



Date: June 26, 2014

From: Mandy Cohen, Acting Director, Center for Consumer Information & Insurance Oversight

Title: Guidance on Annual Redeterminations for Coverage for 2015

Background

Contemporaneously with this guidance, we are proposing modifications to 45 CFR §155.335, which specifies procedures for annual eligibility redeterminations for qualified individuals¹ in a Marketplace for 2015. In the notice of proposed rulemaking entitled “Patient Protection and Affordable Care Act; Annual Eligibility Redeterminations for Exchange Participation and Insurance Affordability Programs; Health Insurance Issuer Standards Under the Affordable Care Act, Including Standards Related to Exchanges,” we propose new 45 CFR §155.335(a)(2), under which we propose that a Marketplace must conduct annual redeterminations using either the procedures described in 45 CFR §155.335(b) through (m), alternative procedures specified by the Secretary for the applicable plan year, or alternative procedures approved by the Secretary based on a showing by the Exchange that such procedures meet specified criteria. This guidance specifies alternative procedures for plan year 2015 that, if a final rule is promulgated permitting a Marketplace to elect such process, will constitute the alternative procedures designated in proposed 45 CFR §155.335(a)(2)(ii). If permitted under such a final rule, the Federally-facilitated Marketplace (FFM) will adopt the alternative procedures specified in this guidance for plan year 2015, consistent with proposed 45 CFR §155.335(a)(2)(ii)².

These alternative procedures preserve an important feature of the annual redetermination process specified in 45 CFR §155.335(g), namely, that an enrollee may take no action and still have his or her coverage renewed for 2015, which is important in promoting continuity of coverage while limiting administrative burden for enrollees, issuers, and Marketplaces.

Procedures

The procedures described below constitute the alternative procedures specified by the Secretary for plan year 2015, as proposed in 45 CFR §155.335(a)(2)(ii). These procedures will have no effect or application unless a final rule is promulgated authorizing their use.

¹ As defined in §155.20.

² We note that special procedures may be needed for a Marketplace that is transitioning the eligibility and enrollment functions from Federal to State operation, or vice versa. We will work closely with affected States to facilitate these transitions.

Requesting Updated Data

First, 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 cost-sharing reductions (CSR) are being provided, and who have authorized the Marketplace to request updated tax return information for purposes of annual redetermination.³ This is slightly different from the analogous provision in 45 CFR §155.335(b), which applies to all qualified individuals who requested an eligibility determination for insurance affordability programs and authorized the request, regardless of enrollment, and uses data from IRS, the Social Security Administration, and other current income data sources. The modification in these alternative procedures is designed to focus on those individuals who could potentially be renewed with APTC and CSR, using the primary data source used in determining financial eligibility for APTC and CSR: tax return information.

Under these alternative procedures, the Marketplace will provide three notices based on the information received, although not all qualified individuals or enrollees will receive all three notices. Where the Marketplace is required to provide more than one of these notices for a specific enrollee, the notices may be combined for efficiency.

Standard Notice

First, the Marketplace will provide a standard notice to all qualified individuals that includes the content specified below, as is required under the process described in 45 CFR §155.335(b) through (m). The basic set of information required to be included in this notice is as follows:

- A description of the annual redetermination and renewal 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, 2015 in accordance with the effective dates specified in 45 CFR §155.410(f), and the last day of open enrollment for coverage in 2015 (February 15, 2015);
- For an enrollee who authorized the Marketplace to request updated tax return information for use in the annual redetermination process,
 - And for whom APTC are being provided, a description of the reconciliation process for APTC;
 - And for whom APTC or CSR are being provided and who is not an enrollee who will be sent the special notice described below, an explanation that if he or she does not contact the Marketplace to obtain an updated eligibility determination by the last day on which a plan selection may be made for coverage effective January 1, 2015 in accordance with the effective dates specified in 45 CFR §155.410(f), the Marketplace will establish 2015 eligibility that is identical to the enrollee's most recent eligibility determination for 2014, including the exact dollar amount of APTC and category of CSR, and an explanation that in order to obtain the most accurate eligibility determination from the Marketplace, including APTC that may increase or decrease, an enrollee should contact the Marketplace; and

³ Each initial application included the opportunity to provide this authorization, and individuals can update this during the year, as well.

