



Date: April 22, 2015

Subject: Guidance on Annual Eligibility Redeterminations and Re-enrollments for Marketplace Coverage for 2016

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 annually for the applicable benefit year. Accordingly, this guidance describes these alternative procedures for benefit year 2016. These procedures incorporate some modifications from the alternative procedures specified by the Secretary for benefit year 2015¹, to accommodate the programmatic and operational experience gained during the process for 2015, and will be implemented by each Federally-facilitated Marketplace (FFM).

Like the alternative procedures specified by the Secretary for benefit year 2015, the alternative procedures described below preserve a core feature of the annual redetermination process, namely, that in general, an enrollee may take no action and retain coverage for 2016, which is important in promoting continuity of coverage while limiting administrative burden for enrollees, issuers, and Marketplaces.

Procedures

Requesting Updated Data

Consistent with the alternative procedures specified by the Secretary for benefit year 2015, prior to open enrollment, the Marketplace will request updated tax return information from the Secretary of the Treasury for all enrollees on whose behalf advance payments of the premium tax credit (APTC) or income-based cost-sharing reductions (CSR) are being provided, and who have provided authorization to the Marketplace for purposes of annual redetermination. In response to this request, the Internal Revenue Service (IRS) will provide updated income information, if available.

Starting with open enrollment for benefit year 2016, where an application includes a request for an eligibility determination for financial assistance, both the eligibility determination process for

¹ The alternative procedures specified by the Secretary for benefit year 2015 can be found at <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Guidance-on-annual-redet-option-2015-6-26-14.pdf>.

newly submitted or updated applications, and the redetermination process for current enrollees under all options described in 45 CFR 155.335(a)(2) will incorporate the requirement of 45 CFR 155.305(f)(4), which specifies that the Marketplace may not determine a tax filer eligible for APTC if the IRS indicates APTC was previously provided on behalf of the tax filer, but the tax filer did not comply with the requirement to file an income tax return for the year for which APTC was provided and reconcile APTC.

In order to implement this provision, when the Marketplace requests updated tax return information for annual redetermination, IRS will also return an indicator notifying the Marketplace if a tax filer, on whose behalf APTC was paid for a member(s) of his or her tax household, failed to comply with the requirement to file a tax return and reconcile APTC for tax year 2014. Where the IRS indicates that this condition exists, the Marketplace will re-enroll current enrollees without APTC or income-based CSR. Additional guidance will be provided regarding how the Marketplace will communicate this information to affected individuals.

Marketplace Notices

Consistent with the alternative procedures specified by the Secretary for benefit year 2015, under the procedures for benefit year 2016, the Marketplace will send a Marketplace Open Enrollment Notice (MOEN) in advance of open enrollment. The alternative procedures for benefit year 2015 included sending notices to all qualified individuals, regardless of whether they were currently enrolled in a qualified health plan (QHP). Under the alternative procedures for benefit year 2016, the MOEN will be provided only for an application that includes current 2015 enrollees who do not have a future termination transaction on file². The Marketplace may use other vehicles to conduct outreach to individuals who were enrolled for an earlier portion of benefit year 2015, or who submitted an application and were determined eligible, but never enrolled in a QHP through the Marketplace for benefit year 2015.

Consistent with the alternative procedures specified by the Secretary for benefit year 2015, the MOEN for benefit year 2016 will include the following basic information:

- A description of the annual redetermination and re-enrollment process;
- The requirement to report changes to information affecting eligibility and the timeframe and channels through which changes can be reported;
- The last day on which a plan selection may be made for coverage effective January 1, 2016 in accordance with the effective dates specified in 45 CFR 155.410(f) (December 15, 2015), and the last day of open enrollment for coverage in 2016 (January 31, 2016); and
- For applications that include enrollees for whom APTC or income-based CSR are being provided for 2015, an explanation of how APTC and income-based CSR will be established for benefit year 2016 in the event that the enrollees do not contact the Marketplace to obtain an updated eligibility determination and select a QHP by the deadline to make a plan selection for January 1, 2016 in accordance with the effective dates specified in 45 CFR 155.410(f).

² For example, for someone who is enrolled on October 1, but has requested that coverage end on October 31.

Further, if an application falls into one of the four following groups, the MOEN for that application will contain content specific to that group. In the event that an application contains enrollees that fall into more than one notice group, the Marketplace will assign a group based on the following hierarchy: opt-out group, did not reconcile group, special notice group, and income-based outreach group. We also note that this list of content to be included is not exclusive; consequently, a Marketplace that elects to use the procedures described in this guidance could choose to include additional content.

