

January 24, 2014

Proposed Rules on Shared Responsibility Payments Pertaining to Certain Individual and Employer-Sponsored Plans

On January 24, the Internal Revenue Service (IRS) released proposed rules addressing several pieces of the Minimum Essential Coverage (MEC) regulations of the Patient Protection and Affordable Care Act (PPACA). MEC regulations are also known as the “individual mandate” or the “shared responsibility” requirement. The proposed rules address several issues, including:

- Affordability factors within employer-sponsored plans, specifically those with Health Reimbursement Arrangements (HRAs) and wellness program incentives
- Clarification that stand-alone dental and vision plans are not considered MEC
- Confirmation that hardship exemptions are available for individuals who enroll in a Marketplace plan during the initial open enrollment period
- MEC requirements waived for certain government programs

Employer-Sponsored Plans

Should these proposed rules become final, employer contributions to an integrated HRA will be counted toward the employee’s contribution amount for the purposes of the affordability test as long as those dollars are available to pay for premiums. Under PPACA, individuals who do not maintain MEC are not penalized if the coverage available to them is not affordable, which is defined as exceeding 8 percent of their household income.

The regulations also propose that the amount of a wellness program incentive – specifically tied to tobacco use – may be considered in the calculation of the affordability test.

Excepted Benefits are Not MEC

Coverage that consists solely of excepted benefits, e.g. stand-alone dental or vision plans, is not considered MEC. Individuals who have only these plans, and not a qualifying health plan, will be subject to the shared responsibility payment.

Hardship Exemptions for Enrollees of Marketplace Plans

This proposed rule affirms guidance issued on October 28, 2013, from the Centers for Medicare and Medicaid Services (CMS), that individuals who enroll in 2014 health plans through the Marketplaces may claim a hardship exemption during the 2014 tax season, in 2015. This

exemption will alleviate any shared responsibility payment otherwise incurred prior to their coverage effective date.

MEC Requirements Waived for Certain Government Programs

While certain government programs do not meet MEC requirements, it is proposed they be considered as MEC for 2014 to spare their enrollees from having to make shared responsibility payments. These enrollees were likely not aware that the plans did not meet MEC requirements at the time of enrollment and, consequently, should not be liable for paying the shared responsibility payment penalties in 2014. The specific programs include:

- Medicaid coverage for the medically needy (i.e., individuals who are not eligible for Medicaid except for a spend down of income for incurred medical expenses)
- Certain Medicaid demonstration projects for expansion populations
- TRICARE coverage for individuals who access a facility of the uniformed services on a space available basis
- TRICARE coverage for certain individuals not on active duty who are entitled to care based on an injury, illness or disease incurred or aggravated in the line-of-duty

We encourage you to bookmark Cigna's health care reform website, InformedOnReform.com, where we will update information as future guidance and final rules are released.