



AFFORDABLE CARE ACT MASSACHUSETTS IMPLEMENTATION UPDATE

August 04, 2014

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.

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 Announcements

On July 22, 2014 DPH submitted an application for the Lead Poisoning Prevention – Childhood Lead Poisoning Prevention Grant. The grant is authorized under ACA §4002.

Funds are available to states and government organizations to assist in building surveillance capacity to aid in preventing and, ultimately, eliminating childhood lead poisoning. Funded projects may address housing rehabilitation, enforcement of housing and health codes, engagement with health care systems, public and health care provider education campaigns related to lead contamination through other sources, and educational and public health activities.

If granted an award, DPH plans to use the funding to maintain and enhance their extensive childhood lead poisoning prevention program. This program includes comprehensive case management teams consisting of a nurse case manager, environmental health inspectors and community health workers.

To learn more about the DPH Childhood Lead Poisoning Prevention Program, visit: MASS.GOV

Read the project abstract at: www.mass.gov/eohhs/docs/eohhs/healthcare-reform/grants/140722-sec-4002-childhood-lead-poisoning-prev.pdf

On July 22, 2014 DPH submitted an application for State and Local Public Health Actions to Prevent Obesity, Diabetes, Heart Disease and Stroke financed solely by Prevention and Public Health Funds. The grant is authorized under ACA §4002.

Funds are available to local governments to support implementation of population-wide and priority population approaches to prevent obesity, diabetes, heart disease and stroke and reduce health disparities in these areas among adults.

If granted an award, DPH plans to use the funding to support implementation of population-wide and primary population approaches to prevent obesity, diabetes and heart disease and stroke and reduce health disparities among adults. The plan strategically targets the unequal burden of chronic disease borne by the state's most vulnerable residents and communities.

Read the project abstract at: www.mass.gov/eohhs/docs/eohhs/healthcare-reform/grants/140722-sec-4002-obesity-diabetes-heart-disease.pdf

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: www.mass.gov/eohhs/gov/commissions-and-initiatives/healthcare-reform/national-health-care-reform-plan/grants-and-demonstrations.html

Guidance

7/24/14 IRS/Treasury issued the draft forms that employers will use to report the health insurance coverage that they offer to their employees. According to the IRS, draft instructions relating to the forms will be available in August, 2014 and the forms and instructions will be finalized later this year.

In March, 2014 IRS/Treasury issued [final regulations](#) called "Information Reporting by Applicable Large Employers: Health Insurance Coverage Offered Under Employer-Sponsored Plans." The final regulations update the [proposed regulations](#) (which were published in the Federal Register on September 9, 2013). The rule implements Section 6056 of the Internal Revenue Code (Code) as enacted by ACA §1514(a), regarding reporting of employer health coverage.

The final rule provides guidance to employers on their compliance with the Employer Shared Responsibility provisions under Section 4980H (which was added to the IRS Code by ACA §1513). Specifically, the final rule includes direction to "applicable large employers" on their annual reporting requirements under §1514. Such employers are required to report to the IRS information about the health care coverage, if any, they offered to full-time employees, in order to administer the Employer Shared Responsibility provisions under §1513. In addition, such employers are also required to provide statements to employees so that employees may determine whether they are eligible for premium tax credits. According to the Treasury, the regulations provide for a general reporting method and alternative reporting methods designed to simplify and reduce the cost of reporting for impacted employers.

On July 9, 2013 IRS/Treasury issued [Notice 2013-45](#), which formalized transition relief from the Employer Shared Responsibility provisions for 2014 as announced by the agencies at the beginning of July 2014. According to IRS/Treasury, the notice provides employers transition relief for 2014 from: 1) the annual information reporting requirements applicable to insurers, self-insuring employers and certain other providers of minimum essential coverage under (ACA §1502), 2) the annual information reporting requirements applicable to large employers relating to the health insurance that the employer offers (or does not offer) to

its full-time employees (§1514), and 3) the employer shared responsibility provisions (§1513). The guidance also notes that the employer mandate requiring certain employers to offer their employees a minimum level of health insurance or to pay a penalty will be delayed by one year.

