Medical Support
Health Care Connections
Child Support Fact Sheet Series

Office of Child Support Enforcement
Administration for Children & Families
U.S. Department of Health and Human Services

Number 2

Child Support and the Affordable Care Act: Health Insurance Affordability

The Medical Support fact sheet series helps the child support community understand parts of the Affordable Care Act that may impact delivery of services. The series contains information on existing Affordable Care Act laws and regulations, as enacted by the Internal Revenue Service (IRS) and the Centers for Medicare and Medicaid Services (CMS). The Act provides many new options for parents seeking health care coverage for their children and themselves. While the Affordable Care Act does not amend Title IV-D of the Social Security Act, understanding how it works can help state, tribal, and local child support agencies develop policies and procedures to meet the needs of the families they serve.

This fact sheet describes how the Affordable Care Act defines health insurance affordability, the costs of plans available through the marketplaces, and how the Act's affordability provisions intersect with the child support program. Jurisdictions should consider options for aligning their definition of reasonable cost with the Affordable Care Act's definitions of affordability.

Modified Adjusted Gross Income (MAGI) and the Federal Poverty Level (FPL)

Child support professionals must understand modified adjusted gross income and the federal poverty level to understand how the Affordable Care Act determines someone's eligibility for Medicaid and subsidies for Marketplace medical insurance.

Modified Adjusted Gross Income

Modified adjusted gross income (MAGI) is a federal tax calculation that takes the tax household's[1] Adjusted Gross Income (line 37 on IRS form 1040) and adds the following to it: foreign income, tax-exempt interest, and non-taxable Social Security benefits. This calculation does not include child support as income for the receiving parent or as a deduction from the paying parent's income.

Federal Poverty Level

Each year, the Department of Health and Human Services issues federal poverty guidelines, which the Affordable Care Act refers to as the federal poverty level. When individuals or families fall below the poverty levels, the government classifies them as living in poverty. Officials use these guidelines to determine a family's eligibility for certain federal programs. View annual poverty measures at http://aspe.hhs.gov/poverty/index.cfm.

The Affordable Care Act evaluates where a household's modified adjusted gross income falls on the poverty charts to determine whether the household is eligible for Marketplace subsidies: premium tax credits and cost sharing reductions. Medicaid agencies determine Medicaid eligibility the same way.

Differences in calculations

The marketplaces use federal poverty level figures for the previous year to determine eligibility for premium tax credits and cost sharing reductions. For example, a household's eligibility for premium tax credits and cost sharing reductions for healthcare coverage beginning anytime in 2014 is based on the federal poverty level figures for 2013.

Medicaid agencies base Medicaid and CHIP eligibility on the published federal poverty level at the time the individual applies for coverage. The Department of Health and Human Services generally publishes the annual federal poverty level guide in early February each year. For example, when the Smith family applies for Medicaid on January 10, 2014, its Medicaid eligibility is based on the 2013 federal poverty level. When the Jones family applies for Medicaid on April 15, 2014, the government determines Medicaid eligibility based on the 2014 federal poverty level.

Q&A Answers to frequently asked questions from the child support community

1 Can we find out what health insurance will cost through the Marketplace?

Yes, www.healthcare.gov and the state marketplace websites can calculate the cost of the various health insurance plans available.

- Marketplaces offer health plans organized in metal tiers—Bronze, Silver, Gold, and Platinum—and each plan must provide the same 10 essential health benefits.[2]
- Marketplaces may offer various medical insurance plans at each tier level, based on the consumer's place of residence.
- Generally speaking, plans offered at the Bronze level have the lowest monthly premium costs and the highest out-of-pocket costs for medical services. Plans at the Platinum level have the highest monthly premium costs, and lower out-of-pocket expenses for medical services.

2 How will we know an individual's medical costs so we can establish and enforce a medical support order?

The law does not allow the federal marketplace to provide eligibility and enrollment data directly to child support programs.

For specific medical cost information, you will probably need to request it from the parents. When people apply for medical insurance through the Marketplace, they receive eligibility determination forms that specify the plans they selected and the cost, including any premium tax credits or cost sharing reductions for which they are eligible. Consumers also receive a detailed monthly billing statement that lists costs, credits, and charges.

Keep in mind that anyone can obtain information about the plans available through the marketplace, along with the costs of those plans at the different tier levels.

3 How does the Affordable Care Act define "affordability"?

This is a complex issue because there are different affordability rules for different categories of insurance. If, under all of the insurance options available to a household, the premium payment is more than 8 percent of the household's modified adjusted gross income (MAGI), they are exempt from the individual shared responsibility payment (tax penalty).

The Affordable Care Act considers Marketplace insurance "affordable" if the annual premium cost of the lowest priced Bronze plan is at or below 8 percent of the household's modified gross adjustable income. If the premium cost is above that, the coverage is unaffordable. If the family decides not to purchase the insurance because of the cost, the household is exempt from the individual shared responsibility payment (tax penalty).

In order to be considered for eligibility for premium tax credits to help pay for Marketplace coverage, the family must not have access to affordable employer-sponsored coverage. The Affordable Care Act determines the affordability of employer-sponsored health insurance by examining the cost of the annual premium of an employee-only plan. It considers the insurance affordable if the cost for the lowest employee-only plan annual premium is less than 9.5 percent of the household's modified adjusted gross income. If the employee-only premium is below 9.5 percent, but rises above it when the employee enrolls additional family members to the plan, the insurance is still considered affordable. The affordability test only applies to the premium cost for the employee-only plan against the household's MAGI.

When the employer sponsored coverage is affordable, the household can purchase insurance through the Marketplace, but the household is ineligible for premium tax credits and cost sharing reductions. However, the household may be exempt from the individual shared responsibility payment if their total premium payments would exceed 8 percent of the household's MAGI.

You should consider aligning your definition of reasonable cost with the Affordable Care Act's definition when possible. To make things easier, you could apply the sliding scale percent-of-income[3] standard used to determine eligibility for premium tax credits to a parent's MAGI to determine the percent of income that parent should pay for medical support. You might consider defining reasonable cost as 8 percent of a parent's MAGI. For parents whose income is so low that they are not required to file a federal tax return, you might consider exempting them from providing medical support.

When determining whether the cost of coverage is reasonable, you might consider the full cost of providing coverage for the child because a parent may have to purchase family coverage just to cover the child. In this instance, you could include the full cost of family coverage when calculating reasonable cost.

4 For child support purposes, are the medical insurance plans offered through the marketplace considered affordable?

The Affordable Care Act and the child support program offer different definitions of "affordable."

Most state child support programs consider medical insurance affordable if the marginal difference between what a parent-only plan costs and a plan that includes a dependent or a full family is less than 5 percent of the responsible parent's gross income. Regulations give states the option to develop their own alternative method as long as it is an income-based numeric standard. *See AT-10-10 and 45 CFR 303.31(a)(3) for more information.*

Another critical factor involves whose income is used to determine affordability. Under the Affordable Care Act, with few exceptions, all of the tax household's income is counted in their MAGI calculation. In most cases, the child support program counts only the responsible parent's income when determining reasonable cost for medical premiums.

5 How will we know if the parent's employer-sponsored medical insurance is considered affordable under the Affordable Care Act?

The Marketplace Application for Health Coverage includes an "Employer Coverage Tool" form. Employers must provide details of the cost of available coverage when they complete the form. The Marketplace uses that data to determine if the employer-sponsored coverage is affordable. If you need this information, you should ask the parent or the employer to provide you with a copy of the completed form.

The Affordable Care Act's definition of affordability has not changed the child support program's definition of reasonable cost.

References

1. See fact sheet 1, Premium Tax Credits and Cost Sharing, for the definition of "tax household" and information about the subsidies available for purchasing health insurance through the Marketplace. URL
2. "What's covered in the Health Insurance Marketplace," https://www.healthcare.gov/blog/10-health-care-benefits-covered-in-the-health-insurance-marketplace/.
3. See fact sheet 3, IRS Considerations, for the Annual Shared Responsibility Payment table on page 2. URL

Medical Support
Health Care Connections
Child Support Fact Sheet Series

Office of Child Support Enforcement
Administration for Children & Families
U.S. Department of Health and Human Services

Number 1

Child Support and the Affordable Care Act: Premium Tax Credits and Cost Sharing

The Medical Support fact sheet series helps the child support community understand parts of the Affordable Care Act that may impact delivery of services. The series contains information on existing Affordable Care Act laws and regulations, as enacted by the Internal Revenue Service (IRS) and the Centers for Medicare and Medicaid Services (CMS). The Act provides many new options for parents seeking health care coverage for their children and themselves. While the Affordable Care Act does not amend Title IV-D of the Social Security Act, understanding how it works can help state, tribal, and local child support agencies develop policies and procedures to meet the needs of the families they serve.

This fact sheet describes key points about premium tax credits and cost sharing reductions that are available through the Health Insurance Marketplace. Jurisdictions may want to revisit their order-setting practices to consider either parent's eligibility for these subsidies.

Premium Tax Credits

The Affordable Care Act establishes health insurance marketplaces where eligible consumers can purchase medical insurance for themselves and their families. Middle- and low-income individuals and families may be eligible for premium tax credits that cover a significant portion of the cost of coverage. Premium tax credits reduce the cost of the monthly insurance premium for income-eligible consumers.

Important premium tax credit eligibility information:

- The Affordable Care Act defines a household as the tax household, which includes the taxpayer and any individuals the taxpayer claims as a dependent for federal income tax purposes. A tax household may also include the taxpayer's spouse.
- A tax household's eligibility for premium tax credits is based on the household's modified adjusted gross income (MAGI). A household may be eligible for credits if its MAGI is between 100% and 400% of the federal poverty level.[1]
- To be eligible for a premium tax credit, the household must:
  - Purchase medical insurance through the federal or state health insurance Marketplace,
  - not have an offer of insurance from their employer in which the premiums for an employee-only plan are less than 9.5 percent of the household's MAGI, and
  - file a federal tax return, whether or not they are required to, based on their income.
- Premium tax credits are not available to:
  - Consumers who obtain health insurance on the open market; through their employer; or through a government-sponsored plan such as Medicare, CHIP, TRICARE, the Department of Veterans Affairs, etc.
  - People who are eligible for Medicaid – whether or not they actually enroll.

A person can receive premium tax credits each month to help pay their monthly medical premium cost. Consumers may choose to use only part—or none—of the credit on a monthly basis, and instead reconcile their credit when they file their federal income tax return.

For detailed information regarding a family's income and their eligibility for premium tax credits, see www.healthcare.gov/how-can-i-save-money-on-marketplace-coverage-chart.