Special Notice Group

The enrollees on an application fall into the special notice group if the application contains qualified individuals who are 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 have updated income information from tax return data, that when evaluated together with the family size used for the enrollees' most recent eligibility determination for 2015 and updated federal poverty level (FPL) tables³, reflects household income that is in excess of 500% FPL. Similar to benefit year 2015, this threshold is designed to identify enrollees with APTC or CSR who are at the highest risk of having 2016 income that would make them ineligible for APTC and CSR. We expect only a small number of enrollees to be in this group.

In addition to the general MOEN content described above, the MOEN for applications in this group will explain that if the enrollee does not contact the Marketplace to obtain an updated eligibility determination and select a QHP by the deadline to make a plan selection for January 1, 2016, in accordance with the effective dates specified in 45 CFR 155.410(f), the Marketplace will discontinue his or her eligibility for APTC and income-based CSR at the end of 2015 and re-enroll the enrollee in a QHP through the Marketplace for 2016 without APTC and income-based CSR, to the extent that the enrollee can be re-enrolled in accordance with 45 CFR 155.335(j).

Income-Based Outreach Group

The enrollees on an application fall into the income-based outreach group if the application contains qualified individuals who are 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 meet one of the following criteria:

- No updated tax return information is provided by IRS in response to the Marketplace's request;
- The most recent Marketplace eligibility determination for 2015 reflects household income in excess of 350% of the FPL; or
- IRS provides updated household income information from tax data that, when evaluated together with the family size used for the enrollee's most recent eligibility determination for 2015, reflects—
 - Household income in excess of 350% of the FPL;

³ Throughout this document, "updated FPL tables" refer to the FPL tables released in January, 2015, and available at <http://aspe.hhs.gov/poverty/15poverty.cfm>.

- An increase or decrease in household income of greater than 50%, when compared to the household income from the most recent Marketplace eligibility determination for 2015;
- Household income under 100% of the FPL; or
- Household income that meets other criteria established by the Marketplace.

In addition to the general MOEN content described above, the MOEN for applications in this group will specify that the Marketplace's records indicate that it may be particularly important for the enrollee to contact the Marketplace to obtain an updated eligibility determination.

Opt-Out Group

The enrollees on an application fall into the opt-out group if the application contains qualified individuals who are enrolled in a QHP with APTC or income-based CSR and did not authorize the Marketplace to request updated tax return information for use in the annual redetermination process.

In addition to the general MOEN content described above, the MOEN for applications in this group will explain that unless the enrollee contacts the Marketplace to obtain an updated eligibility determination and selects a QHP by the last day on which a plan selection may be made for coverage effective January 1, 2016 in accordance with the effective dates specified in 45 CFR 155.410(f), the Marketplace will discontinue his or her eligibility for APTC and income-based CSR at the end of 2015 and re-enroll the enrollee in a QHP through the Marketplace for 2016 without APTC and income-based CSR, to the extent that the enrollee can be re-enrolled in accordance with 155.335(j).

Did Not Reconcile Group

The enrollees on an application fall into the did not reconcile group if the application contains qualified individuals who are 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 indicates 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 comply with the requirement to file an income tax return for the year for which APTC was provided and reconcile APTC.

In addition to the general MOEN content described above, the MOEN for applications in this group will explain in accordance with HHS regulations that unless the tax filer files an income tax return and reconciles APTC, and the enrollee contacts the Marketplace to obtain an updated eligibility determination once IRS records reflect that the tax filer has complied with the requirement to file an income tax return and reconcile APTC, and then selects a QHP by the last day on which a plan selection may be made for coverage effective January 1, 2016 in accordance with the effective dates specified in 45 CFR 155.410(f), the Marketplace will discontinue his or her eligibility for APTC and income-based CSR at the end of 2015. The Marketplace will then re-enroll such an enrollee in a

QHP through the Marketplace for 2016 without APTC and income-based CSR, to the extent that the enrollee can be re-enrolled in accordance with 45 CFR 155.335(j).

