Washington State Health Care Authority Comments on Internal Revenue Service Proposed Rules: *Health Insurance Premium Tax Credit*

The Washington State Health Care Authority (HCA) is pleased to submit comments to the U.S. Department of the Treasury's Internal Revenue Service (IRS) on the proposed rules for health insurance premium tax credits. The HCA is currently responsible for developing the Washington State Health Benefit Exchange. The responsibility for the exchange is passed to the Washington State Exchange Board on March 15, 2012.

These proposed rules help clarify the policy issues behind calculating advanced premium tax credits. The tax credits will help lower income families purchase affordable health insurance plans through the Exchange.

General comments

The calculation of the premium tax credit is very complicated and difficult to understand. Since the details of the calculation are specified in the ACA, the rules cannot simplify the tax credit so as to make it is easier to comprehend. To increase accuracy, the tax credit will be calculated by a computer system. Computers, unfortunately, make the calculation invisible, and add to the lack of understanding. To help applicants and enrollees understand how their premium tax credits and enrollee premium contributions are calculated, the Exchange (and Navigators) will need to plan on performing extensive customer service.

Reconciliation

If additional taxes are owed because individuals or families have received a bigger tax credit than their income allows, the IRS needs to be responsible for communicating and collecting the extra money. Premium tax credit reconciliation should be avoided as much as possible, but if it does need to happen, it needs to be left solely to the IRS; the Exchange should not have that responsibility. The IRS should also be responsible for alerting the Exchange to those who will be going through the reconciliation process, particularly to address inquiries the Exchange may receive. The reconciliation process, even managed by the IRS, could prove to be a significant public perception problem for the Exchange.

The regulations need to provide a responsible repayment schedule for a family that owes additional taxes. In developing a repayment schedule, the IRS should keep in mind that the same family could receive a tax refund in the next year. Swings between additional tax payments one year and refunds the next might be smoothed by a reasonable repayment schedule that could help a low-income family retain enrollment through the Exchange.

Explanation of Provisions

1. Eligibility for the Premium Tax Credit

ii. Employer-Sponsored Coverage

C. Employee affordability safe harbor

The HCA supports how the proposed regulations establish a safe harbor for Exchange enrollees offered unaffordable employer-sponsored coverage at the time of enrollment in a qualified health plan. The HCA concurs that the employer-sponsored plan should be treated as unaffordable for the entire plan year and that an enrollee will not lose eligibility for premium tax credits even if the plan becomes affordable throughout that plan year.

D. Affordability safe harbor for employers

An employer needs to base the determination of minimum value and affordable benefits upon an employee's current *wages* because an employer cannot be expected to know or request an employee's family *income*. The HCA has used wages in place of income to determine employer eligibility for our Health Insurance Partnership, a program that provides subsidized coverage for low-income employees of small businesses.

E. Minimum value

The HCA also believes that these proposed regulations should attempt to preserve employer-sponsored coverage by providing an appropriate transition period to implement the minimum value requirement for large employers currently offering health care coverage. A transition period also serves to recognize the economic climate under which national health reform is being implemented. HHS and the IRS, however, will need to present persuasive reasons for extending the transition period beyond the three-year implementation period for phasing-in the penalties associated with the individual mandate.

2. Computing the Premium Tax Credit

b. Applicable benchmark plan

ii. Families Who Purchase More Than One Qualified Health Plan

The proposed rules discuss how to select a benchmark plan when family members reside in different service (rating) areas. Different options for selecting the applicable benchmark plan include designating a plan for the whole family and combining plans to form a modified benchmark plan. The HCA recommends that the proposed rules allow families and Exchanges to use simple options when a benchmark plan must be selected for unusual family circumstances. If inequities result from a reliance on simple options, then more complicated modifications could be considered.

The HCA is available and looks forward to responding to any questions about these comments. You may contact Ms. Molly Voris at 360.923.2740 or molly.voris@hca.wa.gov.