



AFFORDABLE CARE ACT MASSACHUSETTS IMPLEMENTATION UPDATE

April 2, 2013

Quick Links

[MA-ACA Website](#)



Join Our
Mailing List

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.

Grants and Demonstrations

The ACA provides funding opportunities to transform how health care is delivered, expand access to care and support healthcare workforce training.

Grant Activity

For information about ACA grants awarded to and grant proposals submitted by the Commonwealth, visit the Grants page of the **Massachusetts National Health Care Reform website** at: [Mass.Gov](#)

Guidance

4/2/13 IRS/Treasury published the proposed regulation, "The \$500,000 Deduction Limitation for Remuneration Provided by Certain Health Insurance Providers" under §162(m)(6) added to the IRS Code by ACA §9014. For taxable years beginning after December 31, 2012, section 162(m)(6) limits the deduction that certain health insurance providers can claim for the compensation of services provided by an individual. In addition, health insurance providers who deferred compensation for services performed in a taxable year after December 31, 2009 but before January 1, 2013 are also subject to the \$500,000 deduction limitation. The IRS/Treasury previously issued a notice on §162(m)(6) which introduced a "de minimis" exception. This exception is given to health insurance providers that received less than 2% of the combined gross revenue from health insurance premiums. The proposed rule provides clarification and addresses comments on the "de minimis" exception that the IRS received in response to the notice.

Comments and requests for a hearing are due July 1, 2013.

Read the IRS notice at: <http://www.irs.gov/pub/irs-drop/n-11-02.pdf>

Read the proposed regulations at: <http://www.gpo.gov/fdsys/pkg/FR-2013-04-02/pdf/2013-07533.pdf>

3/29/13 CMS released Frequently Asked Questions (FAQs) about states purchasing coverage through a Qualified Health Plan (QHP) on behalf of their Medicaid beneficiaries using premium assistance.

The Medicaid statute provides several options for states to pay premiums for adults and children to purchase cost-effective coverage through private group health plans, and in some case individual plans. Similar provisions also apply in the Children's Health Insurance Program (CHIP). Under these arrangements, beneficiaries remain Medicaid beneficiaries and continue to be entitled to all benefits and cost-sharing protections. States must have mechanisms in place to "wrap-around" private coverage that offers fewer benefits than Medicaid and/or charges high cost sharing than is allowable in Medicaid.

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 Small Business Health Options Program (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).

Read the FAQs at: [Medicaid.Gov](http://www.Medicaid.Gov)

3/29/13 CMS released the final rule with request for comments called "Increased Federal Medical Assistance Percentage Changes under the Affordable Care Act of 2010." The final rule implements portions of ACA §2001 that establish increased Federal Medical Assistance Percentage (FMAP) rates and the related conditions and requirements that will be available for state medical assistance expenditures relating to "newly eligible" individuals and certain medical assistance expenditures in states that expand their Medicaid programs beginning January 1, 2014.

The ACA authorizes states to expand Medicaid to adult Americans under age 65 with income of up to 133% FPL and provides states with enhanced federal funding to cover the expenditures. Under the final rule the federal government will pay 100% of the cost of the newly eligible adult Medicaid beneficiaries. The payment rate will be available through 2016, phasing down to a permanent 90% matching rate by 2020. For states that had coverage expansions in effect prior to enactment of the ACA, the rule also provides information about the availability of an increased FMAP for certain adults who are not newly eligible but had been previously eligible for Medicaid coverage through demonstration waivers. The enhanced matching rate for Massachusetts for adults who meet the criteria for "Expansion State FMAP" would be 75%, ramping up to 90% by 2020.

The final rule outlines a threshold methodology for states to claim the appropriate FMAP matching rate for those enrolled in the new adult group. The methodology integrates a modified adjusted gross income (MAGI) income standard that will be effective January 1, 2014. The MAGI standard will apply to both Medicaid and CHIP eligibility for most enrollees, including pregnant women, children, parents and other caretaker relatives, and the newly eligible adult

group (as applicable in a state that chooses to cover the new adult group). MAGI will standardize the income calculation nationally.

Comments are due June 3, 2013.