Cost Sharing Reductions

For consumers who purchased insurance through a federal or state Marketplace, cost sharing reduces the out-of-pocket costs for the medical services they receive. Some important things to know:

- A household's modified adjusted gross income (MAGI) determines whether the household is eligible for cost sharing reductions. A household may be eligible if its income is between 100% and 250% of the federal poverty level.
- If consumers are not eligible for premium tax credits, they are not eligible for cost sharing reductions.
- Cost sharing reductions are available only to consumers who purchase an insurance plan at the Silver level.[2]
- Cost sharing reduces the consumer's out-of-pocket costs for co-pays and deductibles for medical services they receive.

Q&A Answers to frequently asked questions from the child support community

1 Can the premium tax credit be given to noncustodial parents for insuring the child if they don't or can't claim the child as a dependent for tax purposes?

No. Premium tax credits are only available to the tax filer who claims the child as a dependent regardless of whether the child lives with that filer or not. *See 26 CFR 1.36B-1(d) Premium tax credit definitions and 26 CFR 1.36B-2(a) Eligibility for premium tax credit.*[3]

2 If the child support order requires both parents to provide health care coverage for their child, and both secure coverage, can both parents get premium tax credits to help pay the child's medical costs?

No. Only the tax filer who claims the child as a dependent is eligible for the premium tax credit on behalf of the child. Under the Affordable Care Act, there is less need for both parents to maintain coverage for their child. In the past, if a child had extraordinary health care needs, both parents would often cover the child so that annual and lifetime limits wouldn't create a financial hardship. Today, annual and lifetime coverage limits no longer exist in Qualified Health Plans. With no coverage limits, parents will have less need for both to maintain coverage. *See 26 CFR 1.36B-1(d) Premium tax credit definitions and 26 CFR 1.36B-2(a) Eligibility for premium tax credit.*

3 Is there a way I can find out whether either or both parents are eligible for a premium tax credit or cost sharing reductions?

Currently, the federal Marketplace is not permitted to directly share its eligibility and enrollment data with child support programs. If you need information about the costs of a parent's marketplace-purchased insurance, you'll probably need to ask the parent to provide the information you need.

When people apply for medical insurance through the marketplace, they receive an eligibility determination form that specifies the insurance plan they selected, the cost of the plan, and any premium tax credits or cost sharing options that apply. They will also receive a monthly billing statement from their chosen insurance provider that lists all the details about costs, credits, and charges.

Anyone may go to the federal and state marketplace websites to calculate the cost of the various medical insurance plans available. The federal Marketplace web address is www.healthcare.gov.

4 Many child support cases involve parents who were never married to each other. Often, their support orders do not address which parent can claim the child for tax purposes. How should we handle these situations?

Very broadly, the IRS says that whichever parent the child has lived with for more than half the year is the tax filer who can claim the child as a dependent. Additionally, one parent may "grant" the tax exemption to the other parent by way of IRS Form 8332. If you receive questions or concerns from customers regarding tax filing and exemptions, refer the customer to either a tax specialist[4] or the IRS for additional guidance. *See* http://www.irs.gov/pub/irs-pdf/p504.pdf.

Some state child support programs routinely specify in court orders which parent claims the child for federal tax purposes. States should look at ways to align the tax dependency credit in support orders with which parent is ordered to provide medical support for the children covered in the order.

5 If the custodial parent is eligible to use premium tax credits to purchase medical insurance for the dependent, does that person assign his or her rights so that child support can recoup the premium tax credit amount?

No. There is no assignment, cooperation requirement, or recoupment associated with the purchase of medical insurance through the Marketplace.

6 If the noncustodial parent is eligible for a premium tax credit and opts to take it as a federal tax refund at the end of the year, will it be subject to offset for child support arrears?

Yes. A refund is a lump sum. There is no distinction between parts of a refund that come from overpayment of taxes, Earned Income Tax Credit benefits, the amount provided for premium tax credits, or anything else. If a past-due child support debt is owed and certified for offset, the entire refund is subject to offset.[5]

There is one exception. If there is a spouse, the spouse/tax filer may file an injured spouse claim with the IRS to potentially limit the refund intercepted to the portion that belongs to the parent owing the arrears. Otherwise, the full refund is subject to offset. *See IRS Tax Topic #203: Refund Offsets: For Unpaid Child Support, and Certain Federal, State and Unemployment Compensation Debts* http://www.irs.gov/taxtopics/tc203.html.

References

1. See fact sheet 2, Health Insurance Affordability, for detailed information on the federal poverty level. URL
2. Marketplaces offer Qualified Health Plans in four "metal" tiers: Bronze, Silver, Gold, and Platinum levels. All metal tiers provide the 10 essential health benefits. See Section 1302(d)(1) of the Affordable Care Act. Premium tax credits can be used to help pay the monthly premium costs in any of the metal tiers. Cost sharing is available only for plans at the Silver level. See Section 1402(b)(1) of the ACA.
3. See fact sheet 2, Health Insurance Affordability, for detailed information on IRS provisions. URL
4. Customers may be eligible for free tax assistance based on their income. See http://www.irs.gov/individuals/free-tax-return-preparation-for-you-by-volunteers for more information.
5. As clarified via email received from the Director of Customer Service and Stakeholder Relations, Affordable Care Act Office, Internal Revenue Service, on December 20, 2013.

Medical Support
Health Care Connections
Child Support Fact Sheet Series

Office of Child Support Enforcement
Administration for Children & Families
U.S. Department of Health and Human Services

Number 3

Child Support and the Affordable Care Act: IRS Considerations

The Medical Support fact sheet series helps the child support community understand parts of the Affordable Care Act that may impact delivery of services. The series contains information on existing Affordable Care Act laws and regulations, as enacted by the Internal Revenue Service (IRS) and the Centers for Medicare and Medicaid Services (CMS). The Act provides many new options for parents seeking health care coverage for their children and themselves. While the Affordable Care Act does not amend Title IV-D of the Social Security Act, understanding how it works can help state, tribal, and local child support agencies develop policies and procedures to meet the needs of the families they serve.

This fact sheet describes the complications some parents encounter and procedures they must follow when claiming a child as a dependent for federal tax purposes. Jurisdictions may want to revisit their order-setting practices to consider how claiming a child as a dependent affects both a parent's responsibility for providing medical coverage and his or her eligibility for premium tax credits.

Definition of "Parent"

This fact sheet uses the term "parent" broadly. As in IRS policy, a parent is someone who claims a child as a dependent for federal tax purposes, regardless of the actual legal or genetic relationship. The Affordable Care Act considers the dependency claim the important detail, not the formal parental relationship. *For more information, see IRS Publication 504, Divorced or Separated Individuals, and IRS Publication 501, Exemptions, Standard Deduction, and Filing Information.*

IRS Provisions for Children of Divorced or Separated Parents or Parents Who Live Apart[1]

The IRS broadly defines a custodial parent as the one the child lives with for the most nights of the year. The other parent is the noncustodial parent.

The IRS generally considers the child the dependent of the custodial parent, in terms of which parent should claim the child as a tax deduction for federal tax purposes. Some child support jurisdictions routinely specify in court orders which parent can claim the child. The custodial parent may also grant the deduction to the noncustodial parent, using IRS Form 8332. Child support jurisdictions should consider which parent will be claiming the child as a tax deduction when establishing or enforcing medical support orders.

Q&A Answers to frequently asked questions from the child support community

1 Under the Affordable Care Act, who is responsible for making sure dependents have medical insurance?

The parent who claims the child as a dependent for federal tax purposes is responsible and must do one of the following:

- Demonstrate that the child has adequate medical coverage; or
- Secure an exemption if needed; or
- Pay the individual shared responsibility payment if he or she fails to demonstrate that the child has coverage (see question 2 below).

Either parent can provide medical insurance for the child, but no matter which parent provides the insurance, only the parent who claims the child may be eligible for the premium tax credits and cost sharing reductions that help pay for insurance premiums and related out-of-pocket medical expenses.

You should consider aligning the medical support responsibility with the tax dependency claim in child support orders, and dividing the financial contribution for health care coverage between the parents.

2 What fees must parents pay if they don't purchase and maintain health insurance?

The taxpayer must pay an individual shared responsibility payment if he or she fails to maintain medical coverage as required under the Affordable Care Act. The IRS calculates the penalty amount based on the number of uninsured family members—up to an annual household maximum. In 2014, for example, if a mother with one child fails to maintain coverage for the two of them and they do not have an exemption, she would pay a shared responsibility payment of either $142.50, or 1% of her household income, whichever is greater.

Tax Year	Annual Shared Responsibility Payment
2014	• Each uninsured adult: 1% of annual income or $95 (whichever is higher) • Each uninsured child: $47.50 • Annual household maximum: $285*
2015	• Each uninsured adult: 2% of annual income or $325 (whichever is higher) • Each uninsured child: $162.50 • Annual household maximum: $975*
2016 and beyond	• Each uninsured adult: 2.5% of annual income or $695 (whichever is higher) • Each uninsured child: $347.50 • Annual household maximum: $2,085*

* For parents who have to make a payment based on a percentage of their annual income, the annual household maximum they must pay is the average cost of the Bronze plan[2] at the national level.

The IRS divides the annual shared responsibility payment into 12 monthly payments, and applies it only to those months during the year when the taxpayer did not have medical coverage or an exemption.

3 Should we include the individual shared responsibility payment a parent may have to pay when we calculate a child support obligation?

It depends on your program's child support guidelines.

4 What are Affordable Care Act exemptions?

Sometimes people are in situations that make it difficult for them to purchase or maintain health insurance. Under certain circumstances, the IRS excuses them from paying the individual shared responsibility payment by giving them an exemption. There are too many exemptions to list here, but the HealthCare.gov website has the full list of the general and hardship exemptions, at www.healthcare.gov/exemptions.

While the Affordable Care Act may exempt a parent from the individual shared responsibility payment for failing to provide health insurance, this does not relieve the parent from his or her court-ordered obligation to provide medical support.

5 It looks like hardship exemption #10[3] might apply to many of my child support cases. Please explain this exemption.

Hardship exemption #10 applies when a parent meets three conditions:

- He or she expects to claim a child as a tax dependent; and
- The person (other than the parent who claims the child as a dependent) who is under court order to provide the child's medical support has failed to do so; and
- The child has been denied Medicaid and CHIP coverage.

Parents must include copies of the support order and the Medicaid and CHIP denials when they apply for an exemption from the individual shared responsibility payment.

6 Individuals have the option of using part or all of their premium tax credit throughout the year to offset the monthly cost of their Marketplace insurance premiums. If an individual has some premium tax credit left at the end of the year, the IRS will add the amount to the taxpayer's refund. When the IRS intercepts the refund under the child support tax offset process, can we use the portion linked to the unused premium tax credit to satisfy an overdue support obligation?

