces similarly may determine such an individual and his or her dependents eligible for a 60-day special enrollment period.