Issuer Notices

To supplement the MOEN, issuers will send a notice in advance of open enrollment to all current enrollees, consistent with 45 CFR 147.106 and 45 CFR 156.1255. This notice will contain information as to whether the issuer is offering a crosswalk option for benefit year 2016, and if so, the premium for that option and any key changes to benefits and cost-sharing between the 2015 and 2016 plans. As specified at 45 CFR 156.1255(a), notice from the issuer will include information about the APTC that will be provided if the consumer is auto re-enrolled. If this information is unavailable for one or more enrollees at the time the issuer is sending the notice prior to open enrollment, issuers will provide this information before or during open enrollment. Additional guidance will be provided regarding the form and manner in which issuers will provide this supplemental information.

Requirement to Report Changes

Consistent with 45 CFR 155.335(e) and (f) and the alternative procedures specified by the Secretary for benefit year 2015, under these alternative procedures, the Marketplace must require a qualified individual to report changes with respect to eligibility standards within 30 days from the date of the change; must allow a qualified individual, or an application filer on behalf of the qualified individual, to report changes, and must verify any changes reported by a qualified individual using the verification processes specified at 45 CFR 155.315 and 155.320, which are used for initial applications.

Eligibility redeterminations for APTC and income-based CSR

Individuals Who Contact the Marketplace

Consistent with the alternative procedures specified by the Secretary for benefit year 2015, if an enrollee contacts the Marketplace during the open enrollment period for benefit year 2016 to 1) update eligibility information; 2) authorize the Marketplace to request updated tax return information for use in the annual redetermination process; 3) adjust the level of APTC being provided; or 4) select a new QHP, the Marketplace will redetermine his or her eligibility in accordance with the standards specified at 45 CFR 155.305, including using updated FPL tables, the applicable benchmark plan, as defined at 26 CFR 1.36B-3(f), which is based on 2016 premium data, and applicable percentages that are indexed for 2016, in accordance with 26 CFR 1.36B-3(g). As described in 45 CFR 155.305, this redetermination would include an assessment or determination, as applicable, of eligibility for Medicaid and CHIP. If such an enrollee continues to be eligible to enroll in a QHP through the Marketplace, and selects a QHP for benefit year 2016 by the last day on which a plan selection may be made for coverage effective January 1, 2016 in accordance with the effective dates specified at 45 CFR 155.410(f), this updated eligibility determination will be implemented as part of the enrollment.

Individuals Who Do Not Contact the Marketplace

For an enrollee who does not contact the Marketplace to obtain an updated eligibility determination and select a QHP by the last day on which a plan selection may be made for

coverage effective January 1, 2016 in accordance with the effective dates specified at 45 CFR 155.410(f), the Marketplace will establish 2016 eligibility as follows:

- First, where an enrollee was in the special notice group, opt-out group, or did not reconcile group, the Marketplace will discontinue APTC and income-based CSR. As with all of the below options, this eligibility determination will be used in the enrollee's re-enrollment, to the extent that the enrollee can be re-enrolled in accordance with 45 CFR 155.335(j).
- Second, where an enrollee with APTC or income-based CSR 1) does not fall into the special notice group, opt-out group, or did not reconcile group; 2) provided the Marketplace with income information for 2015 by creating or updating an application for 2015 that is associated with an enrollment; and 3) the projected annual household income used for the 2015 eligibility determination, when evaluated with the family size from that application and compared to updated FPL tables, shows that projected annual household income is within the APTC-eligible range (100-400% FPL, or under 100% FPL for certain non-citizens), the Marketplace will use the projected annual household income and family size from the most recent application that is associated with an enrollment adjusted to 2016⁴, updated FPL tables, and 2016 benchmark plan premium information to calculate APTC and determine eligibility for income-based CSR for 2016.
- Third, where an enrollee with APTC or income-based CSR 1) does not fall into the special notice group, opt-out group, or did not reconcile group; 2) was automatically re-enrolled for benefit year 2015 and did not submit an updated application and apply the update to their enrollment during benefit year 2015, or was evaluated using the second method described above and is under the applicable lower income threshold for APTC based on that analysis; and 3) where income information available from IRS, when evaluated with the family size from the most recent application that is associated with an enrollment and compared to updated FPL tables shows that projected annual household income is above the applicable lower income threshold for APTC eligibility, the Marketplace will use the income data from IRS adjusted to 2016, the family size from the most recent application that is associated with an enrollment, updated FPL tables, and 2016 benchmark plan premium information to calculate APTC and determine eligibility for income-based CSR for benefit year 2016.