Yes. A refund is a lump sum. There is no distinction between parts of a refund that come from tax overpayments, Earned Income Tax Credit benefits, premium tax credit amounts, or anything else. If a past-due child support debt is owed and certified for offset, the entire refund is subject to offset.[4]

There is an exception. If there is a spouse, the spouse/tax filer may file an injured spouse claim with the IRS to potentially limit the refund intercepted to the portion that belongs to the parent owing the arrears. Otherwise, the full refund is subject to offset. *See IRS Tax Topic #203: Refund Offsets: For Unpaid Child Support, and Certain Federal, State and Unemployment Compensation Debts* http://www.irs.gov/taxtopics/tc203.html.

7 An individual's circumstances may change during the year such that they received more premium tax credits than they were entitled to. In this instance, the taxpayer may need to repay part or all of the premium tax credit they received during the year. Additionally, a taxpayer may owe an individual shared responsibility payment for failing to maintain medical coverage as required under the Affordable Care Act. The taxpayer reconciles any overpayment of the premium tax credit and pays any individual shared responsibility payment they owe, when filing their annual federal tax returns. When a taxpayer's refund is subject to garnishment, child support offsets take priority over all debts except IRS debts. Will the child support offset take priority over any shared responsibility payment or premium tax credit overpayment the taxpayer may owe?

No. The IRS (under 26 CFR 5000A) considers overpaid premium tax credits and individual shared responsibility payments as tax debts. The IRS uses federal tax refunds to satisfy these tax debts before any non-IRS debt, including child support.

References

1. See 26 CFR 1.52-4, http://www.law.cornell.edu/cfr/text/26/1.152-4.
2. Marketplaces offer qualified health plans in four "metal" tiers: Bronze, Silver, Gold, and Platinum. Generally, Bronze plans offer the least expensive premiums.
3. See http://marketplace.cms.gov/getofficialresources/publications-and-articles/hardship-exemption.pdf.
4. As clarified via email received from the Director of Customer Service and Stakeholder Relations, Affordable Care Act Office, Internal Revenue Service, on December 20, 2013.

Medical Support
Health Care Connections
Child Support Fact Sheet Series

Office of Child Support Enforcement
Administration for Children & Families
U.S. Department of Health and Human Services

Number 4

Child Support and the Affordable Care Act: Tribal Considerations

The Medical Support fact sheet series helps the child support community understand parts of the Affordable Care Act that may impact delivery of services. The series contains information on existing Affordable Care Act laws and regulations, as enacted by the Internal Revenue Service (IRS) and the Centers for Medicare and Medicaid Services (CMS). The Act provides many new options for parents seeking health care coverage for their children and themselves. While the Affordable Care Act does not amend Title IV-D of the Social Security Act, understanding how it works can help state, tribal, and local child support agencies develop policies and procedures to meet the needs of the families they serve.

This fact sheet describes key points about specific Affordable Care Act provisions that pertain to American Indians and Alaska Natives. Some provisions may affect state and tribal child support program policies about establishing and enforcing medical support when a parent or child is a tribal member

Tribal Medical Support

Federal regulations do not require that tribal child support orders include medical support provisions. However, tribal and state support orders containing provisions for health care coverage are enforceable under the Full Faith and Credit for Child Support Orders Act[1].

State and local child support professionals should understand a few distinctions about tribal members that could affect how an agency would handle these cases. Not all American Indians and Alaska Natives are enrolled tribal members of federally recognized tribes. This difference can affect several things, such as when an American Indian or Alaska Native can enroll in a Marketplace plan, their eligibility for premium tax credit and cost sharing reductions, and whether or not the Internal Revenue Service will penalize them for failing to maintain medical coverage.

Q&A Answers to frequently asked questions from the child support community

1 Can American Indians and Alaska Natives obtain medical insurance through the Marketplace even if they're not members of a federally recognized tribe?

Yes, any American Indian/Alaska Native can purchase medical insurance through the Marketplace.

2 When can American Indians and Alaska Natives enroll in medical insurance plans through the Marketplace?

The regular open enrollment period for plan year 2014 was October 1, 2013 through March 31, 2014. For plan year 2015, open enrollment is currently scheduled for November 15, 2014 through February 15, 2015. Please note that individuals may apply for Medicaid or CHIP throughout the year.

American Indians/Alaska Natives who are enrolled members of federally recognized tribes have access to special monthly enrollment periods so they can purchase insurance outside the yearly open enrollment period.

American Indians/Alaska Natives who are not enrolled members of federally recognized tribes are bound by the Marketplace open enrollment periods unless they experience a qualifying event that may trigger a special enrollment period.

Qualifying events may trigger a special enrollment period, allowing an individual to purchase or change insurance plans outside the open enrollment period. Qualifying events include:

- Getting married
- Having or adopting a child, or placing one up for adoption
- Permanently moving to a new area that offers different plan options
- Losing health care coverage due to events such as job loss, divorce, ineligibility for Medicaid or CHIP, or COBRA coverage expiration
- For consumers enrolled in a plan through the Marketplace, a change in income or household status that affects eligibility for premium tax credits or cost sharing reductions
- In some states, getting a new legal order to provide medical support

3 Are American Indians/Alaska Natives potentially eligible for premium tax credit and cost sharing reductions to purchase Marketplace insurance?

Yes. American Indians/Alaska Natives may be eligible for premium tax credits that help them pay premiums for the insurance they purchase through the Marketplace. Their eligibility is based on their household's modified adjusted gross income (MAGI), as compared to the federal poverty level.

They may also be eligible for cost sharing reductions that reduce out-of-pocket costs for things like co-pays and deductibles, when medical services are received. Cost sharing reductions are determined by the household's modified adjusted gross income (MAGI), whether or not the individual is an enrolled member of a federally recognized tribe, and sometimes what "metal" level policy (Bronze, Silver, Gold or Platinum) the individual selects.[2]

- *American Indians/Alaska Natives enrolled in federally recognized tribes* who purchase health insurance through the Marketplace at any "metal" level (Bronze, Silver, Gold, or Platinum) do not have to pay co-pays or other cost sharing if their income is less than 300 percent of the federal poverty level.[3]
- *American Indians/Alaska Natives who are not enrolled members of federally recognized tribes* are eligible for cost sharing reductions based on a sliding scale if their income is below 250 percent of the federal poverty level and they have purchased a Silver-level plan.[4]

4 Sometimes we provide services for dependents who are not officially enrolled members of a tribe. Their parentage may not qualify them for enrollment or one of the parents may not have completed the enrollment process. Does the parent's tribal membership extend to the children so they can be covered by medical insurance purchased through the Marketplace?

Parents may purchase medical insurance for their children through the Marketplace regardless of the child's tribal status. The parent may be eligible for premium tax credits and cost sharing reductions, however, only enrolled members of federally recognized tribes are eligible for the special open enrollment periods and extended cost sharing provisions.

If dependents are eligible for health services through the Indian Health Service, tribes and tribal organizations, or urban Indian organizations, their parents or caretakers could be exempt from the individual shared responsibility payment for failing to maintain medical coverage for their dependents.

5 Does the Affordable Care Act consider health care coverage provided by the Indian Health Services (IHS) to meet the individual mandate regarding individuals maintaining adequate coverage?

No. IHS medical coverage does not meet the definition of adequate coverage under the Affordable Care Act, but the Affordable Care Act does not penalize individuals covered by this program.

The Affordable Care Act exempts members of federally recognized tribes from the individual shared responsibility payment when they fail to maintain any medical coverage at all.

Additionally, it provides an exemption for an individual who is not a member of a federally recognized Indian Tribe, but who is eligible for services through the Indian Health Service, tribal programs, or urban Tribal health programs. *See 42 CFR 447.50, Cost sharing: Basis and purpose, and 25 U.S.C. 1680c (a), (b), or (d)(3) Health services for ineligible persons.*

However, even if individuals are exempt based on their tribal status, this does not change their legal responsibilities under their child support orders. And even if exempt, an individual can still purchase coverage through the Marketplace, and may be eligible for premium tax credits and cost sharing reductions.

According to OCSE policy, IHS, tribal, and urban Tribal health care services satisfy child support's medical support requirements when they are available to the child.[6]

6 What is the process for getting an exemption from the individual shared responsibility payment based on tribal status?

Individuals who are not members of federally recognized Indian Tribes but are IHS-eligible and do not have other medical insurance coverage must apply for *and receive* an IHS Eligible exemption before they file their 2014 taxes. The exemption form and instructions are available at www.healthcare.gov/exemptions.

Enrolled members of federally recognized tribes may either file for a Tribal Membership exemption using the exemption form described above, or can claim the exemption at the same time they file their taxes.

7 Some tribes are purchasing medical insurance for their members through the Marketplace. If a tribe purchases Marketplace insurance for the child, does this satisfy the parent's obligation to provide health care coverage for child support enforcement purposes?

It depends. You will need to review cases individually to determine whether or not the Marketplace plan satisfies the terms of the child support order. You may need to consider your guideline calculations, as well as the division of uncovered medical expenses, when you establish and enforce a medical support order.

- Some child support orders specify which parent should provide medical insurance and some go so far as to state that the parent's employer must provide the coverage.
- Guideline calculations sometimes account for the parent's cost of providing health care coverage for their children.
- Guideline calculations may account for the parent's cost of providing their own medical coverage.
- Support orders may specify how the parent's out-of-pocket expenses for their children's medical care are shared.

In instances where medical insurance costs are considered in the calculation of child support, it may be appropriate to pursue an order modification to account for the Marketplace insurance purchased by the tribe.

Where possible, however, you should consider the child's medical support needs met by the insurance purchased through the Marketplace.

References

1. See the OCSE Glossary of Common Child Support Terms 2013 for more information on the Full Faith and Credit for Child Support Orders Act, http://www.acf.hhs.gov/programs/css/resource/child-support-glossary.
2. See fact sheet 1 for information about premium tax credits and cost-sharing. URL
3. See fact sheet 2, Health Insurance Affordability, for detailed information on the federal poverty level. URL
4. See fact sheet 3, IRS Considerations, for the Annual Shared Responsibility Payment table on page 2. URL
5. The Affordable Care Act requires that health insurance plans must include at least the 10 essential health benefits to be considered acceptable coverage. Find a list at "What's covered in the Health Insurance Marketplace," https://www.healthcare.gov/blog/10-health-care-benefits-covered-in-the-health-insurance-marketplace/.
6. See AT-05-07, question 53 of the attachment. Also see PIQ-93-07 and PIQ-94-07.

Child Support and the Affordable Care Act:
The Fundamentals

This Fact Sheet series is intended to assist the child support community understand those parts of the Affordable Care Act that may impact delivery of services. These Fact Sheets provide information on existing Affordable Care Act laws and regulations, as enacted by the Internal Revenue Service (IRS) and the Centers for Medicare and Medicaid Services (CMS). The Affordable Care Act provides many new options for parents seeking to provide health care coverage for their children and themselves. While the Affordable Care Act does not amend Title IV-D of the Social Security Act, understanding how the Affordable Care Act works can help state, tribal, and local child support agencies develop policies and procedures to meet the needs of the families they serve.

