

## Part III Administrative, Procedural and Miscellaneous

### Eligibility for Minimum Essential Coverage Under Pregnancy-Based Medicaid and CHIP Programs

Notice 2014-71

#### PURPOSE

This notice provides guidance on eligibility for minimum essential coverage for purposes of the premium tax credit under § 36B of the Internal Revenue Code for pregnancy-related Medicaid and Children's Health Insurance Program (CHIP) programs.

#### BACKGROUND

Beginning in 2014, eligible individuals covered under a qualified health plan through a Health Insurance Marketplace, also called an Exchange, are allowed a premium tax credit under § 36B. Under § 36B and § 1.36B-2 of the Income Tax Regulations, in general, coverage of an individual (who may be the taxpayer claiming the premium tax credit or a member of the taxpayer's family) may be subsidized by the premium tax credit only for months the individual is enrolled in a qualified health plan through an Exchange and is not eligible for other minimum essential coverage.

In general, an individual is treated as eligible for minimum essential coverage under a government sponsored-program if the individual meets the eligibility criteria for coverage under the program. However, the Commissioner may define eligibility for

minimum essential coverage under specific government-sponsored programs in additional published guidance. Section 1.36B-2(c)(2)(i).

Section 5000A(f)(1)(A) provides that minimum essential coverage includes coverage under the Medicaid program under title XIX of the Social Security Act and CHIP under title XXI of the Social Security Act. An individual who becomes pregnant may become eligible for Medicaid or CHIP coverage solely because of that condition. Because Medicaid coverage based on pregnancy under § 1092(a)(10)(A)(i)(VI) and (a)(10)(A)(ii)(IX) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI)) may provide limited benefits, § 1.5000A-2(b)(1)(ii)(C) provides that it is not minimum essential coverage within the meaning of § 5000A(f)(1)(A). Under § 5000A(f)(1)(E), the Secretary of Health and Human Services (HHS), in coordination with the Secretary of the Treasury, may designate health benefits coverage not specified in § 5000A(f) as minimum essential coverage. HHS has designated pregnancy-based Medicaid coverage as minimum essential coverage in states that provide full Medicaid benefits under that program. See Center for Medicaid and CHIP Services letter to state health officials (SHO #14-002), November 7, 2014.

Under § 2112 of the Social Security Act (42 U.S.C. 1397II), states may expand coverage under their CHIP programs to targeted low-income pregnant women. Pregnancy-related CHIP coverage provides full CHIP benefits and is minimum essential coverage.

Medicaid or CHIP coverage as a result of pregnancy applies only for the duration of the pregnancy plus a period of up to 90 days afterwards. Without a special rule, an individual enrolled in a qualified health plan before the pregnancy would lose eligibility

for the premium tax credit subsidy for the coverage as a result of the pregnancy. If, after the birth, the individual is not eligible for Medicaid or CHIP coverage on another basis, she would be required to re-enroll in a qualified health plan to maintain coverage. (The loss of Medicaid or CHIP coverage generally makes an individual eligible for a special enrollment period for a qualified health plan.) The special rule announced in this notice provides continuity of care to these individuals.

#### GUIDANCE

An individual enrolled in a qualified health plan who becomes eligible for Medicaid coverage for pregnancy-related services that is minimum essential coverage, or for CHIP coverage based on pregnancy, is treated as eligible for minimum essential coverage under the Medicaid or CHIP coverage for purposes of the premium tax credit only if the individual enrolls in the coverage.

#### EFFECTIVE DATE

This notice is effective on November 7, 2014.

#### DRAFTING INFORMATION

The principal author of this notice is Arvind Ravichandran of the Office of the Associate Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Mr. Ravichandran at (202) 317-4718 (not a toll-free call).