



AFFORDABLE CARE ACT MASSACHUSETTS IMPLEMENTATION UPDATE

December 21, 2015

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

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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

12/16/15 IRS/Treasury issued Notice 2015-87, which provides further guidance on the application of various provisions of the ACA to employer-provided health coverage. The notice provides guidance on the application of the market reforms that apply to group health plans under the ACA to various types of employer health care arrangements.

Specifically, the notice provides guidance on: (1) certain aspects of the employer shared responsibility provisions, including clarifying the identification of employee contributions when employers offer health reimbursement arrangements, flex credits or opt-out payments; (2) the application of the adjusted 9.5% affordability threshold under the Premium Tax Credit rules to the employer shared responsibility safe harbor provisions; (3) the employer status of certain entities for employer shared responsibility purposes; (4) certain aspects of the application of the employer shared responsibility rules to government entities; (5) the information reporting provisions for applicable large employers; (6) the application of the rules for health savings accounts to persons eligible for benefits administered by the Department of Veterans Affairs; and (7) the application of the [COBRA continuation coverage](#)

[rules](#) to unused amounts in a health flexible spending arrangement carried over and available in later years, and conditions that may be put on the use of carryover amounts.

The Employer Shared Responsibility provisions under Section 4980H (which was added to the IRS Code by ACA §1513) state that "applicable large 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.

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.

Comments are due February 18, 2016.

Read the notice at: www.irs.gov/pub/irs-drop/n-15-87.pdf

12/16/15 IRS/Treasury issued a final rule called "Minimum Value of Eligible Employer-Sponsored Plans and Other Rules Regarding the Health Insurance Premium Tax Credit."

The final regulations provide guidance on the rules regarding the health insurance premium tax credit (ACA §1401, §1411) and affect individuals who enroll in qualified health plans (QHPs) through Affordable Insurance Exchanges (or Marketplaces) and claim the health insurance premium tax credit, and Exchanges that make QHPs available to individuals and employers. The final regulations also provide guidance on the definition of Modified Adjusted Gross Income (known as [MAGI](#)); rating areas for purposes of determining benchmark plans used in determining applicable credits; the effect of eligibility for COBRA continuation coverage on premium tax credit eligibility; coverage months for newborns and new adoptees; proration of monthly premiums for individuals enrolled for less than a month; and determining the benchmark plan for family members living at different addresses.

The final regulations also provide guidance on determining whether health coverage under an eligible employer-sponsored plan provides [minimum value \(MV\)](#) and affect employers that offer health coverage and their employees. The final regulations withdrew and re-proposed some of the rules relating to minimum value (MV) of eligible employer-sponsored plans and reserved other proposed rules relating to minimum value of eligible employer-sponsored plans. The re-proposed and reserved rules will be finalized separately.

Beginning in 2014, eligible individuals who enrolled in, or whose family member enrolled in, coverage under a QHP through an Exchange may receive a premium tax credit under section 36B of the IRS Code. Under section 36B, an eligible employer-sponsored plan provides MV only if the plan's share of the total allowed costs of benefits provided under the plan is at least 60%. ACA §1302 provides that, in determining the percentage of the total allowed costs of benefits provided under a group health plan, the [regulations](#) promulgated by HHS under section 1302(d)(2), dealing with actuarial value, apply.

Read the final rule (which was published in the Federal Register on December 18, 2015) at: www.gpo.gov/fdsys/pkg/FR-2015-12-18/pdf/2015-31866.pdf

12/14/15 HHS/CMS issued a notice under the Paperwork Reduction Act of 1995 (PRA) seeking

comments on a new information collection activity related to the Small Business Health Options Program (SHOP) Effective Date and Termination Notice Requirements.

For plan years beginning on or after January 1, 2016, CMS is requiring that the SHOP must ensure that a qualified health plan (QHP) issuer notify qualified employees, enrollees, and new enrollees in a QHP through the SHOP of the effective date of coverage.

As required by the [HHS Notice of Benefit and Payment Parameter for 2016](#) (which was published in the Federal Register on February 27, 2015), if any enrollee's coverage through the SHOP is terminated due to non-payment of premiums or a loss of the enrollee's or employer group's eligibility to participate in the SHOP, the SHOP must notify the enrollee or the qualified employer of the termination of such coverage. In the termination of coverage notice the SHOP must include the termination date and reason for termination to the enrollee or qualified employer.

According to the agency, in order to aid in understanding levels of awareness and customer services needs associated with the SHOP associated with the Exchanges established by the ACA, CMS will engage in collecting primary qualitative and quantitative research from Exchange target audiences. These surveys are part of a broader data collection effort designed to support the program goal to improve customer satisfaction for people and small businesses that are eligible for coverage through the SHOP. CMS has designed three surveys to target different audiences, specifically agents and brokers, employers, and employees.

Comments are due January 13, 2016.

Read the notice at: www.gpo.gov/fdsys/pkg/FR-2015-12-14/pdf/2015-31398.pdf

12/11/15 HHS/Treasury issued sub-regulatory guidance for states interested in seeking a State Innovation Waiver under ACA §1332. The Departments issued [regulations](#) (published in the Federal Register on February 27, 2012) that set forth the process for states to submit State Innovation Waiver applications and describe what an application from a state must contain.