There is fundamental information about both medical support and the Affordable Care Act that child support professionals should be familiar with when crafting policies and procedures around establishing and enforcing medical support obligations. Additionally, insight into recent statistics about health care coverage in the U.S. may help inform policy decisions in the child support program.

Medical Support

Medical support is a subset of child support. Child support orders must be established using guidelines which take into consideration numerous factors including how the parents will provide for the child(ren)'s health care needs, through health insurance coverage or other means, in accordance with 45 CFR 302.56. Below are examples of medical support:

- Health care coverage purchased by either parent, such as coverage under a health insurance plan available through an employer, or a state or federal health insurance Marketplace;
- Payment for medical expenses incurred on behalf of a child (cash medical support - (including payment of costs of premiums, co-payments, and deductibles);
- Medicaid, CHIP, state coverage plans; and,
- Alternative health care coverage such as the Defense Enrollment Eligibility Reporting System (enrollment provided for dependents of military service members or Department of Defense employees) and Indian Health Services (IHS).

In general, child support orders include a provision specifying that one or both parents are responsible for providing medical coverage for their children. The child support agency uses the National Medical Support Notice and/or an Income Withholding Order to enforce the terms of the medical support order.

Families in the Title IV-D Child Support Program

Families participating in the IV-D program generally have lower incomes than other families. Only 21 percent of IV-D families had incomes over $50,000 in 2009, compared to 38 percent of non-IV-D families. On the other hand, 46 percent of IV-D families had incomes below $20,000 per year, while 24 percent of non-IV-D families had incomes that low.

In 2009, 36 percent of IV-D families lived below the poverty threshold, and almost half of these families were in "deep poverty" defined as incomes below 50 percent of the poverty level. Just over half of IV-D families (52 percent) lived below 150% of the poverty threshold. Sixty-three percent lived below 200% of the poverty threshold. Finally, all but 11 percent of IV-D families lived below 400% of the poverty threshold. (See Figure 3)[1]

2008 data[2] show that among children who live apart from one parent (e.g., are eligible to participate in the IV-D Program), 37 percent have private coverage, mostly from someone who lives in their household like a custodial parent or stepparent. Over half (51 percent) were covered by Medicaid or CHIP. Nearly 74 percent of these children are estimated to be eligible for Medicaid or CHIP. This is likely considerably higher for children who are actually in the IV-D Program. More recent data is not available.

Health Insurance Coverage of Children (0-18)

	Child Support Eligible Children[3]
Private coverage	37%
Within household	31%
Outside household	6%
Medicaid/CHIP	51%
Other federal	1%
Uninsured	11%

Source: Urban Institute analysis of the 2009 Annual Social and Economic (ASEC) Supplement to the Current Population Survey (CPS).

Employment-Based Health Insurance

Historically, most people get their health care coverage through their own or another family member's employment. While the majority of Americans remain connected to health insurance through their employment, the landscape has been shifting for more than a decade. The Affordable Care Act is expected to further impact the link between employment and health insurance.

---

[1] http://www.acf.hhs.gov/sites/default/files/programs/css/iv_d_characteristics_2010_census_results.pdf

[2] http://aspe.hhs.gov/hsp/11/HealthCare-ChildSupport/rb.shtml

[3] Child support eligible children are children 18 and under living with only one biological parent and children 14 and under living with no parents. Additional details provided in text. Estimates of uninsured children have been adjusted by the Urban Institute's Health Policy Center for the underreporting of public coverage on the CPS. This adjustment has the impact of reducing the number of uninsured by approximately 1 million. Children who report multiple types of coverage are assigned one type according to the following hierarchy: Medicaid/CHIP, ESI within household, coverage from outside the household, other federal and direct purchase within household. Private coverage includes ESI, coverage from outside the household and direct purchase.

According to the U.S Census[4], in 2010, employment-based health insurance is the largest source of health insurance coverage in the United States. However, the employment-based coverage rate has declined over time. Among employed individuals, employer-provided coverage declined from 76.0% in 1997 to 70.2% in 2010. In 2010, 56.5% of all individuals aged 15 and older received health insurance through an employer, a decline from 64.4% in 1997.

An individual's education and income level affect the availability of employment-based insurance coverage. The likelihood of working for an employer that offers health insurance benefits to any of its employees increases with education level. Among workers who did not complete high school, 42.9% worked for an employer that offered health insurance benefits. For individuals with a college degree, 78.9% worked for employers who offered health insurance benefits.

Just over half of custodial parents had some college education in 2010, but most of these parents had not completed college. Another third of custodial parents had a high school education only and 15 percent had not completed high school.[5] Comparable data is not available for noncustodial parents.

As noted above, the majority of families in the Child Support Program are low-income. The likelihood of working for an employer that offers health insurance benefits also increases with family income. For employees with household income below 138% of the Federal Poverty Level (FPL), 43.3% were employed by firms that offered health insurance benefits. For families with income between 139% and 250% of the FPL, 63.9% worked for employers who offered health insurance. In families with incomes between 251% to 400% of the federal poverty level, 74.8% were employed in firms offering health insurance benefits; where a family's income was above 400% of the FPL, 80.9% had access to employer-offered health insurance.

The Affordable Care Act's full impact on employer-sponsored insurance costs is still developing. The Kaiser Family Foundation published the results of its annual Employer Health Benefits Survey in August 2013.[6]

- The average annual cost for an employer-sponsored health insurance policy for a single individual was $5,884. On average:
    - The employee paid $999 (17%)
    - The employer paid $4,885 (83%)

- An employer-sponsored family plan cost an average of $16,351. On average:
    - The employee paid $4,565 (27.9%)
    - The employer paid $11,786 (72.1%)

---

[4] Janicki, Hubert. Employment-Based Health Insurance: 2010. U.S. Department of Commerce, Economics and Census Administration. February 2013. Available from www.census.gov/prod/2013pubs/p70-134.pdf.

[5] http://www.acf.hhs.gov/sites/default/files/programs/css/iv_d_characteristics_2010_census_results.pdf

[6] Claxton, Gary; Rae, Matthew; Panchal, Nirmita; Damico, Anthony; Bostick, Nathan; Kenward, Kevin; Whitmore, Heidi. The Kaiser Family Foundation and Health Research & Educational Trust. Employer Health Benefits 2013 Annual Survey. August 2013. Available from www.kff.org/private-insurance/report/2013-employer-health-benefits/

Health Insurance Marketplaces

Individuals and small businesses can buy affordable and qualified health benefit plans in the Health Insurance Marketplace. The Marketplaces are designed to make buying health insurance coverage easier and more affordable. The Marketplace allows individuals to compare health plans, find out if they are eligible for tax credits to help with the cost of medical insurance premiums, find out if they are eligible for public health plans – CHIP and Medicaid – and enroll in a health plan that meets their needs.

Middle and low-income individuals and families may be eligible for premium tax credits that cover a significant portion of the cost of coverage. Premium tax credits are available to people with income between 100% and 400% of the federal poverty level, who do not have other affordable coverage. The tax credit is advanceable, so it can lower monthly premium payments. It is also refundable at tax time.

Annual Household Income		Expected Premium Contribution	
% of FPL	Income Amount*	% of Income	Dollar Amount**
100 -133%* **	<$15,282	2%	<$306
133 – 150%	$15,282 - $17,235	3% - 4%	$459 - $689
150 – 200%	$17,235 - $22,980	4% - 6.3%	$689 - $1,448
200 – 250%	$22,980 - $28,725	6.3% - 8.05%	$1,448 - $2,312
250 – 300%	$28,725 - $34,470	8.05% - 9.5%	$2,312 - $3,275
300 – 350%	$34,470 - $40,215	9.5%	$3,275 - $3,820
350 – 400%	$40,215 - $45,960	9.5%	$3,820 - $4,366
> 400%	>$45,960	n/a	n/a

* For a household of 1, based on 2013 federal poverty level
** Based on the second-lowest Silver health plan in the Marketplace
*** Premium tax credits are available to lawfully residing immigrants with incomes below 100% of the poverty line who are not eligible for Medicaid because of their immigration status. For those whose income fall below 100% of the federal poverty level but are ineligible for Medicaid because their state did not expand Medicaid, they are ineligible for premium tax credits.

Individuals my also qualify for reduced cost-sharing (co-payments, co-insurance, and deductibles) if their income is between 100% and 250% of the federal poverty level, and they purchase a Silver plan through the Marketplace.[7] Cost sharing reduces an individual's out-of-pocket costs when they receive medical services.

Under the Affordable Care Act, most individuals who can afford it are required to obtain and maintain basic health insurance coverage for themselves and their tax dependents, or pay an individual shared responsibility payment to help offset the costs of medical care for uninsured individuals. If affordable coverage is not available to an individual, he or she will be eligible for

[7] See Fact Sheets in this series xyz.

an exemption from the individual shared responsibility payment. There are additional circumstances when an individual will be exempt from the shared responsibility payment.

Health Care Statistics for Children Under Age 18

The Centers for Disease Control recently released the results of their National Health Interview Survey for time period January - September 2013.[8]

According to the CDC, for children under age 18:

- 6.7% (4.9 million) were uninsured at the time of survey (down from 8.9% in 2008)
- 10.2% (7.5 million) had been uninsured at some point during the year (down from 13.3% in 2008)
- 3.7% (2.7 million) had been uninsured for more than a year (down from 5.6% in 2008)
- 41.7% had public health plan coverage
- 52.8% were covered by private health insurance

During the surveyed time period, for children in households with income at or below 100% of the federal poverty level:

- 8.3% were uninsured (down from 12.4% in 2008)
- 85.8% had public health plan coverage (up from 79.4%)
- 7.3% had private health insurance coverage (down from 10.4% in 2008)

For children whose household income was between 100% and 200% of the federal poverty level:

- 10.0% were uninsured (down from 15.6% in 2008)
- 64.2% were covered by public health plans (up from 53.4% in 2008)
- 27.9% had private health insurance coverage (down from 32.9% in 2008)

For children whose household income exceeded 200% of the federal poverty level:

- 4.3% were uninsured (compared to 4.8% in 2008)
- 15.2% had public health coverage (up from 13.1% in 2008)
- 81.3% had private health insurance coverage (down from 83.1% in 2008)

Medicaid/CHIP eligibility is high among children receiving services from the child support program. Nearly 74% of children in the child support caseload are eligible for Medicaid or CHIP.[9]

[8] Martinez ME, Cohen RA. Health insurance coverage: Early release of estimates from the National Health Interview Survey, January-September 2013. National Center for Health Statistics. March 2014. Available from http://www.cdc.gov/nchs/nhis/releases.htm.

