



AFFORDABLE CARE ACT MASSACHUSETTS IMPLEMENTATION UPDATE

February 4, 2013

Quick Links

[MA-ACA Website](#)



These Updates, published by the Executive Office of Health and Human Services (EOHHS) in consultation with the other state agencies involved in ACA implementation, will bring you news related to the implementation of provisions of the ACA here in Massachusetts.

Guidance

2/1/13 CMS issued a State Medicaid Director (SMD) Letter with guidance to states on ACA §4106(b) which establishes a 1% increase in the federal medical assistance percentage (FMAP) for certain Medicaid preventive services that are provided without cost sharing to the recipient. Effective January 1, 2013, the increase is applied to expenditures for adult vaccines and clinical preventive services to states that cover a full list of specified preventive services and adult vaccines without cost sharing. In that circumstance, the increase would apply to such expenditures whether the services are provided on a fee-for-service (FFS) or managed care basis, or under a benchmark or benchmark-equivalent benefit package (referred to as an alternative benefit plan).

The specified preventive services are those assigned a grade of A or B by the United States Preventive Services Task Force (USPSTF), and approved vaccines and their administration, recommended by the Advisory Committee on Immunization Practices (ACIP). The services remain optional with one exception: effective January 1, 2014, the law requires that alternative benefit plans cover preventive services described in §2713 of the Public Health Service Act as part of essential health benefits. §2713 includes, among others, the same services as those authorized for increased match under ACA §4106. In order for states to claim the 1% FMAP increase for these services, states must cover in their standard Medicaid benefit package all the recommended preventive services and adult vaccines, and their administration, and must not impose cost-sharing on such services. States' utilization review and approval procedures should conform to USPSTF and ACIP periodicity or indications where specified.

A list of the services that are eligible for the increased FMAP can be found on the following websites:

<http://www.uspreventiveservicestaskforce.org/uspstf/topicsprog.htm>

<http://www.cdc.gov/vaccines/schedules/hcp/adult.html>

Learn more about the USPSTF and the ACA at:

<http://www.uspreventiveservicestaskforce.org/uspstf/uspsabrecs.htm>

Learn more about alternative benefit plans at:

<http://www.medicaid.gov/Federal-Policy-Guidance/downloads/SMD-12-003.pdf>

Read the SMD Letter regarding §4106(b) at:

<http://www.medicaid.gov/Federal-Policy-Guidance/downloads/SMD-13-002.pdf>

1/31/13 IRS/Treasury issued a correction to the [proposed rule and notice](#) of public hearing regarding "Net Investment Income Tax" which was published in the Federal Register on December 5, 2012. The document makes technical changes to the proposed rule and notice.

The proposed regulations provide guidance under ACA §1402(a)(1) effective for taxable years beginning after December 31, 2012. The proposed regulations affect individuals, estates, and trusts. A new Net Investment Income Tax goes into effect starting in 2013. The 3.8% Net Investment Income Tax applies to individuals, estates and trusts that have certain investment income above certain threshold amounts. This document also provides information about a public hearing scheduled for April 2, 2013 on the proposed rules.

Comments on the proposed rule are due March 5, 2013.

Read the IRS Questions and Answers about the tax at:

<http://www.irs.gov/uac/Newsroom/Net-Investment-Income-Tax-FAQs>

Read the correction at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-01-31/pdf/2013-02039.pdf>

1/30/13 IRS/Treasury issued final regulations related to the "Health Insurance Premium Tax Credit." The final regulations provide guidance to the family members of employees enrolled in eligible employer-sponsored insurance (ESI) who seek to enroll in qualified health plans (QHPs) through Affordable Insurance Exchanges and claim the premium tax credit. The final regulations amend the Internal Revenue Code provisions regarding whether that ESI is affordable for the employees' family members and their eligibility for the premium tax credit.

On May 23, 2012, IRS/Treasury published earlier [final regulations](#) on the Health Insurance Premium Tax Credit which provide guidance for individuals who enroll in QHPs through Exchanges and claim the premium tax credit, and for Exchanges that make QHPs available to individuals and employers. This set of final regulations did not include a separate rule for determining affordability of family coverage ESI and eligibility for premium tax credits. According to the IRS/Treasury, after consideration of all comments they received on previous regulations, the agencies are adopting the previous regulations without any changes.