According to the Administration, the additional year will 1) provide federal agencies with time to work with stakeholders to simplify the employer reporting requirements about employee access to and enrollment in health insurance and 2) provide employers with transition time to test reporting systems and make any needed changes to their offered health benefits before payments are collected in 2014 from impacted employers that do not offer a minimal level of health insurance to their employees.

The guidance confirms that employees who do not have access to affordable coverage through their employer next year will be able to shop on the Exchange for health coverage and receive subsidies if they are eligible based on their income. According to the Treasury, the agency will publish regulations on what employers must report on the coverage status of employees later this summer. In preparation for this employer responsibility requirement, once the information reporting rules have been issued, employers and other reporting entities that don't currently offer health insurance are encouraged to voluntarily cover employees and report relevant income and health insurance data.

The ACA establishes that certain employers must offer health coverage to their full-time employees or a shared responsibility payment may apply. For 2015 and after, "applicable large employers," those employers employing at least a certain number of employees (employers with 50 or more full-time employees*) must offer affordable health coverage that provides a minimum level of coverage (§1501) to their full-time employees (and their dependents), or the employer may be subject to an employer shared responsibility payment if at least one of its full-time employees receives a premium tax credit (§1401, §1411) for purchasing individual coverage on one of the Affordable Insurance Exchanges (Marketplaces).

*Under the ACA, 50 full-time employees or a combination of full-time and part-time employees is equivalent to 50 full-time employees. A full-time employee is an individual employed on average at least 30 hours of service per week. An employer that meets the 50 full-time employee threshold is referred to as an applicable large employer.

For information on submitting comments, visit: www.irs.gov/uac/Comment-on-Tax-Forms-and-Publications

Access the draft form at: www.irs.gov/pub/irs-dft/f1094c--dft.pdf

7/24/14 IRS/Treasury issued the draft forms that insurers will use to report on health coverage that they provide for individuals that they cover. According to the IRS, draft instructions relating to the forms will be available in August, 2014 and the forms and instructions will be finalized later this year.

On March 5, 2014, the Department of the Treasury and IRS issued [final regulations](#) called "Information Reporting of Minimum Essential Coverage." The final regulations update the [proposed regulations](#) (which were published in the Federal Register on September 9, 2013) and implement ACA §1502, reporting of health insurance coverage.

The final regulations provide guidance to providers of minimum essential coverage (MEC, ACA §1501) that are subject to the annual information reporting requirements of section 6055 of the Internal Revenue Code (Code), as enacted by ACA §1514(a). Health insurance issuers, certain employers, governments and others that provide MEC to individuals must report to the IRS information about the type and period of coverage and furnish the information in statements to insured individuals.

Additionally, on July 9, 2013, the Department of the Treasury and the IRS issued [Notice 2013-45](#) announcing transition relief for 2014 from the annual information reporting under the Employer Shared Responsibility provisions for 2014 as announced by the agencies at the beginning of July 2014.

For information on submitting comments, visit: www.irs.gov/uac/Comment-on-Tax-Forms-and-Publications

Access the draft form at: www.irs.gov/pub/irs-dft/f1095a--dft.pdf

7/24/14 IRS/Treasury issued final and temporary (proposed) regulations called “Branded Prescription Drug Fee.” The regulations describe the rules related to the fee, including how it is computed and how it is paid. The rules withdraw existing temporary regulations and contain new temporary regulations.

Under ACA §9008, the IRS imposes an annual fee on entities engaged in manufacturing or importing branded prescription drugs. Under the requirement, a non-deductible annual flat fee of \$3 billion is imposed on the pharmaceutical manufacturing sector for both 2014 and 2015. In general, the fee is allocated across the industry according to market share and is not applied to companies with sales of branded pharmaceuticals of \$5 million or less.

For additional information on the fee, visit the IRS at: www.irs.gov/Businesses/Corporations/Annual-Fee-on-Branded-Prescription-Drug-Manufacturers-and-Importers

Comments are due on the proposed rule October 27, 2014.