[9] Source: Urban Institute Health Policy Center Eligibility Simulation Model, based on data from the 2009 Annual Social and Economic (ASEC) Supplement to the Current Population Survey (CPS).

Q&A Several questions have arisen in the child support community regarding child support's role in securing health care coverage for children, given the Affordable Care Act.

1. In general, child support orders include provisions regarding the parents' responsibility for meeting their children's medical support needs. How can parents meet their medical support obligations?

Parents have a variety of options for providing for their child(ren)'s health care needs.

- Either parent - or a stepparent - may enroll the children in an accessible, affordable health care plan available through their employer.
- Either parent may apply for coverage through the Health Insurance Marketplace. (Note: Only the parent who claims the child as a dependent for federal tax purposes will be eligible to apply for premium tax credits to help pay for the cost of coverage obtained through the Marketplace.)
- If the child is enrolled in health care coverage through one parent, the other parent may contribute to the costs of premiums and co-payments. Either parent may apply for Medicaid or CHIP on behalf of their child. (Note: Eligibility for Medicaid and CHIP is based on the household in which the child resides.)
- The noncustodial parent may contribute to the cost of premiums or other health care costs by providing cash medical support to the custodial parent if the child is enrolled in coverage through the custodial parent or CHIP or Medicaid.

Depending on circumstances, one parent might have access to more affordable, continuous, and quality coverage or the family may prefer that coverage be maintained by the parent with whom the child resides. Enrolling in Medicaid or CHIP may provide more continuous, higher quality coverage or allow more cash child support to go to the family.

2. Under the Affordable Care Act, individuals who claim a dependency deduction for a child for federal tax purposes are required to either: have minimum essential coverage, or have an exemption from the responsibility to have minimum essential coverage, or make an individual shared responsibility payment when filing their federal income tax return. How can parents meet their responsibility for their child's medical coverage under the Affordable Care Act?

According to the Internal Revenue Service, the following types of insurance coverage meet the requirement to maintain minimum essential coverage under the Affordable Care Act:

- Employer-sponsored coverage, including employee, COBRA, and retiree coverage
- Individual health coverage, including that purchased directly from an insurance company, through a Health Insurance Marketplace, and certain student health plans; and
- Coverage under government-sponsored programs including Medicaid, CHIP, TRICARE, and Refugee Medical Assistance;

3: What levels of medical insurance are available through the Marketplace?

Each insurance plan in the Marketplace is offered at four metal tier levels: Bronze, Silver, Gold and Platinum. The metal tiers do not reflect the range or quality of services offered. Instead the metal tiers reflect the medical cost structure and overall financial generosity of plans. For example, Plan A at the Bronze level offers the same medical services as it does at the Platinum level. However, at the Bronze level, the consumer would pay lower monthly premiums; at the Platinum level the consumer would pay higher monthly premiums. In exchange for their low monthly premiums, the consumer's out-of-pocket expenses for medical care would be higher at the Bronze level than they would at the Platinum level.

All insurance plans available through the Marketplace must offer 10 minimum essential health benefits. These are: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services, including behavioral health treatment; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; preventive and wellness services and chronic disease management; and pediatric services, including oral and vision care.

4: Does a health insurance plan purchased through the Marketplace satisfy a parent's requirement to provide medical support?

Yes, if by purchasing an insurance plan, the parent has met the terms of the medical support order.

5: In addition to the metal tiers (Bronze, Silver, Gold and Platinum) Catastrophic plans are available through the Marketplace. If a parent purchases a Catastrophic plan for their child(ren), does this meet the requirement for a parent to provide coverage for their child(ren)?

People under age 30 as well as people of any age with certain hardship exemptions may buy a Catastrophic health plan. Catastrophic plans generally protect individuals from very high medical costs. Catastrophic plans usually have lower monthly premiums than the metal tier plans do, and are intended to protect individuals from worst-case scenarios like serious accidents or illnesses. Catastrophic plans cover 3 primary care visits per year at no cost, as well as free preventive services. Compared to plans in the metal tiers, Catastrophic plans come with the highest annual out-of-pocket expenses. Premium Tax Credits and Cost Sharing are not available for Catastrophic plans.

Section 466(a)(19)(A) of the Social Security Act (the Act) and Title IV-D regulations do not require states to have procedures to determine the adequacy of health care coverage intended to meet the medical support obligation. There is no regulatory guidance for child support, in terms of what an "adequate" medical insurance plan covers or includes.

Depending on the terms of the medical support order, a Catastrophic plan could meet the terms of the order. The child support agency may want to consider whether the lower monthly premiums and/or increased out-of-pocket expenses should be accounted for in the overall guideline calculation.

State child support agencies may want to specify a standard of acceptable medical coverage in the support order – or enact policy to do the same – that aligns with the definition of acceptable coverage under the Affordable Care Act.

6: Under what circumstances might parents be exempt from providing medical coverage for their child(ren), under the Affordable Care Act?

Under the Affordable Care Act, an individual may be exempt from the individual shared responsibility payment for failing to maintain medical coverage for themselves and/or a dependent if:

- They are uninsured for less than three months of the year;
- The lowest-priced coverage available exceeds 8% of the household's income;
- They are not required to file a federal tax return because their income is too low;
- They are a member of a federally-recognized American Indian tribe or are an Alaskan Native, or are eligible for services through an Indian Health Services provider;
- They are a member of a recognized health sharing ministry;
- They are a member of a recognized religious sect with religious objections to insurance, including Social Security and Medicare;
- They are incarcerated, and not awaiting disposition of charges against them;
- They are not lawfully present in the U.S.; or
- They qualify for a hardship exemption, as defined by HHS.

It is important to remember that the Affordable Care Act did not change the Title IV-D requirement that child support orders address medical support. States have adopted various policies with regard to reasonable cost and accessibility of coverage when establishing and enforcing medical support provisions in child support orders. A parent may qualify for an exemption under the Affordable Care Act. This does not negate the terms of the court order regarding medical support.

While the Affordable Care Act did not change the child support provisions, it does change the overall medical support landscape.

For many employer-sponsored medical insurance plans, the parent is usually required to enroll in insurance coverage in order to enroll their child. If the parent is exempt from insuring themselves, the child support agency should carefully consider whether requiring the parent to take the needed steps to enroll their child in employer-sponsored coverage makes sense in this situation, especially if the child's medical needs are being met through Medicaid or CHIP, or the other parent. In this instance cash medical support may be more appropriate.

Child Support and the Affordable Care Act:
Plan Adequacy

This Fact Sheet series is intended to assist the child support community understand those parts of the Affordable Care Act that may impact delivery of services. These Fact Sheets provide information on existing Affordable Care Act laws and regulations, as enacted by the Internal Revenue Service (IRS) and the Centers for Medicare and Medicaid Services (CMS). The Affordable Care Act provides many new options for parents seeking to provide health care coverage for their children and themselves. While the Affordable Care Act does not amend Title IV-D of the Social Security Act, understanding how the Affordable Care Act works can help state, tribal, and local child support agencies develop policies and procedures to meet the needs of the families they serve.

Beginning in 2014, individuals must maintain medical insurance that provides minimum essential coverage for themselves and their dependents, pay an individual shared responsibility payment for failing to maintain coverage, or be exempt for failing to meet this individual mandate. Federal child support regulations do not include an equivalent to "minimum essential coverage" with regard to medical support. State child support programs should consider clarifying their policies regarding quality of coverage to simplify their local procedures, align with the ACA to reduce potential confusion for employers and parents, and serve the best interests of the child.

What Counts as Adequate Coverage

Under the Affordable Care Act, individuals can meet their responsibility for maintaining adequate health insurance in several ways.

All insurance plans available through a Health Insurance Marketplace provide minimum essential coverage. All Marketplace plans must offer the 10 minimum essential health benefits. These are: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services, including behavioral health treatment; prescription drugs; rehabilitative and habilitative services and devices; laboratory services; preventive and wellness services and chronic disease management; and pediatric services, including oral and vision care.

Each insurance plan in the Marketplace is offered at four metal tier levels: Bronze, Silver, Gold and Platinum. The metal tiers do not reflect the range or quality of services offered. Instead the metal tiers reflect the medical cost structure and overall generosity of plans. For example, Plan A at the Bronze level offers the same medical services as it does at the Platinum level. However, at the Bronze level, the consumer would pay lower monthly premiums than at the Platinum level. In exchange for their low monthly premiums, when medical services are received, the

consumer would have higher out-of-pocket expenses at the Bronze level than they would at the Platinum level.

Additionally, Marketplaces offer Catastrophic Coverage plans. These are available to individuals under age 30, or individuals who are eligible for certain hardship exemptions. There are no subsidies available for someone who purchases a Catastrophic Plan. They also come with high deductibles. They do provide for three primary care visits a year, as well as free preventive services at no cost – even before the annual deductible is met. An individual with a Catastrophic Plan is considered to have coverage under the Affordable Care Act and the Internal Revenue Service, and would not be subject to the individual shared responsibility payment for failing to maintain adequate health care coverage.

Individuals may also obtain medical insurance through plans offered outside the Health Care Marketplaces, in the open market. To the extent those plans provide minimum essential coverage, an individual who purchases a plan on the open market is considered to have met the individual mandate under the Affordable Care Act.

Individuals may also have medical insurance provided in conjunction with their employment. Not all employer-offered health insurance meets the minimum essential health benefits as defined by the Affordable Care Act. However, if an individual enrolls themselves and/or their dependents in their employer's plan, they have met the mandate for maintaining adequate medical coverage. Additionally, an individual who is covered through COBRA is considered to have met their responsibility for maintaining adequate medical coverage.

An individual is deemed to have met their responsibility for maintaining adequate coverage if they receive their medical coverage through a Government-sponsored program: Medicaid, Medicare, CHIP, TRICARE, and various Department Of Defense plans, including certain veterans plans and plans available to Peace Corps volunteers.

See 26 USC 5000A (f) for a complete list of medical coverage options that meet the definition of minimum essential coverage.

Q&A: Several questions have arisen in the child support community regarding the definition of plan adequacy under the Affordable Care Act, and the impact on the child support program.

1. Does a health insurance plan purchased through the Marketplace satisfy a parent's requirement to provide medical support?

Yes, if by purchasing an insurance plan, the parent has met the terms of the medical support order. Child support regulations do not specify what level of coverage or what medical services need to be included in a medical insurance plan in order for it

to be acceptable coverage for a dependent. But generally, if the dependent is covered by a medical plan that meets the Affordable Care Act definition of minimum essential coverage, the child support program should consider the dependent to have acceptable medical coverage.

2. If either the custodial or noncustodial parent has the dependent(s) covered on medical insurance through the Marketplace, are we still required to enforce medical support through the responsible parent's employer, using the National Medical Support Notice (NMSN)?

