

BENEFIT NEWS BRIEFS

New Proposed Regulations Under Affordable Care Act

The Department of Health and Human Services (HHS) and the IRS issued three new proposed regulations implementing various portions of: (1) the Affordable Insurance Exchanges (“Exchanges”), (2) the health insurance premium tax credit for individuals and families, and (3) increased eligibility under either Medicaid or CHIP under the *Patient Protection and Affordable Care Act* (the *Affordable Care Act*). We will just take brief look at each proposed rule as the rules do not directly impact multiemployer health plans but may be of general interest.

Affordable Insurance Exchanges

According to an HHS Fact Sheet, the Exchanges are designed to provide competitive marketplaces for individuals and small employers. The Exchanges will become operational by January 1, 2014. The specific Exchange functions proposed include:

- eligibility determinations for Exchange participation
- insurance affordability programs
- standards for employer participation in SHOP

Under the Small Business Health Options Program (SHOP) small employers that purchase employer-sponsored health coverage through the SHOP may also qualify to receive a small business tax credit for up to 50% of the employer’s premium contributions toward employee coverage if they have 25 or fewer employees, pay employees an average annual wage of less than \$50,000, offer all full time employees coverage, and pay at least 50% of the premium.

An HHS Fact Sheet on the proposed Exchange functions regulation is available online at: <http://www.healthcare.gov/news/factsheets/exchanges08122011b.html>. The regulation is available at: <http://www.gpo.gov/fdsys/pkg/FR-2011-08-17/pdf/2011-20776.pdf> or by “[clicking here](#).”

Health Insurance Premium Tax Credit

The health insurance premium tax credit is intended to promote broad middle-class health insurance eligibility. The premium tax credit is generally available to

individuals and families with incomes between 100% and 400% of the federal poverty level (\$22,350 – \$89,400 for a family of four in 2011).

Tax credits are available to qualified individuals offered (but not enrolled in) employer-sponsored insurance if: (a) it is “unaffordable” (meaning that the self-only premium exceeds 9.5% of household income); or (b) it does not provide a minimum value (meaning it fails to cover 60% of total allowed costs). The IRS proposed a “safe harbor” of 9.5% of the employee’s wages as a proxy for determining 9.5% of the employee’s “household” income. Requiring an employer to determine 9.5% of an employee’s “household” income would have been an administrative nightmare for employers.

An IRS Fact Sheet on the proposed premium tax credit regulation is available online at: <http://www.treasury.gov/press-center/Documents/36BFactSheet.PDF>. The regulation is available at: <http://www.gpo.gov/fdsys/pkg/FR-2011-08-17/pdf/2011-20728.pdf> or by “[clicking here](#).”

Medicaid and CHIP Eligibility

This proposed regulation expands and simplifies Medicaid eligibility and coordinates Medicaid and CHIP with the new Exchanges. According to the HHS Fact Sheet, today, most low-income adults who are not offered affordable health insurance through their job are not eligible for Medicaid. The *Affordable Care Act* creates a minimum Medicaid income eligibility level across the country. Most adults under age 65 with incomes up to 133% of the federal poverty level (FPL) – \$14,500 for an individual and \$29,700 for a family of four in 2011 – will be eligible for Medicaid. Children will be eligible for either Medicaid or CHIP at higher income levels based on the eligibility standards in their state.

The proposed regulation also implements the policy to provide significant federal funding for states to fill in gaps in coverage for low-income people. The regulation proposes:

- A new Medicaid coverage group that will cover adults with incomes up to \$14,000 in a year.
- New federal matching rates that will provide 100% federal funding for newly eligible individuals for 2014 – 2016, gradually reduced to 90% in 2020 and also proposes the new federal matching rates for states that expanded coverage in Medicaid for adults before enactment of the *Affordable Care Act*.

An HHS Fact Sheet on the expanded Medicaid and CHIP Eligibility is available online at: <http://www.healthcare.gov/news/factsheets/exchanges08122011c.html>. The regulation is available at: <http://www.gpo.gov/fdsys/pkg/FR-2011-08-17/pdf/2011-20756.pdf> or by “[clicking here](#).”

We will continue to report on future implementation activities of the *Affordable Care Act* but will focus on actions which directly affect multiemployer health plans.

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