Read the proposed rule (which was published in the Federal Register on July 28, 2014) at: www.gpo.gov/fdsys/pkg/FR-2014-07-28/pdf/2014-17698.pdf

Read the final rule (which was published in the Federal Register on July 28, 2014) at: www.gpo.gov/fdsys/pkg/FR-2014-07-28/pdf/2014-17697.pdf

7/24/14 IRS/Treasury issued Notice 2014-42, which provides additional guidance on the branded prescription drug fee for the 2015 fee year and subsequent fee years.

This notice provides guidance on the branded prescription drug fee for the 2015 fee year related to various reporting requirements such as the time and manner for notifying covered entities of their preliminary fee calculation, the time and manner for submitting error reports for the dispute resolution process, and the time for notifying covered entities of their final fee calculation.

Read Notice 2014-42 at: www.irs.gov/pub/irs-drop/n-14-42.pdf

7/24/14 IRS/Treasury issued final and temporary (proposed) regulations called “Rules Regarding the Health Insurance Premium Tax Credit.” The regulations provide additional guidance on the premium tax credit and provide relief for certain victims of domestic abuse or spousal abandonment from the requirement to file jointly in order to claim the premium tax credit. The regulations also provide special allocation rules for reconciling advance credit payments, address the indexing in future years of certain amounts used to determine eligibility for the credit and compute the credit, and provide rules for the coordination between the credit and the deduction for health insurance costs of self-employed individuals. The rules withdraw existing temporary regulations and contain new temporary regulations.

Beginning October 1, 2013, qualified individuals and qualified employees could purchase private health insurance coverage through competitive marketplaces called Affordable Insurance Exchanges (also called Health Insurance Marketplaces). 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.

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). A QHP must have a certification by each Exchange in which it is sold. ACA §1311 and subsequent regulations provide that, in order to be certified as a QHP and operate in the Exchanges that will be operational in 2014, a health plan must be accredited on the basis of local performance by an accrediting entity recognized by HHS.

The premium tax credit is designed to make purchasing a health plan on the Exchange affordable for low and moderate income Americans by reducing a taxpayer's out-of-pocket premium cost. To be eligible to receive the premium tax credit, individuals and families must have incomes between 100%- 400 % FPL (or between

0% - 400% FPL if lawfully present and ineligible for Medicaid) and be enrolled in a qualified health plan (QHP) through an exchange. The individual must also be ineligible for government sponsored insurance and not have access to employer sponsored insurance that meets definitions of affordability and minimum essential coverage as established by ACA §1401. Advance payments are made monthly under ACA §1412 to the issuer of the QHP in which the individual enrolls. ACA §1402 provides for the reduction of cost sharing for certain individuals enrolled in QHPs offered through the Exchanges and §1412 provides for the advance payment of these reductions to issuers.

For additional information on the tax credit, visit the IRS at: www.irs.gov/uac/The-Premium-Tax-Credit

Comments are due on the proposed rule October 27, 2014.

Read the proposed rule (which was published in the Federal Register on July 28, 2014) at: www.gpo.gov/fdsys/pkg/FR-2014-07-28/pdf/2014-17698.pdf

Read the final rule (which was published in the Federal Register on July 28, 2014) at: www.gpo.gov/fdsys/pkg/FR-2014-07-28/pdf/2014-17695.pdf

7/24/14 IRS/Treasury issued Revenue Procedure 2014-46, which provides the 2014 monthly national average premium for qualified health plans (QHPs) that have a bronze level of coverage for taxpayers to use in determining their maximum individual shared responsibility payment under the ACA. The revenue procedure also includes an explanation of the methodology used to determine the monthly national average premium amount.

Beginning earlier this year, the [individual shared responsibility provision](#) requires each nonexempt individual to have basic health insurance coverage known as MEC, qualify for an exemption, or make a shared responsibility payment when filing their 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 ACA's individual shared responsibility provision states that coverage under certain government-sponsored programs does not constitute the required [minimum essential coverage](#), or MEC, (ACA §1501). For example, the IRS stipulates that certain limited-benefit Medicaid and TRICARE health care coverage is not MEC.

