

Section 5000A Transition Relief for Individuals with Certain Government-Sponsored Limited-Benefit Health Coverage

Notice 2014-10

PURPOSE

This notice provides relief from the individual shared responsibility payment required under § 5000A of the Internal Revenue Code for months in 2014 in which individuals have, under Medicaid and chapter 55 of Title 10, U.S.C., limited-benefit health coverage that is not minimum essential coverage.

BACKGROUND

For each month beginning after December 31, 2013, § 5000A requires individuals to either maintain minimum essential coverage for themselves and any nonexempt family members, qualify for an exemption, or include an individual shared responsibility payment with their Federal income tax return. A taxpayer is liable under § 5000A for any nonexempt individual whom the taxpayer may claim as a dependent.

Under § 5000A(f)(1)(A), minimum essential coverage includes coverage under certain specified government-sponsored programs (“government-sponsored minimum essential coverage”). On August 30, 2013, the Treasury Department and the Internal Revenue Service (IRS) published final regulations under § 5000A. The final regulations provide that government-sponsored minimum essential coverage includes coverage under the Medicaid program under Title XIX of the Social Security Act (42 U.S.C. 1396 and following sections), other than the following limited coverage under Medicaid:

optional coverage of family planning services under section 1902(a)(10)(A)(ii)(XXI) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XXI)) (“family planning services Medicaid”), optional coverage of tuberculosis-related services under section 1902(a)(10)(A)(ii)(XII) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XII)) (“tuberculosis-related services Medicaid”), coverage of pregnancy-related services under section 1902(a)(10)(A)(i)(IV) and (a)(10)(A)(ii)(IX) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(IV), (a)(10)(A)(ii)(IX)) (“pregnancy-related Medicaid”), and coverage limited to treatment of emergency medical conditions in accordance with 8 U.S.C. 1611(b)(1)(A), as authorized by section 1903(v) of the Social Security Act (42 U.S.C. 1396b(v)) (“emergency medical conditions Medicaid”). The final § 5000A regulations also provide that government-sponsored minimum essential coverage includes medical coverage under chapter 55 of Title 10, U.S.C., including coverage under the TRICARE program.

The final § 5000A regulations reserve on whether certain government-sponsored programs that provide limited benefits are minimum essential coverage, including (i) coverage authorized under section 1115 of the Social Security Act (“Section 1115 demonstration projects”); (ii) coverage for medically needy individuals, see section 1902(a)(10)(C) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)) and 42 CFR 435.300 and following sections; (iii) coverage under section 1079(a), 1086(c)(1), or 1086(d)(1) of Title 10, U.S.C., for certain individuals who are excluded from TRICARE coverage for health care services from private sector providers and only eligible for space available care in a facility for the uniformed services (“space available care”); and (iv) coverage under sections 1074a and 1074b of Title 10, U.S.C., for individuals not on

active duty who are entitled to episodic care for an injury, illness, or disease incurred or aggravated in the line of duty (“line-of-duty care”). See § 1.5000A-2(b)(2) (78 FR 53646, 53658).

The preamble to the final § 5000A regulations indicates that future guidance will provide that the government-sponsored limited-benefit coverage reserved on in the final § 5000A regulations is not minimum essential coverage. However, the preamble to the final § 5000A regulations also indicates that, if future rulemaking clarifies that such limited-benefit coverage is not minimum essential coverage, individuals with that coverage for a month in 2014 will not be subject to the § 5000A individual shared responsibility payment for that month. See T.D. 9632 (78 FR 53646, 53648–53650).

Proposed regulations (REG-141036-13) published concurrently with this notice provide that coverage under certain Section 1115 demonstration projects authorized under section 1115(a)(2) of the Social Security Act (42 U.S.C. 1315(a)(2)), coverage for medically needy individuals, space available care, and line-of-duty care is not government-sponsored minimum essential coverage.

DISCUSSION

Individuals enrolled in family planning services Medicaid, tuberculosis-related services Medicaid, pregnancy-related Medicaid, emergency medical conditions Medicaid, certain Section 1115 demonstration projects, coverage for medically needy individuals, space available care, or line-of-duty care may not know when enrolling for the 2014 coverage year that such coverage is not minimum essential coverage. Accordingly, to provide relief to individuals in this situation (or to taxpayers who are liable under § 5000A for other individuals in this situation), and consistent with the

preamble to the final regulations, the § 5000A shared responsibility payment is not imposed with respect to an individual for months in 2014 when the individual has coverage under family planning services Medicaid, tuberculosis-related services Medicaid, pregnancy-related Medicaid, emergency medical conditions Medicaid, a Section 1115 demonstration project authorized under section 1115(a)(2) of the Social Security Act (42 U.S.C. 1315(a)(2)), coverage for medically needy individuals, space available care, or line-of-duty care.

The relief provided by this notice applies only for determining a taxpayer's § 5000A individual shared responsibility payment for not maintaining minimum essential coverage in 2014. Solely for the purpose of determining whether a period without coverage qualifies as a short coverage gap described in § 5000A(e)(4), an individual will be treated as having minimum essential coverage for any month in 2014 when that individual is eligible for the transition relief provided by this notice.

DRAFTING INFORMATION

The principal author of this notice is John B. Lovelace of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this notice contact Mr. Lovelace at (202) 317-7006 (not a toll-free call).