As a result, the regulations provide that, for taxable years beginning before January 1, 2015, eligible ESI is affordable for family members if the portion of the annual premium the employee must pay for self-only coverage (the required contribution percentage) does not exceed 9.5% of the taxpayer's household income.

Beginning January 1, 2014, ACA §2001 requires states to expand their Medicaid programs to individuals under 65 years of age with incomes at or below 133% FPL. (However, on June 28, 2012 the Supreme Court ruled that the Medicaid expansion was optional for states and that the

HHS Secretary could not withdraw federal funding from non-expanding states' pre-existing Medicaid programs). The ACA established Affordable Insurance Exchanges (§1311(b)) to provide individuals and small business employees with access to health insurance coverage beginning January 1, 2014, where low and moderate income Americans will be eligible for premium tax credits (§1401, §1411) to make purchasing a health plan more affordable by reducing out-of-pocket premium costs. According to CMS, the proposed rule will help develop systems that will make it easy for consumers to determine if they are eligible for Medicaid or premium tax credits. The premium tax credit is refundable so that taxpayers who have little or no income tax liability can benefit. The credit also can be paid in advance to a taxpayer's insurance company to help cover the cost of premiums.

It should be noted that although the ESI affordability test for family members is based on the cost of self-only coverage, by contrast, for purposes of applying the affordability exemption from the shared responsibility payment for family members, the required contribution is based on the premium the employee would pay for employer-sponsored family coverage. (For more information on this, see the minimum essential coverage proposed rules below.)

Read the second set of final regulations on the Health Insurance Premium Tax Credit (which were published in the Federal Register on February 1, 2013) at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-02-01/pdf/2013-02136.pdf>

1/30/13 HHS and IRS issued two connected proposed rules which explain the ACA's individual shared responsibility provision, eligibility for individual exemptions from the provision, and how the amount of the tax payment will be calculated and collected when an individual must make the payment. The individual shared responsibility provision requires each nonexempt individual to have basic health insurance coverage (known as [minimum essential coverage](#), §1501) qualify for an exemption, or make a shared responsibility payment when filing their 2014 federal income tax return. The requirement applies to adults, children (as tax dependents), seniors (most of whom will meet the coverage requirement through Medicare), and lawfully present immigrants.

The two rules outline the nine categories of individuals who are either entirely exempt from the requirement to maintain minimum essential coverage or who are exempt from the associated tax penalty. According to the Congressional Budget Office, less than 2% of Americans will be required to make a shared responsibility payment.

Read the CMS fact sheet about the rules at: [CMS.GOV](#)

The HHS/CMS proposed rule is called "Patient Protection and Affordable Care Act; Exchange Functions: Eligibility for Exemptions; Miscellaneous Minimum Essential Coverage Provisions." The rule proposes eligibility standards related to the categories of exemptions that will be handled by the Exchange and a verification and eligibility determination process for these categories of exemptions (§1411).

In addition, this rule proposes that certain coverage be designated as minimum essential coverage by the Secretary, and outlines substantive and procedural requirements that other types of individual coverage must fulfill to be recognized as minimum essential coverage. According to the proposed rule, 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. The rule also provides an exemption for those individuals who would be eligible for Medicaid but for a state's choice not to expand Medicaid eligibility (pursuant to the Supreme Court decision.)

Comments on this proposed rule are due March 18, 2013.

Read the proposed rule (which was published in the Federal Register on February 1, 2013) at:
<http://www.gpo.gov/fdsys/pkg/FR-2013-02-01/pdf/2013-02139.pdf>

The IRS/Treasury proposed rule is called "Shared Responsibility Payment for Not Maintaining Minimum Essential Coverage." The proposed regulations provide guidance on the liability for the shared responsibility payment for not maintaining minimum essential coverage. The rules include details about the proposed payments such as that the taxpayer must make the shared responsibility payment for each month that the taxpayer (or the taxpayer's dependents) lacked minimum essential coverage (and did not qualify for an exemption). According to the rule, the amount of the tax is the lesser of the applicable national average bronze plan premium or the sum of the monthly payment amounts.