Accordingly, if projected annual household income calculated using this method is greater than 400% FPL, APTC and income-based CSR⁵ will be discontinued. If the projected annual household income calculated using this method is under the applicable lower income threshold for APTC eligibility, the Marketplace will use the fourth method listed below to calculate APTC and determine eligibility for income-based CSR for benefit year 2016.

⁴ In order to adjust for expected income growth from 2014 or 2015 to 2016, the annual household income for the groups identified in this guidance will be adjusted by the percentage change in the updated FPL for the applicable family size from the year for which annual household income information is used for redetermination, to 2016. For example, for enrollees in the second group with a family size of one, 2015 projected annual household income will be adjusted to 2016 according to the rate of growth in the FPL used for APTC for 2015 to the FPL used for APTC for 2016.

⁵ The upper limit for income-based CSR for enrollees who are not members of federally-recognized tribes or shareholders in Alaska Native corporations is 250% FPL.

- Fourth, where an enrollee with APTC or income-based CSR does not fall into the special notice group, opt-out group, or did not reconcile group, and either 1) was automatically re-enrolled for benefit year 2015 and did not submit an updated application and apply the update to their enrollment during benefit year 2015, and has no income information available from IRS or 2) was evaluated using the third method described above and is under the applicable lower income threshold for APTC based on that analysis⁶, the Marketplace will use the projected annual household income (adjusted to 2016) and family size from the most recent application that is associated with an enrollment, updated FPL tables, and 2016 benchmark plan premium information to calculate APTC and determine eligibility for income-based CSR for 2016.

We note that where an enrollee 1) is re-enrolled for benefit year 2016 with APTC or income-based CSR; 2) was also re-enrolled for benefit year 2015 with APTC or income-based CSR; 3) did not submit an updated application and apply the update to their enrollment for either benefit year 2015 or benefit year 2016; 4) does not submit an updated application and select a QHP 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 either tax year 2014 or tax year 2015, the Marketplace will discontinue APTC and income-based CSR for benefit year 2017. The Marketplace plans to begin communicating this to enrollees well in advance of open enrollment for benefit year 2017. Additional guidance will be provided regarding this group.

The goal of the above approach is to maximize the accuracy of eligibility determinations for re-enrollees by utilizing updated data wherever possible. We expect that the majority of enrollees who do not contact the Marketplace will be addressed in the second and third bulleted groups above.

Lastly, it is important to note that enrollees who do not contact the Marketplace to obtain an updated eligibility determination and select a QHP by the last day on which a plan selection may be made for coverage effective January 1, 2016 in accordance with the effective dates specified in 45 CFR 155.410(f) will still be able to obtain an updated eligibility determination and select a QHP for prospective coverage through the end of the open enrollment period on January 31, 2016. Further, all re-enrollees will receive an eligibility determination notice at the point of re-enrollment that includes, among other information, a reminder about the requirement to report changes throughout the year.

Re-enrollment

Consistent with regulations in 45 CFR 155.335(j), in general, the Marketplace will re-enroll 2015 enrollees who do not select a QHP by the last day on which a plan selection may be made for coverage effective January 1, 2016 in accordance with the effective dates specified in 45 CFR 155.410(f) to the extent that the enrollee can be re-enrolled in accordance with 155.335(j).

⁶ To clarify, this group includes all enrollees with APTC or income-based CSR who are not included in the first three groups described in this section.

We note that in order to maximize the ability of QHP issuers to efficiently implement coverage for individuals who are re-enrolled by the Marketplace, a Marketplace may send preliminary re-enrollment transactions to issuers prior to the last day on which a plan selection may be made for coverage effective January 1, 2016 in accordance with the effective dates specified in 45 CFR 155.410(f). In order to ensure that this operational approach does not create confusion for enrollees, we expect that a QHP issuer will not communicate with consumers regarding these re-enrollment transactions prior to the date which the QHP issuer would begin its regular billing cycle for January, 2016.

Further, consistent with the alternative procedures specified by the Secretary for benefit year 2015, enrollees who are re-enrolled by the Marketplace will receive an eligibility determination notice and an enrollment confirmation message that explains the results of the annual eligibility redetermination and re-enrollment process. Like all Marketplace notices, the MOEN, eligibility determination notice for enrollees who are re-enrolled, and enrollment confirmation message must be provided in plain language and in a manner that is accessible and timely to individuals who are limited English proficient and to individuals with disabilities, pursuant to 45 CFR 155.205(c).