Read the rule (which was published in the Federal Register on April 2, 2013) at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-04-02/pdf/2013-07599.pdf>

3/29/13 IRS/Treasury published a correction to the proposed rule "Shared Responsibility Payment for Not Maintaining Minimum Essential Coverage" which was published in the Federal Register on February 2, 2013. The corrections make clarifying and technical changes to the proposed rule.

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 annual premium or the annual 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 IRS 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>

On 1/30/13 HHS/CMS also issued a related proposed rule which helps 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 to both citizens and lawfully present immigrants.

The 1/30/13 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 were due March 18, 2013.

Read the HHS 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>

Taken together, 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 two rules at: [CMS.GOV](http://www.cms.gov)

Read the correction published on March 29, 2013 at:

<http://www.gpo.gov/fdsys/pkg/FR-2013-03-29/pdf/C1-2013-02141.pdf>

3/8/13 Department of Labor (DOL) posted the 13th set of FAQs regarding the implementation of various provisions of the ACA. The FAQs have been prepared by the DOL, HHS, and the Treasury. This set of FAQs addresses whether expatriate health plans are subject to the provisions of the ACA.

Under Subtitle A, group health plans and health insurance issuers must provide certain preventive services with no cost sharing requirement (§1001). In Subtitle C of Title I of the ACA, group health plans and health insurance issuers are banned from denying coverage based on pre-existing conditions and limits premium variations due to family size, geography and tobacco use (§1201). According to the FAQs, expatriate health plans (insured group health plans for individuals who reside outside of their home country for at least six months of the plan year and any covered dependent) with plan years that end on or before December 31, 2015 will be offered temporary transition relief to comply with the requirements under Subtitles A and C of the Title I of the ACA.

Read the FAQs at: <http://www.dol.gov/ebsa/faqs/faq-aca13.html>

News

3/15/13 The Medicaid and CHIP Payment and Access Commission (MACPAC) released its fifth *Report to the Congress on Medicaid and CHIP*. In 2013 the Commission has met to explore key issues in the Medicaid and CHIP programs, the interactions between Medicaid, CHIP and the Health Insurance Exchanges under ACA §1311(b), changes in Medicaid benefit design and cost sharing issues.

As required by statute, MACPAC submits reports to Congress annually in March and June which contain recommendations on a wide range of issues affecting Medicaid and CHIP. The Commission's March 2013 report focuses on several congressional priorities including interactions between Medicaid, CHIP, and the ACA's Health Insurance Exchanges as well as issues related to individuals who are dually eligible for Medicaid and Medicare. The report is divided into five chapters and includes a supplement with Medicaid and CHIP program statistics. The report also analyzes issues related to eligibility, coverage and cost-sharing and includes two recommendations related to Medicaid and CHIP eligibility within the context of the implementation of the ACA's major coverage expansion provisions in 2014. 1) In order to ensure that current eligibility options remain available to states in 2014, the Congress should, parallel to the existing Medicaid 12-month continuous eligibility option for children, create a similar statutory option for children enrolled in CHIP and adults enrolled in Medicaid. 2) The Congress should permanently fund current Transitional Medical Assistance (TMA) (required for six months, with state option for 12 months), while allowing states to opt out of TMA if they expand to the new adult group added under the ACA. MACPAC voted to adopt both recommendations.

MACPAC was established by the Children's Health Insurance Program Reauthorization Act and later expanded and funded through ACA §2801 and §10607. The commission consists of experts, government officials, executives and medical professionals. MACPAC is tasked with reviewing state and federal Medicaid and CHIP access and payment policies and making recommendations to Congress, the HHS Secretary, and the states on a wide range of issues affecting Medicaid and CHIP populations, including health care reform.

Read the March report to Congress at: [Docs](#)

Upcoming Events

Integrating Medicare and Medicaid for Dual Eligible Individuals Implementation Council Meeting

April 12, 2013

1:00 PM - 3:00 PM

State Transportation Building, Conference Rooms 1, 2 and 3

10 Park Plaza

Boston, MA

Integrating Medicare and Medicaid for Dual Eligible Individuals Implementation Council Meeting

May 10, 2013

1:00 PM - 3:00 PM

State Transportation Building, Conference Rooms 1, 2 and 3

10 Park Plaza

Boston, MA

The Implementation Council welcomes attendance at its meetings 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.

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.