



## **HHS Proposed Regulations on Eligibility Redeterminations** Summary and concerns about maintaining affordable coverage

On June 26, 2014, HHS released a [proposed rule](#) on eligibility redeterminations for 2015, as well as [guidance](#) on the rules.

This summary reviews the proposed regulations and how they alter the redetermination process. Redeterminations are the processes Marketplaces will use to re-assess a consumer's eligibility for financial assistance, including advanced premium tax credits (APTCs) and cost-sharing reductions (CSRs). In addition, it is also the process consumers will use to report changes to their eligibility information as well as to continue with or switch their enrollment in a qualified health plan (QHP). The redetermination process:

- 1) allows for consumers to continue to be enrolled in their 2014 QHP (if the QHP is still being offered in 2015) without having to re-apply;
- 2) requires consumers to take three crucial steps to continue receiving financial assistance (discussed below); and
- 3) requires insurers to send notices to consumers informing them of the redetermination process and their obligations under it.

The proposed regulations:

- amend the type of data HHS will use to make redeterminations, as well as which consumers HHS will request information from;
- create a protocol for insurers to use to maintain their enrollees' coverage if a 2014 QHP is no longer offered in 2015; and
- allow for two new, alternative redetermination processes.

### **Consumers currently enrolled in a QHP will be enrolled without having to re-apply**

The current redetermination process provides that if a consumer has been enrolled in a QHP for the past year, and the QHP will continue to be offered in 2015, then the consumer will automatically be re-enrolled in the same QHP unless the consumer cancels or switches his or her plan. This rule aims to bring the Marketplace in line with the private insurance market, in which auto-enrollment of consumers is a common practice.

### **Consumers must take three crucial steps to ensure they will continue to receive accurate financial assistance**

Although consumers will continue to be enrolled in their 2014 QHP without having to re-apply or take any action, they **must** take action to continue receiving financial assistance through the Marketplace. To ensure that the amount of financial assistance accurately reflects their level of need, enrollees must:

- 1) contact the Marketplace for an eligibility redetermination;
- 2) authorize the Marketplace to obtain updated tax information from the IRS; **and**
- 3) report any changes in their income to the Marketplace within 30 days of the change taking place.

The proposed guidance to the regulations provides that if enrollees do not request an eligibility redetermination, but authorized the Marketplace to obtain updated IRS information, they *will* continue to receive financial assistance, but at the level they had been receiving in 2014. Under this policy, many consumers will likely receive lower APTCs than they would receive if they provide updated information to the Marketplace to make an eligibility redetermination.

If enrollees do not request an eligibility redetermination and do not authorize the Marketplace to obtain updated information, their financial assistance will terminate on December 31, 2014.

The proposed regulations also provide that Marketplaces can refuse to accept the reporting of income changes by mail, but they must still allow change reporting to take place electronically, by phone, or in person. Medicaid offices, however, are still required to accept change reporting by mail.

### **Marketplaces must provide certain notices to consumers regarding redetermination**

The Marketplaces will now provide enrollees with at least one of three notices which will inform enrollees of how the upcoming redetermination process affects them. The type of notice provided depends on whether the consumer has requested a redetermination, authorized the Marketplace to obtain updated information from the IRS, and to what extent their updated information affects their eligibility. All notices must now provide consumers with: 1) their expected APTC amount; 2) an explanation of the requirement to report changes to the Marketplace; 3) a description of the redetermination process, for consumers who are currently receiving financial assistance; and 4) an explanation that only enrollment in a silver-level plan will result in CSRs, for consumers who desire or are required to select a new plan. HHS released its own [guidance](#) with respect to these notices, including samples of model notices.

### **HHS will only use data from the IRS to make redeterminations and will only request updated tax return information from individuals who are currently enrolled in a QHP and receiving financial assistance**

The earlier regulations stated that HHS would obtain eligibility information from the IRS, the Social Security Administration, and other current income sources, but the new proposed rules state that HHS will *only* obtain eligibility information from the IRS. In addition, HHS will no longer request updated income information from all qualified individuals who requested an eligibility determination. Rather, HHS will only request updated income information from current enrollees who are receiving financial assistance and who have authorized the Marketplace to obtain updated information for the purposes of making a redetermination.

## **If a consumer's 2014 QHP is no longer available in 2015, the Marketplace must help to select a new QHP**

If a consumer's 2014 QHP is no longer offered in the Marketplace in 2015, insurers must use the following order of priority when selecting the consumer's new QHP: 1) the consumer will be enrolled in a plan at the same metal level as the 2014 QHP; 2) if a QHP at the same metal level is unavailable, the consumer will be enrolled in a plan one metal level higher or lower than the current QHP; 3) the consumer will be enrolled in any other Marketplace plan offered in which the consumer is eligible to enroll; and 4) the consumer will be enrolled in a plan offered outside the Marketplace in which the consumer is eligible to enroll and that is most similar to the consumer's current plan.

## **Two new redetermination processes**

Lastly, the proposed regulations allow for two new redetermination processes. One gives HHS the discretion to adapt and tailor eligibility redetermination processes for the federally-facilitated Marketplaces (FFMs) each year. The second allows state-based Marketplaces (SBMs) to propose alternative redetermination processes, which must be approved by HHS. A SBM's alternative process must facilitate continuous enrollment, provide clear information to enrollees on their responsibilities, and adequately protect program integrity.

## **Concerns regarding messaging and affordability**

While auto-enrollment creates a way for consumers to continue to be enrolled in their 2014 QHP without having to re-apply, it presents new challenges for maintaining the affordability of coverage. If consumers are no longer receiving financial assistance, or are receiving assistance that is not reflective of their financial need, consumers may choose to dis-enroll in coverage altogether.

This challenge to affordability is further complicated by unclear messaging, from some media sources, that consumers can "do nothing" and their current coverage will remain the same. Though consumers will continue to be enrolled in their 2014 QHP if it's still available, it is crucial that consumers take action to **report any changes in income, contact the Marketplace to request a redetermination, and authorize the collection of their information from the IRS** so they can continue receiving accurate and comprehensive financial assistance.

**Authored by,  
RACHELLE RUBINOW, PROGRAM AND POLICY ASSOCIATE**