

**TO:** Connect for Health Colorado Board Members

**FROM:** Connect for Health Colorado Staff

**DATE:** September 06, 2013

**RE:** **Federal Regulations Update**

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At the end of August, the Centers for Medicaid and Medicare Services (CMS) and the Internal Revenue Service (IRS) released proposed and final regulations on:

- Program integrity and Marketplace appeals,
- The shared responsibility payment (also known as the individual mandate penalty),
- The small business tax credit, and
- Same-sex marriage tax filing.

This memorandum provides highlights from each federal regulation.

#### Program integrity and exchange appeals

CMS released final regulations on program integrity of marketplaces, including financial and oversight standards. The rule also finalized Marketplace eligibility appeals processes introduced in a proposed regulation in January 2013. Key highlights include:

- Health plans in the individual market must accept, at a minimum, paper checks, cashier's checks, money orders, electronic funds transfers, and all general purpose pre-paid debit cards as options for customers making monthly premium payments. Issuers must present all payment method options equally to consumers.
- If an incomplete application is submitted (i.e. it does not include sufficient information to conduct an eligibility determination for enrollment), Marketplaces have the flexibility to handle these applications consistent with the current process used in Medicaid and CHP+. The Marketplace must provide the applicant no less than 10 days and no more than 90 days from the date the incomplete application notice is sent to allow a customer to provide the necessary information to complete their determination.
- Small business employers and employees will have the opportunity to appeal determinations of eligibility to participate in the Small Business Marketplace or the failure of the Marketplace to make an eligibility determination in a timely manner. This requirement is consistent with the proposed regulations.
- Applicants or enrollees have the right to appeal an eligibility determination, including initial eligibility determinations and redeterminations, as well as the amount of advance premium tax credit payments and cost-sharing reductions. This requirement is consistent with the proposed regulations.
- Future guidance will be released regarding appeals to eligibility determinations for an

individual shared responsibility exemption.

For more information visit <http://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/pi-final-8-28-2013.html>

#### The shared responsibility payment

The IRS released a final rule on the requirement to maintain minimum essential coverage also known as the individual mandate. This rule is a companion rule to the Department of Health and Human Services (HHS) final rule released earlier this year. The regulation addresses taxpayer liability under the individual mandate, which requires that non-exempt individuals enroll in minimum essential coverage for each month beginning after December 31, 2013, or pay a penalty. Individuals will be assessed potential penalties when they file taxes in early 2015 for the 2014 tax year.

For more information visit <http://www.treasury.gov/press-center/press-releases/Pages/jl2152.aspx>

#### The small business tax credit

The IRS issued a proposed rule on the Affordable Care Act's (ACA) small-business tax credit. The tax credit is available to businesses with 25 or fewer full-time employees purchasing health care coverage through a Small Business Marketplace. In 2014, to receive the tax, an employer must purchase coverage through the Small Business Marketplace. In addition, the small business tax credit is now limited to two consecutive years. Transition relief is available to employers with a taxable year that does not match the plan year – allowing eligible employers to receive a full year's tax credit. Stand-alone dental plans are considered qualified health plans and eligible for the tax credit.

For more information visit [http://www.irs.gov/uac/Small-Business-Health-Care-Tax-Credit-for-Small-Employers?utm\\_medium=email&utm\\_source=govdelivery](http://www.irs.gov/uac/Small-Business-Health-Care-Tax-Credit-for-Small-Employers?utm_medium=email&utm_source=govdelivery)

#### Same-sex marriage tax filing

The IRS announced that they would treat legal same-sex marriages the same as heterosexual marriages for federal tax purposes. The new policy allows same-sex spouses to file tax returns as married couples regardless of whether they live in states that recognize same sex marriage.

For more information visit <http://www.treasury.gov/press-center/press-releases/Pages/jl2153.aspx>