The proposed rule also provides notice of a public hearing on these regulations that will be held on May 29, 2013.

Comments on this proposed rule are due May 2, 2013.

Read the proposed rule (which was published in the Federal Register on February 1, 2013) at:
<http://www.gpo.gov/fdsys/pkg/FR-2013-02-01/pdf/2013-02141.pdf>

1/30/13 IRS/Treasury published several corrections to the [proposed rule and notice](#) of public hearing regarding "Rules Relating to Additional Medicare Tax" which were published in the Federal Register on December 5, 2012. The documents make technical changes to the proposed rule and notice.

The proposed regulations relate to an Additional Hospital Insurance Tax on income above threshold amounts ("Additional Medicare Tax"), as added by ACA §10906 and §1401(b). The 0.9% Additional Medicare Tax, which goes into effect beginning in 2013, applies to individuals' wages, other compensation, and self-employment income over certain thresholds. The threshold amounts are \$250,000 for married taxpayers who file jointly, \$125,000 for married taxpayers who file separately, and \$200,000 for all other taxpayers. Employers are responsible for withholding the tax from wages or compensation it pays to an employee in excess of \$200,000 in a calendar year. Specifically, the proposed regulations provide guidance for employers and individuals relating to the implementation of the Additional Medicare Tax, including the requirement to withhold Additional Medicare Tax on certain wages and compensation, the requirement to file a return reporting Additional Medicare Tax, the employer process for adjusting underpayments and overpayments of Additional Medicare Tax, and the employer and employee processes for filing a claim for refund of Additional Medicare Tax. This document also provides information about a public hearing scheduled for April 4, 2013 on the proposed rule.

Comments on the proposed rule are March 5, 2013.

Read the IRS Questions and Answers about the tax at: [IRS.GOV](http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Questions-and-Answers-for-the-Additional-Medicare-Tax)
<http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Questions-and-Answers-for-the-Additional-Medicare-Tax>

Read the technical corrections at:
<http://www.gpo.gov/fdsys/pkg/FR-2013-01-30/pdf/2013-01885.pdf>
<http://www.gpo.gov/fdsys/pkg/FR-2013-01-30/pdf/2013-01764.pdf>
<http://www.gpo.gov/fdsys/pkg/FR-2013-01-30/pdf/C1-2012-29237.pdf>

1/29/13 CMS is seeking comments on drafts of the new single, streamlined applications for health insurance and the Small Business Health Options Program (SHOP) that will be used by individuals and businesses when the Health Insurance Exchanges under ACA §1311(b) launch in the fall of 2014.

The individual application is a single point of entry to purchase private insurance on the Exchange and assess eligibility for assistance including, Medicaid, CHIP, and premium tax credits. The ACA established Affordable Insurance Exchanges (§1311(b)) to provide individuals and small business employees with access to health insurance coverage beginning January 1, 2014, where low and moderate income Americans will be eligible for premium tax credits (§1401, §1411) to make purchasing a health plan more affordable by reducing out-of-pocket premium costs. §1311(b)(1)(B) requires that SHOP assist qualified small employers in facilitating the enrollment of their employees in qualified health programs (QHPs) offered in the small group market. QHPs are health plans that have been certified by an Exchange, provide essential health benefits (§1301) and follow established limits on cost-sharing (like deductibles, copayments, and out-of-pocket maximum amounts.)

CMS issued model applications and documentation for individuals and small businesses and model SHOP applications for both employers and employees are posted in separate paperwork reduction act packages. CMS is seeking comments on both the paper and online applications. CMS released two videos of the application being completed in order to demonstrate how users can interact with the online application; one follows a family of three and the other an individual.

Comments are due on February 28, 2013.

All of the materials are available under the Paperwork Reduction Action (PRA) at:
<http://go.cms.gov/PRA-Listing>.