Read Revenue Procedure 2014-46 at: www.irs.gov/pub/irs-drop/rp-14-46.pdf

7/24/14 IRS/Treasury issued Revenue Procedure 2014-37, which provides the methodology used to calculate an individual's premium tax credit amount for taxable years beginning after calendar year 2014. It also provides the methodology to determine whether an individual is eligible for affordable employer-sponsored minimum essential coverage under the ACA for plan years beginning after calendar year 2014. Additionally, the notice includes the required contribution percentage used to determine whether an individual is eligible for an exemption from the individual shared responsibility payment because of a lack of affordable [minimum essential coverage](#), or MEC, (ACA §1501) for plan years beginning after calendar year 2014.

Read Revenue Procedure 2014-37 at: www.irs.gov/pub/irs-drop/rp-14-37.pdf

7/24/14 IRS/Treasury issued Revenue Procedure 2014-41, which provides the calculation methods a taxpayer would use to determine the tax deduction and the premium tax credit for health insurance costs of certain self-employed individuals under the ACA. The guidance provides examples demonstrating the calculations.

Read Revenue Procedure 2014-41 at: www.irs.gov/pub/irs-drop/rp-14-41.pdf

7/25/14 HHS/CMS issued a notice under the Paperwork Reduction Act of 1995 (PRA) seeking comments on the revision of a previously approved information collection activity related to ACA Exchange Functions, specifically Standards for Navigators and Non-Navigator Assistance Personnel.

Under the ACA, enrollment assistance can be provided by Navigators, in-person assistance personnel, or certified application counselors. In addition, agents and brokers can also help consumers enroll in new insurance options.

Pursuant to ACA §1311 as described above, HHS [regulations](#) require Navigators, as well as those non-Navigator personnel (also known as in-person assistance personnel), to inform consumers of the functions and responsibilities of Navigators and non-Navigator assistance personnel and obtain authorization for the disclosure of consumer information to the Navigator or non-Navigator assistance personnel prior to obtaining the consumer's personally identifiable information. Under the ACA, navigators and non-Navigator assistance personnel are also required to maintain a record of the authorization provided in a form and manner as determined by the Exchange.

Additional information about the various consumer assistance personnel can be found at: www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/AssistanceRoles_06-10-14-508.pdf

Comments are due August 25, 2014.

Read the notice at: www.gpo.gov/fdsys/pkg/FR-2014-07-25/pdf/2014-17555.pdf (see item #2)

Prior guidance can be found at: www.hhs.gov/healthcare/index.html

News

7/24/2014 HHS announced that consumers have saved a total of \$9 billion on their health insurance premiums since 2011 as a result of the implementation of the medical loss ratio (MLR) requirements under ACA §10101. According to an HHS report on 2013 refunds, rebates averaged \$80 for each eligible family nationwide. Since 2013, 208,751 Massachusetts consumers received an average rebate per family of \$133.

The ACA's MLR rules establish the minimum dollar percentage that health insurance companies must spend of consumers' health insurance premiums on medical care, not on income, overhead or marketing. The ACA requires insurance companies in the individual and small group markets to spend at least 80% of collected premium dollars on medical care and quality improvement activities; insurance companies in the large group market are required to spend at least 85%. Insurance companies must report their MLR data to HHS on an annual basis so that residents of every state will have information on the value of the health plans offered by insurance companies in their state. Under the MLR rules, insurance companies that do not meet the MLR standard are required to provide rebates to their consumers.

Consumers owed a 2014 rebate will receive the rebate no later than June 30, 2015 in one of the following ways: a rebate check in the mail; a lump-sum reimbursement to the same account that they used to pay the premium if by credit card or debit card; a reduction in their future premiums; or their employer providing one of the above, or applying the rebate in a manner that benefits its employees.

For a detailed breakdown of these rebates by State and by market, visit: CMS.GOV

To learn more about this announcement, visit: HHS.GOV

Upcoming Events

Integrating Medicare and Medicaid for Dual Eligible Individuals (also known as One Care) Open Meeting

Friday, August 22, 2014

1:00 PM – 3:00 PM

State Transportation Building, 10 Park Plaza, Boston

We welcome attendance from all stakeholders and members of the public with an interest in One Care. 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.

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