The goal of the Affordable Care Act and the child support program are in alignment: children need affordable, accessible and adequate medical coverage. With the Marketplaces, parents have more options for securing and maintaining medical coverage for their children. When a child is covered by a plan through the Marketplace, the child support program may decide that additional enforcement action is not needed with regard to securing medical coverage for the child.

Some child support orders specify that the noncustodial parent provide health insurance through his or her employer. In those instances, to be in technical compliance with the terms of the order, an NMSN should be used to enforce the medical support provisions in the order. However this may not be in the best interests of the child. You are encouraged to look at flexibility in your policies with regard to enforcing medical support as well as strategies for modifying orders to include medical insurance other than employer-sponsored as acceptable coverage for the children.

Many court orders include a provision for medical support for the child(ren) be provided by either or both parents, without specifying the avenue of coverage. In instances where the court order does not specify how insurance should be provided, insurance obtained through the Marketplace meets the terms of the court order.

3. We served the National Medical Support Notice (NMSN) on the noncustodial parent's employer, but the employer says the insurance available to the noncustodial parent doesn't meet the Affordable Care Act requirements with regard to providing minimum essential coverage/minimum value. Should we require the employer to enroll the child(ren) in the insurance plan?

This is an instance where an NMSN may not be appropriate. If the employer-offered medical insurance coverage does not meet the requirements under the Affordable Care Act, (i.e., it doesn't provide "minimum value" as defined in the Affordable Care Act) you are not required to have the employer deduct the premium costs from the parent's pay needed to enroll the child(ren) in the substandard plan. Instead, encourage the parent to meet their medical support obligation by enrolling the child(ren) in a medical insurance plan that does provide minimum essential coverage, such as a plan offered through the Health Insurance Marketplace.

Depending on the underlying support order, the noncustodial may be required to provide health care through their employer. This may be an opportunity to modify the order to include Marketplace coverage as acceptable coverage, and potentially consider the costs of health care through the Marketplace in the calculation of child and/or cash medical support.

4. With regard to plan adequacy, are there recommended order-setting practices that we may want to consider adopting, to be more in alignment with the Affordable Care Act?

There are several things a child support jurisdiction may want to consider when setting child support orders, to align more closely with the Affordable Care Act.

First, if you routinely specify that health care coverage is to be provided through a parent's employer, you are encouraged to adopt policies to make the order language more general in terms of the means of coverage. Updated policies could specify that there is no need to pursue coverage through an employer if a parent purchases a plan through the Marketplace for their child or the child already has other coverage that meets the Affordable Care Act's definition of acceptable coverage, such as Medicaid or CHIP.

Second, you may want to specify a standard of acceptable medical coverage in the support order - or enact policy to do the same – that aligns with the definition of acceptable coverage under the Affordable Care Act.

Third, in instances where a child already has coverage – through a Marketplace plan, or Medicaid or CHIP, for example – you are encouraged to accept the existing coverage as sufficient and look to cash medical support as a way for the parents to share their child's medical coverage costs.

Fourth, you are encouraged to review and modify the medical provisions in child support orders whenever modifying an order, to be in better alignment with what the Affordable Care Act considers acceptable coverage.

Child Support and the Affordable Care Act: Medicaid

This Fact Sheet series is intended to assist the child support community understand those parts of the Affordable Care Act that may impact delivery of services. These Fact Sheets provide information on existing Affordable Care Act laws and regulations, as enacted by the Internal Revenue Service (IRS) and the Centers for Medicare and Medicaid Services (CMS). The Affordable Care Act provides many new options for parents seeking to provide health care coverage for their children and themselves. While the Affordable Care Act does not amend Title IV-D of the Social Security Act, understanding how the Affordable Care Act works can help state, tribal, and local child support agencies develop policies and procedures to meet the needs of the families they serve.

The Affordable Care Act made important changes to the Medicaid program, including redefining income. Though the Affordable Care Act did not amend Title IV-D, the role of child support in cases where the parents and/or children are eligible for Medicaid continues to evolve. However, in general, to align with the Affordable Care Act, child support jurisdictions may consider:

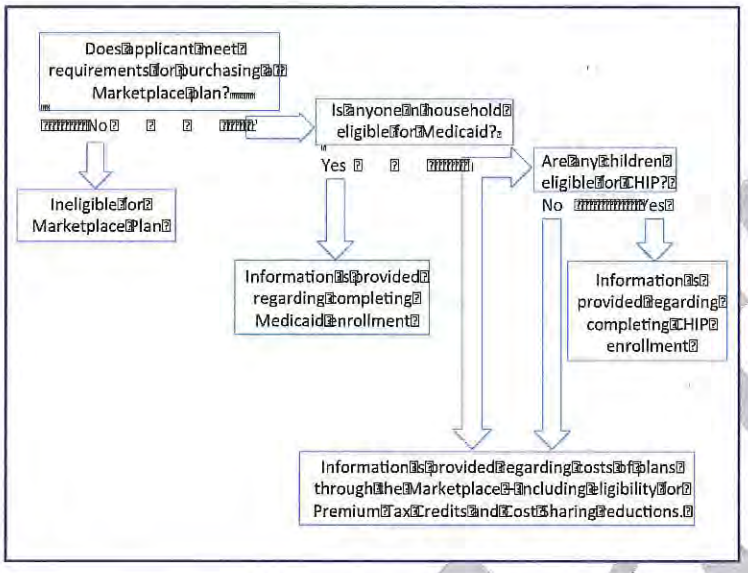
- If a child is eligible for and enrolls in Medicaid, child support is not required to order or enforce additional coverage.
- Where the dependent is eligible for or enrolled in Medicaid, generally neither parent should be ordered to seek medical coverage for the dependent through the Marketplace since the parents will not be eligible for assistance to help pay for Marketplace coverage.
- It may be appropriate for the child support agency to order the custodial parent to apply for Medicaid on behalf of his or her children.
- The state should carefully consider how ordering additional coverage for a child covered by Medicaid may impact the amount of or compliance with the cash child support ordered.

Changes to the Medicaid Program and Intersections with Child Support

When an individual or family applies for medical coverage through the Health Insurance Marketplace, applicants are first assessed for Medicaid and CHIP eligibility. When found eligible for Medicaid or CHIP, the information from their application will be shared with the appropriate agency, which will provide the applicants with additional information regarding their eligibility and coverage. If they are determined eligible for Medicaid or CHIP, the Marketplace does not go on to look at their eligibility for Marketplace plans or subsidies. Once determined

eligible for Medicaid or CHIP, the individual is **not** eligible for premium tax credits or cost sharing reductions.[1]

Figure 1: Marketplace Medical Coverage Options Decision Tree



The Affordable Care Act changed the definition of a Medicaid household.

- The new rules require that a household determination be made for each individual applicant.
- Individuals who live together can have different Medicaid household sizes, based on their relationship to one another.
- The child's Medicaid household can be different from their household for premium tax credits and cost sharing reductions through Marketplace coverage.

Eligibility for Medicaid under the Affordable Care Act is determined based on the Medicaid household's modified adjusted gross income.[2]

- There is no longer an asset test for Medicaid households.
- Child support received is not included in modified adjusted gross income.

---

[1] See Fact Sheet xyz for information regarding Marketplace subsidies.

[2] Exception: If the individual is eligible for Medicaid due to age or disability, the pre-ACA Medicaid rules regarding income and assets apply.

- Children's Medicaid eligibility is determined based on their Medicaid household's modified adjusted gross income, as compared to the federal poverty level for their household size.

States have the option of expanding Medicaid services to income-eligible adults who do not have a Medicaid-eligible child in their home.

- Eligibility for Medicaid for adults in "expansion states" is based on their Medicaid household's modified adjusted gross income, as compared to the federal poverty level for their household size.
- Many low-income noncustodial parents in the child support caseload may be eligible for Medicaid, if their State of residence opted to expand Medicaid.

The following table provides the federal poverty level information for 2014. Households with modified adjusted gross income below 138% of the federal poverty level are potentially eligible for Medicaid coverage.

Household Size	138% of federal poverty level
1	$16,105
2	$21,707
3	$27,310
4	$32,913
5	$38,519

When a dependent is eligible for Medicaid or CHIP, you should assess each situation to determine whether ordering parents to provide medical insurance is in the best interests of the child and family. In many instances, ordering and enforcing a sum-certain cash medical support obligation to pay for copayments and health care expenses may be a better option. Or it may not be appropriate to order additional medical support beyond Medicaid.

Q&A Several questions have arisen in the child support community regarding the impact of the changes in the Medicaid program on child support cases.

1: How is a child's Medicaid household defined under the Affordable Care Act?

In general, a child's Medicaid household is comprised of the child and all siblings and parents living with the child (including stepparents, and step and half-siblings). If the child's parents are unmarried but both live in the same household as the child, the child's Medicaid household includes both parents.

If the child is claimed as a tax dependent by a noncustodial parent living apart from the child, the noncustodial parent is not part of the child's Medicaid household. The child is part of the noncustodial parent's household for purposes of determining eligibility for premium tax credits and cost sharing reductions for Marketplace insurance plans for the household. However, if the child is eligible for Medicaid as part of the custodial parent's household, whether or not they are actually enrolled in Medicaid, the noncustodial parent is ineligible for premium tax credits or cost sharing reductions to help pay for the child's medical coverage.

2: Medicaid eligibility is now being determined based on the Medicaid household's modified adjusted gross income. What is modified adjusted gross income?

Modified adjusted gross income (MAGI) is a federal tax term. MAGI is comprised of the tax household's Adjusted Gross Income (line 37 on IRS form 1040), plus foreign income, plus tax-exempt interest, plus non-taxable Social Security benefits. MAGI does not include child support – neither as income for the receiving parent nor as a deduction from the paying parent's income. See *42CFR435.603 Application of modified gross income (MAGI) for more information.*

3: Can either parent apply for Medicaid on behalf of their dependent, even if not living with dependent?

Yes - but it's a qualified Yes. The child's Medicaid eligibility is determined based on the child's Medicaid household. The noncustodial parent could apply for Medicaid for the child, but the child's Medicaid household includes their siblings and other parent, including stepsiblings and stepparents. The noncustodial parent may not be the parent in the best position to apply for Medicaid for the child(ren). Instead, you could consider ordering the custodial parents of Medicaid-eligible children to apply for Medicaid for their children.

4: If a child is on Medicaid and we establish an order that requires the noncustodial parent to provide medical insurance for the child, must the child be removed from Medicaid?

No. A child's insurance status does not impact their Medicaid eligibility. A Medicaid recipient may also be enrolled in private health care coverage.

If a child is enrolled in Medicaid, you are not required to order additional coverage. You should carefully consider whether or not it is appropriate to order a noncustodial parent to provide additional coverage for a child who is eligible for or enrolled in Medicaid, or if provision of cash medical support or cash child support alone would be of more benefit to the family.