The individual application materials can be found under the PRA listing, "Data Collection to Support Eligibility Determinations for Insurance Affordability Programs and Enrollment through Affordable Insurance Exchanges, Medicaid and Children's Health Insurance Program Agencies" at: CMS.GOV

The SHOP Employer materials can be found under the PRA listing, "Data Collection to Support Eligibility Determinations and Enrollment for Small Businesses in the Small Business Health Options Program" at: CMS.GOV

The SHOP Employee materials can be found under the PRA listing, "Data Collection to Support Eligibility Determinations and Enrollment for Employees in the Small Business Health Options Program" at: <http://cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing-Items/CMS-10438.html>

The video demonstrations are available at: <http://www.youtube.com/user/CMSHHSgov>

A notice about these documents can be found in the Federal Register at:
<http://www.gpo.gov/fdsys/pkg/FR-2013-01-29/pdf/2013-01770.pdf>

Prior guidance can be viewed at: www.healthcare.gov

News

1/31/13 CMS announced that over 500 organizations will begin participating in the Bundled Payments for Care Improvement (BPCI) Initiative authorized under ACA §3021. The initiative is designed to test how bundling payments for episodes of care can lower costs for Medicare and improve outcomes for beneficiaries. Under the BPCI models,

organizations enter into payment arrangements that include performance and financial accountability for episodes of care. The program aligns payments for services delivered across an episode of care, such as heart bypass or hip replacement, rather than paying for services separately as Medicare currently does. Bundled payments are intended to give doctors and hospitals new incentives to coordinate care, improve the quality of care and save money for Medicare.

The BPCI initiative outlines 4 models of care. Models 1-3 involve a retrospective bundled payment, with a price for a defined episode of care, and Model 4 would be paid prospectively. This announcement includes the selection of 32 awardees in Model 1, who will begin testing bundled payments for acute care hospital stays as early as April 2013. Model 1 includes an episode of care focused on the acute care inpatient hospitalization. Awardees agree to provide a standard discount to Medicare from the usual Part A hospital inpatient payments. None of the Model 1 awardees are located in Massachusetts. The list of [48 clinical episodes](#) that will be tested in the BPCI Initiative was released in November 2012.

Today's announcement also marks the beginning of Phase 1 of Models 2, 3, and 4. In Phase 1 (January-July 2013), over 100 participants partnering with over 400 provider organizations, will receive new data from CMS on care patterns and engage in shared learning to improve patient care. There are 18 participating facilities from Massachusetts in Models 2 and 3.

To see the complete list of participants for Phase 1 of Models 2, 3, and 4 and the awardees for Model 1, visit: <http://innovation.cms.gov/initiatives/Bundled-Payments/Participating-Health-Care-Facilities/index.html>

Read more about the BPCI Initiative at: <http://innovation.cms.gov/initiatives/bundled-payments/>

1/29/13 The Patient-Centered Outcomes Research Institute (PCORI) announced a new opportunity for healthcare stakeholders (which include patients, caregivers, clinicians and researchers) to serve on four PCORI Advisory Panels. The panels will make recommendations to PCORI's Board of Governors, Methodology Committee and staff to help further refine PCORI's [research agenda](#) and assist in identifying research priorities. The panels will cover the following topics: prevention, diagnosis, and treatment options; healthcare systems; disparities and patient engagement. Created under ACA §6301, PCORI is an independent nonprofit organization, tasked with conducting patient-centered outcomes research, that has already begun to award millions of dollars in federal funds for studies.

Each panel will consist of 12-21 members. Members will be selected based on background, experience and ability to contribute to the scope of work of the advisory panel. Applications are due March 3, 2013.

For more information on the advisory panels, including the application process, visit: [here](#). For a list of PCORI Advisory Panel FAQs, visit: [here](#).

Upcoming Events

Integrating Medicare and Medicaid for Dual Eligible Individuals Open Meeting

February 22, 2013

1 PM - 3 PM

State Transportation Building, Conference Rooms 1, 2, and 3

10 Park Plaza

Boston, MA

The purpose of this meeting is to continue discussion of key implementation topics for the Duals Demonstration. We welcome attendance from all stakeholders and members of the public with interest in the Demonstration. Reasonable accommodations will be made for participants who need assistance. Please send your request for accommodations to Donna Kymalainen at: Donna.Kymalainen@state.ma.us.

Bookmark the **Massachusetts National Health Care Reform website** at: [National Health Care Reform](#) to read updates on ACA implementation in Massachusetts.

Remember to check the Mass.Gov website at: [Dual Eligibles](#) for information on the **"Integrating Medicare and Medicaid for Dual Eligible Individuals"** initiative.