ACA §1332 provides the HHS Secretary and the Secretary of the Treasury with the discretion to approve a state's proposal to waive specific provisions of the ACA, provided the proposal meets certain requirements. In particular, the Secretaries can only exercise their discretion to approve a waiver if they find that the waiver would provide coverage to a comparable number of residents of the state as would be provided coverage absent the waiver, would provide coverage that is at least as comprehensive and affordable as would be provided absent the waiver, and would not increase the federal deficit. If the waiver is approved, the state may receive funding equal to the amount of forgone federal financial assistance that would have been provided to its residents pursuant to specified ACA programs, known as pass-through funding. State Innovation Waivers are available for effective dates beginning on or after January 1, 2017 and may be approved for periods up to 5 years and can be renewed.

The guidance document provides additional information for states about the requirements that must be met, the Secretaries' application review procedures, the amount of pass-through funding, certain analytical requirements, and operational considerations.

Comments may be submitted at any time.

Read the guidance (which was published in the Federal Register on December 16, 2015) at: www.gpo.gov/fdsys/pkg/FR-2015-12-16/pdf/2015-31563.pdf

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

News

12/15/15 The U.S. Preventive Services Task Force (USPSTF) issued a draft recommendation statement on screening for syphilis infection in nonpregnant adults and adolescents. The Task Force strongly recommends screening individuals at increased risk for syphilis infection. As a result, the USPSTF assigned an "A" grade to the recommendation. People at the highest risk for syphilis infection are men who have sex with men and people living with HIV. Other factors associated with increased rates of syphilis infection, which clinicians may also consider in deciding which patient populations to screen, include age, race, and local rates of syphilis infection.

Syphilis is an infectious disease that can be transmitted sexually between partners. The infection may initially present as a sore on the skin, and without treatment, can progress to a more severe disease. Late-stage disease may cause inflammation of the heart, skin, or other organs. Syphilis can also affect the nervous system at any stage of infection and can cause a loss of coordination or dementia.

According to the Task Force, syphilis rates in the United States have been steadily increasing over the past decade. However, accurate tests are available for screening and effective therapies exist that can cure syphilis, prevent further complications, and prevent the spread of infection. The USPSTF further emphasized that everyone can reduce their risk for syphilis infection by consistently using latex condoms, limiting sexual activity to a mutually monogamous relationship, or by abstaining from sex.

The USPSTF is an independent panel of non-federal government experts that conduct reviews of scientific evidence of preventive health care services. The USPSTF then develops and publishes recommendations for primary care clinicians and health systems in the form of recommendation statements. As part of their recommendations process, the USPSTF will assign definitions to the services they review based on the certainty that a patient will receive a substantial benefit from receiving the benefit. Services that are graded "A" and "B" are highly recommended and the USPSTF believes there is a high certainty that patient will receive a substantial or moderate benefit.

Under ACA §1001, all of the recommended services receiving grades of "A" or "B" must be provided without cost-sharing when delivered by an in-network health insurance provider in the plan years (or, in the individual market, policy years) that began on or after September 23, 2010. If the recommendation on screening for syphilis infection is finalized, then such screening for high-risk adults will be required to be provided by health plans without cost sharing.

Learn more about preventive services covered under the ACA at: HHS.Gov

Learn more about the USPSTF at: www.uspreventiveservicestaskforce.org

Comments are due January 18, 2016 and can be submitted at: www.uspreventiveservicestaskforce.org/Comment/Collect/Index/draft-recommendation-statement146/syphilis-infection-in-nonpregnant-adults-and-adolescents

Read the draft recommendation statement at: www.uspreventiveservicestaskforce.org/Page/Document/draft-recommendation-statement146/syphilis-infection-in-nonpregnant-adults-and-adolescents

12/10/15 The Patient-Centered Outcomes Research Institute (PCORI) announced more than \$2.15 million in awards for seven grant awards through the Eugene Washington PCORI Engagement Program.

The Eugene Washington PCORI Engagement Awards encourage the active integration of patients, caregivers, clinicians, and other healthcare stakeholders who are part of the medical research process. The program provides a platform to expand the role of these stakeholders in research and to support PCORI engagement strategies that include developing a skilled community of patients and other stakeholders.

The five awards will be used for studies conducted at the Phelan-McDermid Syndrome Foundation in Florida, the Hydrocephalus Association in Florida, the Regents of the University of Michigan in Michigan, New York University in New York and the Asthma and Allergy Foundation of America in Maryland.

Created under ACA §6301, PCORI is an independent nonprofit organization, tasked with conducting patient-centered outcomes and studies.

To learn more about these awards, visit: PCORI.ORG

The deadline to submit required Letters of Inquiry for the next round of funding under this opportunity is February 1, 2016.

Learn more about the application process at: PCORI.ORG

Upcoming Events

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

Friday January 15, 2016
1:00 PM - 3:00 PM
1 Ashburton Place, 21st Floor
Boston, MA 02108

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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