You should also carefully consider how ordering additional coverage for a child covered by Medicaid may impact the amount of or compliance with the cash child support ordered.

In general, where the dependent is eligible for or enrolled in Medicaid or CHIP, neither parent should be ordered to seek medical coverage for the dependent through the Marketplace. It is important to remember that a parent is not eligible for premium tax credits or cost sharing reductions if their child is eligible for Medicaid or CHIP.

5: When a child is covered by Medicaid, and the noncustodial parent has been ordered to provide insurance for the child but does not have insurance available through his or her employer, should we order the noncustodial parent to obtain insurance coverage for the child through the Marketplace?

In general, where the dependent is eligible for Medicaid or CHIP, neither parent should be ordered to seek medical coverage for the dependent through the Marketplace. The parents will not be eligible for premium tax credits to assist with paying the cost of the insurance premiums for the child, because the child is Medicaid-eligible.

There may be some instances where the noncustodial parent has the financial means to purchase a full-cost unsubsidized plan through the Marketplace. In these circumstances, it may be appropriate for the parent to purchase a Marketplace plan for the child if, for example, the parents want wrap-around or dual coverage for their child's special needs or where Marketplace coverage offers access to care providers that better fit the child's needs.

Ordering and enforcing a cash medical support obligation to pay for copays and other unreimbursed medical expenses may be also be appropriate in this situation. However, you should carefully consider how ordering additional coverage for a child covered by Medicaid may impact the amount of or compliance with the cash child support ordered.

6. Does the Affordable Care Act change our responsibility for establishing and/or enforcing medical support for children receiving foster care services under Title IV-E or Title XIX?

No. If you currently establish and/or enforce medical support for children in out-of-home placements, nothing in the Affordable Care Act changes your role and responsibility.

It may be of interest to know that the Affordable Care Act requires states to provide young adults under age 26 with free health care coverage - generally Medicaid - if they were still in foster care at the time they "aged out" of the foster care system.

7. In states that are expanding Medicaid eligibility, low-income adults may now be eligible for Medicaid based on their income. Will we have a responsibility to open cases in these instances?

Many states are electing to expand eligibility for Medicaid, an option under the Affordable Care Act. In expansion states, low-income adults can apply and may be determined eligible for Medicaid. These would not be appropriate cases for the Medicaid agency to refer to the child support agency – there are no children so there is no eligibility for services through the child support program. Additionally you may not use child support FFP to pursue Medicaid reimbursement for this expanded Medicaid-eligible population.

8. In Medicaid expansion states, custodial and noncustodial parents may be income-eligible for Medicaid coverage for themselves. In non-expansion states, similarly situated low-income parents would be exempt from the individual shared responsibility payment for failing to maintain health insurance coverage for themselves. How should a medical support obligation be determined for a parent who is income-eligible for Medicaid coverage?

There is no specific federal regulation regarding the establishment or enforcement of a medical support obligation against a parent who is eligible for Medicaid. You should look to your state guidelines and enforcement rules regarding low-income parents. However, you should consider the efficacy and cost-effectiveness of establishing or enforcing a medical support order against a parent who is eligible for Medicaid – especially if the dependent is also Medicaid-eligible.

When the Marketplace determines an individual is income-eligible for Medicaid, it has determined that the individual's income is below 138% of the federal poverty level. When a noncustodial parent is Medicaid-eligible, state child support programs should consider various options.

- You may choose to exempt Medicaid-eligible or Medicaid-enrolled noncustodial parent from medical support obligations.
- You could also set policies that place similar medical support obligations on Medicaid-eligible or Medicaid-enrolled custodial and noncustodial parents; for example, requiring parents to share the costs of any Medicaid copayments or additional medical expenses for their child as part of the cash child support order, rather than ordering either parent obtain medical coverage for the child.
- If the custodial parent is not Medicaid-eligible, it may be more appropriate for the custodial parent to be responsible for the child's medical support. If they are Medicaid eligible, you may order them to enroll the child in Medicaid.
- Or you could require either parent to provide employer-sponsored coverage if it is available at no cost.

In the instance where the noncustodial parent is Medicaid-eligible, it may be more appropriate to order the custodial parent to maintain health insurance for the child – through Medicaid, CHIP, the Marketplace or any employer-offered health insurance available to the custodial parent. If the child's medical needs are being met through the custodial parent, it is probably better to not reduce the noncustodial parent's income and potential to pay child support by requiring him or her to secure additional medical coverage, and instead seek consistent child support payments.

Child Support and the Affordable Care Act:
Who can apply for health insurance coverage through the Marketplace?

This Fact Sheet series is intended to assist the child support community understand those parts of the Affordable Care Act that may impact delivery of services. These Fact Sheets provide information on existing Affordable Care Act laws and regulations, as enacted by the Internal Revenue Service (IRS) and the Centers for Medicare and Medicaid Services (CMS). The Affordable Care Act provides many new options for parents seeking to provide health care coverage for their children and themselves. While the Affordable Care Act does not amend Title IV-D of the Social Security Act, understanding how the Affordable Care Act works can help state, tribal, and local child support agencies develop policies and procedures to meet the needs of the families they serve.

The expressed intent of the Affordable Care Act is that all families should have access to adequate and affordable health care coverage. The child support program has a similar mission with regard to ensuring children's health care needs are met. While the Affordable Care Act did not change the child support program's mission, some of the Act's provisions may alter child support's role in ensuring children have coverage. Child support should look for ways to integrate the Affordable Care Act provisions into their policies and procedures such that the best interests of the child are in the forefront when considering options for establishing and enforcing medical support orders.

The Marketplace

Health Insurance Marketplaces provide consumers a way to compare and shop for health insurance plans, as well as have their eligibility for subsidies – Premium Tax Credits and Cost Sharing[1] – determined. Applicants' eligibility for Medicaid and CHIP is also assessed through the Marketplace. Applicants apply for coverage through the Marketplace by completing a "single, streamlined application."

When an individual or family applies for coverage through the Marketplace, applicants are first assessed for Medicaid and CHIP eligibility. If they are determined eligible for Medicaid or CHIP, the Marketplace does not go on to look at their eligibility for Marketplace plans or subsidies. Once determined eligible for Medicaid or CHIP, the consumer is **not** eligible for premium tax credits or cost sharing reductions.

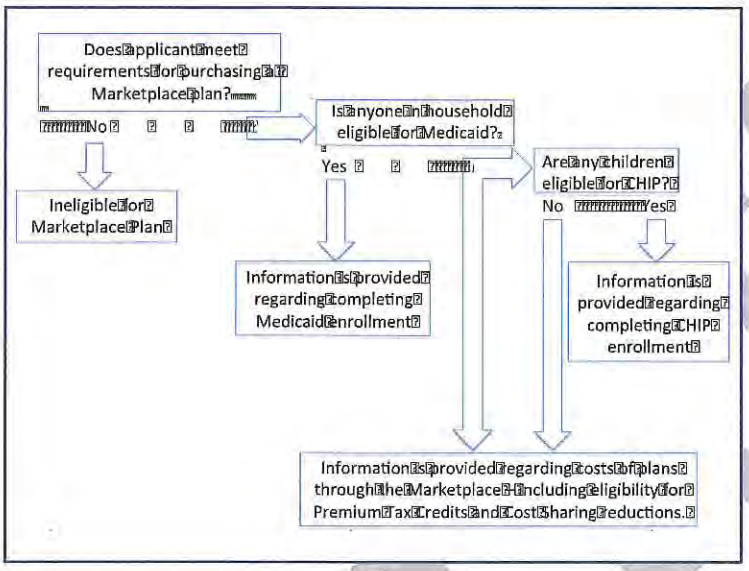
Only after determining ineligibility for Medicaid and CHIP does the Marketplace assess an individual or family's eligibility for premium tax credits. If they are eligible, they can use the premium tax credits to help pay for their medical insurance premiums for a plan purchased through the Marketplace. If they are eligible for premium tax credits and

[1] See Fact Sheet xyz for more information about subsidies available through the Marketplace.

purchase a silver level plan[2], the Marketplace will then assess their eligibility for cost sharing reductions to help pay for medical services received.

If an individual or family is found ineligible for premium tax credits, they are also ineligible for cost sharing reductions. However, they can still purchase a full-price plan through the Marketplace, or in the private health insurance market.

Figure 1: Marketplace Medical Coverage Options Decision Tree



In general, where the dependent is eligible for Medicaid or CHIP, neither parent should be ordered to seek coverage for the dependent through the Marketplace. When a child is Medicaid or CHIP eligible, the child's parents are not eligible for any subsidies through the Marketplace (premium tax credits or cost sharing reductions) to help with the child's costs for a Marketplace plan.

Q&A Several questions have arisen in the child support community regarding who is eligible to purchase medical insurance through the Marketplace.

1: Who can obtain medical insurance through the Marketplace?

Most people can obtain health insurance through the Marketplace, whether Medicaid, CHIP, or a Marketplace plan. To be eligible for health coverage through the Marketplace,

---

[2] Marketplaces offer Qualified Health Plans in four "metal" tiers: Bronze, Silver, Gold and Platinum levels. All metal tiers provide the 10 essential health benefits. See section 1302(b)(1) of the Affordable Care Act.

an individual must live in the United States; must be a U.S. citizen or national, or be lawfully present; and cannot be incarcerated.

Residents of a U.S. territory aren't eligible to apply for health insurance using the federal or state Marketplace. U.S. territories can, however, create their own Health Insurance Marketplace or expand Medicaid coverage.

2: If an individual has an offer of affordable insurance from their employer, can they shop for coverage through the Marketplace?

Yes, so long as they meet the eligibility conditions listed under question 1 above. However, if they have an offer of adequate and affordable coverage from their employer, they will not be eligible for premium tax credits or cost sharing reductions.

In some instances, you as the child support professional, may be enforcing the terms of a medical support order through a parent's employer, using the National Medical Support Notice (NMSN). If the parents have determined that a Marketplace (or other insurance) plan better meets the needs of their child, you may consider the child's medical support needs met, and withdraw the NMSN, if the support order permits.

3: Can the noncustodial parent purchase a health plan for their child(ren) through the Marketplace? What if the noncustodial parent and child(ren) live in different states?

Yes, noncustodial parents can purchase health plans through the Marketplace for their children. However, the children must be part of their noncustodial parent's tax household[3] in order for the noncustodial parent to be potentially eligible for premium tax credits and cost sharing reductions to help with the cost of the children's coverage.

If the children are part of the noncustodial parent's tax household, income and family size determine whether or not the noncustodial parent would be eligible for subsidies – premium tax credits and cost sharing reductions. But if the children are eligible for Medicaid, the noncustodial parent will be ineligible for premium tax credits and cost sharing reductions for their children's medical insurance coverage.

