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FACT SHEET: INDIVIDUAL SHARED RESPONSIBILITY FOR HEALTH INSURANCE COVERAGE AND MINIMUM ESSENTIAL COVERAGE PROPOSED RULES

Under the Affordable Care Act, the Federal government, State governments, insurers, employers, and individuals are given shared responsibility to reform and improve the availability, quality, and affordability of health insurance coverage in the United States. Starting in 2014, the individual shared responsibility provision calls for each individual to have basic health insurance coverage (known as [minimum essential coverage](#)), qualify for an exemption, or make a shared responsibility payment when filing a federal income tax return. Individuals will not have to make a payment if coverage is unaffordable, if they spend less than three consecutive months without coverage, or if they qualify for an exemption for several other reasons, including hardship and religious beliefs.

Today, the Treasury Department and Internal Revenue Service (IRS), as well as the Centers for Medicare & Medicaid Services at the Department of Health and Human Services (HHS), issued two sets of proposed regulations. The regulations explain the shared responsibility provision and lay out the eligibility rules for receiving an exemption and the process by which individuals can receive certificates of exemption. Both agencies' proposed regulations include rules that will ease implementation and help to ensure that the payment applies only to the limited group of taxpayers who choose to spend a substantial period of time without coverage despite having ready access to affordable coverage.

According to the Congressional Budget Office, less than two percent of Americans will owe a shared responsibility payment.

Highlights of the Proposed Regulations

A principle in implementing the individual shared responsibility provision is that the shared responsibility payment should not apply to any taxpayer for whom coverage is unaffordable, who has other good cause for going without coverage, or who goes without coverage for only a short time. The proposed regulations include several rules to implement this principle. For example:

- **Hardship Exemption Clarified to Protect Taxpayers, Address Key Concerns.** The statute gives HHS authority to exempt individuals determined to "have suffered a hardship with respect to the capability to obtain coverage." In developing these proposed regulations, HHS considered several particular circumstances that provide good cause to go without coverage. To provide clarity for taxpayers facing these circumstances, the HHS proposed regulations enumerate several situations that will always be treated as constituting a hardship and therefore allow for an exemption. Hardship exemptions include:
 - Individuals whom an Exchange projects will have no offer of affordable coverage (even if, due to a change in circumstance during the year, it turns out that the coverage would have been affordable). This rule will protect

individuals who turn down coverage because the Exchange projects it will be unaffordable but whose actual income for the year turns out to be higher so they are not eligible for the affordability exemption;

- Certain individuals who are not required to file an income tax return but who technically fall outside the statutory exemption for those with household income below the filing threshold; and
- Individuals who would be eligible for Medicaid but for a state's choice not to expand Medicaid eligibility. This rule will protect individuals in states that, pursuant to the Supreme Court decision, choose not to expand Medicaid eligibility;

The HHS regulations also provide that the hardship exemption will be available on a case-by-case basis for individuals who face other unexpected personal or financial circumstances that prevent them from obtaining coverage.

- **Partial-Month Coverage Counts for the Month.** The Treasury regulations provide that an individual is treated as having coverage for a month so long as he or she has coverage for any one day of that month. For example, an individual who starts a new job on March 27 and is enrolled in employer-sponsored coverage on that day is treated as having coverage for the month of March. Similarly, an individual who is eligible for an exemption for any one day of a month is treated as exempt for the entire month.
- **Payment Waived for First Part of Coverage Gap Spanning Multiple Years.** The statute provides an exemption for gaps in coverage of less than three months. It generally specifies that such gaps be measured without regard to the calendar years in which the gap occurs. For example, a gap lasting from November through February lasts four months and therefore generally would not qualify for the exemption. However, recognizing that many individuals file their tax returns as early as January, before the length of an ongoing gap may be known, the Treasury regulations provide that if the part of a gap in the first tax year is less than three months, then no shared responsibility payment is due for the part of the gap that occurs during the first calendar year, regardless of the eventual length of the gap. For example, for a gap lasting from November through February, no payment would be due for November and December.

Additional Details about the Proposed Regulations

The proposed regulations explain that minimum essential coverage includes, at a minimum, all of the following statutory categories:

- Employer-sponsored coverage (including COBRA coverage and retiree coverage)
- Coverage purchased in the individual market
- Medicare Part A coverage
- Medicaid coverage
- Children's Health Insurance Program (CHIP) coverage
- Certain types of Veterans health coverage
- TRICARE

Minimum essential coverage does not include certain specialized coverage, such as coverage only for vision care or dental care, workers' compensation, or coverage only for a specific disease or condition. Under the law, minimum essential coverage also includes any additional types of coverage that are designated by the Department of Health and Human Services (HHS) or, as detailed by the proposed regulation, when the sponsor of the coverage follows a process outlined in the regulations to be recognized as minimum essential coverage.

Specific Rules and Process for Receiving an Exemption

The proposed regulations also codify the statute's nine categories of individuals who are exempt from the shared responsibility payment. These categories are as follows:

- Individuals who cannot afford coverage;
- Taxpayers with income below the filing threshold;
- Members of Indian tribes;
- Hardship;
- Individuals who experience short coverage gaps.
- Religious conscience;

- Members of a health care sharing ministry;
- Incarcerated individuals; and
- Individuals who are not lawfully present;

The statute specifies that the religious conscience exemption and the hardship exemption are available exclusively through a Health Insurance Marketplace or Exchange. Four categories of exemptions are proposed to be available exclusively from the IRS through the filing process – the exemptions for individuals who are not lawfully present, taxpayers with household income below the filing threshold, individuals who cannot afford coverage, and individuals who experience short coverage gaps. The rule provides a choice to individuals for the exemptions in the three remaining categories – members of a health care sharing ministry, individuals who are incarcerated, and members of Indian tribes. Such exemptions could be provided either through a Health Insurance Marketplace or through the tax filing process.

Starting in 2015, individuals filing a tax return for the previous tax year will indicate which members of their family (including themselves) are exempt from the provision. For family members who are not exempt, the taxpayer will indicate whether they had insurance coverage. For each non-exempt family member who doesn't have coverage, the taxpayer will owe a payment.

HHS and IRS are seeking comments on these proposals. Comments on the Treasury proposed regulations are due by May 2, 2013, and a public hearing will be held May 29, 2013. Comments on the HHS proposed regulations are due by March 18, 2013.

To read the HHS rule, visit: http://ofr.gov/OFRUpload/OFRData/2013-02139_PI.pdf

To read the IRS rule, visit: http://ofr.gov/OFRUpload/OFRData/2013-02141_PI.pdf

For questions and answers on the Individual Shared Responsibility Provision, visit IRS.gov

For more information about health insurance through the Health Insurance Marketplace, including how to sign up for email updates and tips on how to prepare for open enrollment in October 2013, visit: <http://www.healthcare.gov/marketplace/index.html>.

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A federal government website managed by the Centers for Medicare & Medicaid Services
7500 Security Boulevard, Baltimore, MD 21244



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