- For an enrollee who did not authorize the Marketplace to request updated tax return information for use in the annual redetermination process,
 - And on whose behalf APTC or CSR are being provided, an explanation that unless the individual contacts the Marketplace to obtain an updated eligibility determination by the last day on which a plan selection may be made for coverage effective January 1, 2015 in accordance with the effective dates specified in 45 CFR §155.410(f), APTC and CSR will end on December 31, 2014 and the Marketplace will renew the enrollee's coverage in a QHP for 2015 without APTC and CSR, to the extent that it can be renewed in accordance with §147.106.

We note that this list of contents to be included is not exclusive; consequently, a Marketplace that elects to use the alternative procedures described in this guidance could choose to include additional content. For example, a Marketplace could include information regarding the premium for the plan in which an enrollee is being renewed for 2015. The Federally-facilitated Marketplace will not provide this information for 2015; rather, as described below and in the Insurance Standards Bulletin that is being released contemporaneously with this guidance, issuers will do so.

Income-Based Outreach Notice

Second, under these alternative procedures, the Marketplace will provide an income-based outreach notice to individuals who are enrolled in a QHP with APTC or CSR; who authorized the Marketplace to request updated tax return information for use in the annual redetermination process; and who 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 2014 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 2014⁴, reflects—
 - Household income in excess of 350% of the FPL;
 - 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 2014; or
 - Household income that meets other criteria established by the Marketplace.

These criteria are designed to identify those enrollees for whom taking action to update eligibility information is particularly important due to likely changes in household income since the last eligibility determination.

⁴ These alternative procedures rely on the family size information from the enrollee's most recent 2014 eligibility determination as that information is more likely to be current and accurate than information regarding family size from 2013 tax returns. We believe that enrollees are more likely to report changes in family size on a timely basis since these changes are likely to affect which family members are enrolled in coverage.

The income-based outreach notice will restate the same information from the standard notice described above, including any applicable content specific to enrollees on whose behalf APTC or CSR are being provided, along with an explanation that the Marketplace strongly encourages the enrollee to contact the Marketplace to obtain an updated eligibility determination.

Special Notice

Third, under these alternative procedures, the Marketplace will provide a special notice to individuals who are enrolled in a QHP with APTC or CSR, who authorized the Marketplace to request updated tax return information for use in the annual redetermination process, and who have updated income information from tax data that when evaluated together with the family size used for the enrollee's most recent eligibility determination for 2014, reflects household income that is in excess of 500% FPL. We expect only a very small number of enrollees to be in this group. This threshold is designed to identify enrollees with APTC or CSR who are at the highest risk of having 2015 income that would make them ineligible for APTC and CSR.

The special notice will restate the same information from the standard notice described above, including any applicable content specific to enrollees on whose behalf APTC or CSR are being provided, along with an explanation that if the enrollee does not contact the Marketplace to obtain an updated eligibility determination by the deadline to make a plan selection for January 1, 2015 in accordance with the effective dates specified in 45 CFR §155.410(f), the Marketplace will discontinue his or her eligibility for APTC and CSR at the end of 2014 and renew the enrollee's coverage in a QHP for 2015 without APTC and CSR, to the extent that it can be renewed in accordance with §147.106. Individuals who are in this special notice group will receive this notice instead of the income-based outreach notice described above.

Consolidating Notices and Providing Reminders

As stated above, when a Marketplace is required to send more than one of the notices described above to an enrollee, the Marketplace may choose to consolidate the notices discussed above in order to streamline the administrative process. For example, the Marketplace may send a single notice to an enrollee who is in the income-based outreach group that incorporates the content from the standard notice for all qualified individuals, as well as the content specific to the income-based outreach group. The Marketplace may also follow up on the notices that are sent under these alternative procedures to specific targeted groups via one or more additional notices or via telephone. We note that consistent with 45 CFR §155.230(b), all notices sent by the Marketplace must conform to the standards in 45 CFR §155.205(c), which addresses accessibility.

Consistent with 45 CFR §155.335, under these alternative procedures, the Marketplace will provide the standard notice to all qualified individuals described above and the notice of annual open enrollment described in existing §155.410(d) through a single, coordinated notice.

Accordingly, the standard notice will be provided no later than November 15, 2014.

Additionally, the income-based outreach notice and the special notice described above must be provided sufficiently in advance of the deadline to make a plan selection for coverage effective on January 1, 2015 in accordance with the effective dates specified in 45 CFR §155.410(f), to allow the enrollee to take action by the deadline.

Requirement to Report Changes

Consistent with current 45 CFR §155.335(e) and (f), 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 in 45 CFR §§155.315 and 155.320, which are used for initial applications.

Individuals Who Contact the Marketplace

If a qualified individual or enrollee contacts the Marketplace to update eligibility information, authorize the Marketplace to request updated tax return information for use in the annual redetermination process, adjust the level of APTC being provided, or select a new QHP, the Marketplace will redetermine his or her eligibility in accordance with the standards specified in 45 CFR §155.305, including using updated FPL thresholds, the applicable benchmark plan, as defined in 26 CFR 1.36B-3(f), that is based on 2015 premium data, and applicable percentages that are indexed for 2015, 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.

Individuals Who Do Not Contact the Marketplace

For enrollees who authorized the Marketplace to request updated tax return information for use in the annual redetermination process, who do not contact the Marketplace to obtain an updated eligibility determination, and who are not part of the group who is sent the special notice described above, the Marketplace will establish 2015 eligibility that is identical to the qualified individual or enrollee's most recent eligibility determination for 2014. We note that this includes, but is not limited to, all enrollees who are sent the income-based outreach notice who do not contact the Marketplace to obtain an updated eligibility determination. This means that for enrollees who satisfy these criteria, the exact dollar amount of maximum APTC for 2014 and any CSR category, reflected in the most recent eligibility determination for 2014 will be continued in 2015. Consistent with 45 CFR §155.335(h)(1)(ii), the Marketplace will then send a notice to the enrollee with the new eligibility determination. We note that for most enrollees, we expect that continuing 2014 APTC amounts will result in a lower advance payment than would be provided based on an updated eligibility determination using 2015 information, since 2015 APTC would be calculated based on an applicable benchmark plan that reflects applicable changes in age rating and any increase in premiums, among other factors. Accordingly, we note that the income-based outreach notice and special notice described above are important not only to help ensure program integrity, but also to help ensure affordability for enrollees, both of which are achieved when eligibility information is kept up to date.

For an enrollee on whose behalf APTC and/or CSR are being provided, who does not contact the Marketplace to obtain an updated eligibility determination by the deadline to select a QHP for coverage effective on January 1, 2015 in accordance with the effective date specified in 45 CFR §155.410(f), and who either did not authorize the Marketplace to request updated tax return information for use in the annual redetermination process or to whom the Marketplace is

required to send the special notice described above, the Marketplace will end APTC and CSR on December 31, 2014. The Marketplace will notify the enrollee of this action, consistent with 45 CFR §155.335(h)(1)(ii), and include in this notice an explanation that by contacting the Marketplace, the enrollee can obtain a new eligibility determination for APTC and CSR that will be effective in accordance with the effective dates described in 45 CFR §155.410(f) or 45 CFR §155.420(b), as applicable. The Marketplace will still renew the enrollee's coverage in a QHP, to the extent that it can be renewed in accordance with 45 CFR §147.106. We note that we expect very few enrollees to experience this circumstance.

These alternative procedures are substantially similar to 45 CFR §155.335 with respect to §155.335(i), (k), and (l), which concern effective dates, the authorization of the release of tax data to support annual redetermination, and procedures for handling qualified individuals or enrollees who did not authorize the Marketplace to request updated tax return information for use in the annual redetermination process. §155.335(m) is not relevant for annual redeterminations for coverage in 2015, since it concerns qualified individuals who would be going through their second annual redetermination, and the annual redetermination for 2015 will be the first annual redetermination for all qualified individuals. Further, all references to §155.335 elsewhere in 45 CFR part 155 will continue to apply to annual redeterminations that are executed in accordance with this option. This includes references in 45 CFR §§155.227, 155.230, 155.310, 155.345, 155.355, 155.500, 155.505, 155.515, and 155.525.

Issuer Notices

The procedures described above complement the notices that issuers will provide regarding product discontinuances and renewal, including renewal with modification, that are described in 45 CFR §147.106 and proposed 45 CFR §156.1255. We are separately issuing guidance concerning these notices.