Additionally, Marketplaces provide "child only" plans. In the instance where noncustodial parents and their children live in different states, noncustodial parents who are seeking Marketplace coverage for their children can select and purchase a plan that offers coverage where their children reside, in the Marketplace that serves the children's area of residence.

---

[3] See Fact Sheet xyz for more information about how the Internal Revenue Service defines a tax household.

4: When a child is covered by Medicaid, and the noncustodial parent has been ordered to provide insurance for the child but does not have insurance available through his or her employer, should we order the noncustodial parent to obtain insurance coverage for the child through the Marketplace?

In general, when the dependent is eligible for Medicaid or CHIP, neither parent should be ordered to seek medical coverage for the dependent through the Marketplace. The parents will not be eligible for premium tax credits to assist with paying the cost of the insurance premiums for the child, because the child is Medicaid-eligible.

There may be some instances where the noncustodial parent has the financial means to purchase a full-cost unsubsidized plan through the Marketplace. In these circumstances, it may be appropriate for the parent to purchase a Marketplace plan for the child if, for example, the parents want wrap-around or dual coverage for their child's special needs or where Marketplace coverage offers access to care providers that better fit the child's needs.

Ordering and enforcing a cash medical support obligation to pay for copays and other unreimbursed medical expenses may be also be appropriate in this situation. However, you should carefully consider how ordering additional coverage for a child covered by Medicaid may impact the amount of or compliance with the cash child support ordered.

5: Can someone purchase a health plan through the Marketplace for a minor child if they do not have a legal responsibility for the child?

Yes. Any adult may apply for coverage for a child through the Marketplace, whether or not they have a legal responsibility for or relationship to the child. In this instance, the Marketplace will first assess the child's eligibility for Medicaid. If the child is Medicaid eligible the adult will not need to purchase a Marketplace plan for the child.

If the child is not eligible for Medicaid, **and** if the adult claims a dependency deduction for the child for federal tax purposes, they would potentially be eligible for premium tax credits or cost sharing reductions to help offset the child's medical costs.

6: Does paternity have to be established before a person can purchase a health plan through the Marketplace for a child?

No. A father may purchase coverage for his child through the Marketplace, whether paternity has been established or not. However, if the father does not claim the child as a dependent for federal tax purposes, he would be ineligible for premium tax credits or cost sharing reductions. And if the child is eligible for Medicaid or CHIP, the noncustodial parent will be ineligible for premium tax credits and cost sharing for any coverage he purchases for the child through the Marketplace.

7: Can parents purchase health insurance through the Marketplace on behalf of their stepchildren?

Yes. And if the children are part of their stepparent's tax household, they will be included in the calculations for the household's eligibility for premium tax credits and cost sharing reductions.

8: What is the open enrollment time frame under the Affordable Care Act? What are the "qualifying events" that create a special enrollment period for an individual?

The regular open enrollment period for plan year 2014 was October 1, 2013 through March 31, 2014. For plan year 2015, open enrollment is currently scheduled for November 15, 2014 through January 15, 2015.

Please note that individuals may apply for Medicaid or CHIP throughout the year.

Special enrollment periods may be triggered by certain qualifying events, allowing an individual to purchase or change insurance plans outside the open enrollment period. Qualifying events include:

- Getting married;
- Having, adopting, or placement of a child;
- Permanently moving to a new area that offers different health plan options;
- Losing health coverage due to events such as job loss, divorce, loss of eligibility for Medicaid or CHIP, or expiration of COBRA coverage;
- And for those enrolled in a plan through the Marketplace, a change in income or household status that affects eligibility for premium tax credits or cost sharing reductions.

Most special enrollment periods last 60 days from the date of the qualifying life event.

9: Does the establishment of a new child support order constitute a "qualifying event" and trigger a special enrollment period?

The birth or adoption of a child is a qualifying event, and thus triggers a special enrollment period. At the time of the event, the parent who will be claiming the child as a dependent for federal tax purposes becomes responsible for demonstrating that the child is covered by medical insurance, unless otherwise exempt.

It's not clear that a new order establishing paternity and/or a child support obligation by itself would be a triggering event. Some State Marketplaces do include the establishment of a new medical child support order as a qualifying event.

Specific life events tied to the order may, in and of themselves, be triggering events. For example, if the new order specifically grants the dependent exemption to one parent, depending on how taxes were calculated previously, this could constitute a "change in

household status that affects eligibility for premium tax credits or cost sharing reductions." If the order for support was the result of a previously intact household dissolving, again, depending on previous tax filing, this could constitute a change in income or household status for determining premium tax credits or cost sharing. Household changes could also result in one or both parties relocating, which could trigger a special enrollment period.

The parent(s) in this situation should report the change through the Marketplace, which will render an official determination regarding whether the terms of the support order trigger a special enrollment period.

It's important to remember that the Affordable Care Act open enrollment period does not affect the National Medical Support Notice (NMSN) rules. In the event a new order is entered and a parent is ordered to provide medical coverage for the child, if the parent has medical coverage available through their employer and you serve an NMSN, the employer is required to follow the NMSN rules, which do not allow the employer or its insurer to wait for open enrollment to enroll the child in a plan.

In any event, try to identify the medical support options available for the child, and strive to recognize those options in the support order – whether through ordering a specific parent claim the dependent credit for federal tax purposes, ordering one parent over the other to provide medical coverage, and/or addressing the cost of premiums and uncovered out-of-pocket medical costs through the guideline calculation or by ordering cash medical support.

Child Support and the Affordable Care Act:
Employer Questions

This Fact Sheet series is intended to assist the child support community understand those parts of the Affordable Care Act that may impact delivery of services. These Fact Sheets provide information on existing Affordable Care Act laws and regulations, as enacted by the Internal Revenue Service (IRS) and the Centers for Medicare and Medicaid Services (CMS). The Affordable Care Act provides many new options for parents seeking to provide health care coverage for their children and themselves. While the Affordable Care Act does not amend Title IV-D of the Social Security Act, understanding how the Affordable Care Act works can help state, tribal, and local child support agencies develop policies and procedures to meet the needs of the families they serve.

This fact sheet is intended to assist you as an employer, in understanding your responsibilities with regard to the terms of a National Medical Support Notice (NMSN) you may receive from a local child support agency. It is also intended to inform State child support agencies of the questions employers have with the intersection of the NMSN and the Affordable Care Act, and hopefully will help States formulate policies and procedures that minimize the confusion while providing for the medical insurance needs of children and families.

Background

Medical support is a form of child support sometimes provided as health care insurance under a parent's policy. A court or administrative agency may require your employee to provide health insurance for his or her dependents. Courts require coverage if it is available to an employee at a "reasonable cost." Health insurance is defined as coverage available through the employer or other group health insurance (for example, a union). Reasonable cost is defined under state law. If neither parent has employer-sponsored health insurance, the child support order may provide for a specific dollar amount to be deducted from your employee's wages for medical support purposes. As an employer, you are required to honor medical support orders established under state law.

Important reminders:

- If your health insurance plan requires that your employee be enrolled in order for the children to be enrolled, and your employee is not currently enrolled, you must enroll both your employee and the children, regardless of whether your employee has applied for enrollment in the plan.
- The dependent(s) must be enrolled in a family insurance plan without regard to seasonal restrictions (i.e., open enrollment).
- The dependent(s) may not be denied coverage on the grounds that the parents were never married, that the dependent is not claimed on the employee's Federal income tax return, or that the dependent does not reside with the employee or in the insurer's service area.

Looking Ahead

The Affordable Care Act did not directly amend the child support program's medical support legal responsibilities. The child support program is re-evaluating its role in assuring all children have health insurance, in light of the Affordable Care Act. In the months ahead, you may begin to see changes in areas such as a state child support program's definition of reasonable cost, or clarification of what level of coverage is acceptable under a medical support order. As more children gain insurance coverage through the Health Insurance Marketplace, child support agencies may use the NMSN less frequently, while ordering more parents to make cash contributions (cash medical support) toward their children's medical costs. We will update this fact sheet as needed.

Q&A: Several questions have arisen in the employer community with regard to how the Affordable Care Act affects the National Medical Support Notice (NMSN).

1. Based on the information we have in our records, we believe our employee will be exempt from the Individual Responsibility provision in the Affordable Care Act. We received an NMSN from the local child support office. Are we required to comply with the terms of the NMSN?

   Yes, you are required to comply. A parent's responsibilities under the Affordable Care Act are different than a parent's medical support responsibilities.

   Under the Affordable Care Act, all adults and members of their family must either:
   - Have minimum essential coverage, or
   - Have an exemption from the responsibility to have minimum essential coverage, or
   - Make an individual shared responsibility payment when they file their federal income tax return.

   While your employee may qualify for an exemption under the Affordable Care Act, this does not negate the terms of the legal order regarding medical support. However, the child support agency may need more information about your employee's circumstances – such as the cost of any employer-offered health insurance – in order to determine if the available insurance is affordable. Have your employee contact their child support office to discuss the circumstances that may make them exempt from the Individual Responsibility provisions in the Affordable Care Act and impact their medical support obligations.

   If you have questions about honoring the terms of the NMSN, please contact the issuing child support agency as soon as possible. Because of confidentiality requirements, the child support agency may not be able to talk to you (as the employer) about all of the factors related to your employee's child support case or support order. But until the child support agency communicates with you directly regarding the NMSN, you must take the steps required to respond to the NMSN.

2. Our employee works part time. While we offer medical insurance, our part-time employee's insurance premiums would exceed 9.5% of their income and are thus considered unaffordable under the Affordable Care Act. The employee has opted to not enroll in the

coverage we offer. We received an NMSN from the local child support office. Are we required to comply with the terms of the NMSN?

You are required to comply with the terms of the NMSN if the coverage is affordable based on the state's definition of "reasonable cost." The Affordable Care Act and the Child Support Program offer two different definitions of "affordable." These definitions are not directly comparable.

Affordability under the Affordable Care Act is based on the cost of available insurance plans, compared to the Modified Adjusted Gross Income (MAGI) of the individual's tax household. By contrast, most state child support programs only consider a parent's income – rather than their household income – when determining whether the cost of available insurance coverage is reasonable. Most state child support programs consider the cost of medical insurance to be reasonable if the marginal difference in cost between a parent-only plan and adding a dependent (or purchasing a family plan) is less than 5% of the responsible parent's gross income. However, the regulations provide states flexibility in defining "reasonable cost."

The child support agency may need to know more about the cost of the employer-sponsored health insurance. If you have completed the "Employer Coverage Tool" (from the Marketplace Application) on behalf of your employee, please provide a copy of the form to the child support agency. But until the child support agency communicates with you directly regarding the NMSN, you must take the steps required to respond to the NMSN.

3. We offer a very limited health insurance plan to our employees; it does not meet the Affordable Care Act's requirement for providing minimum essential coverage or minimum value. We received an NMSN from the local child support office. Are we required to comply with the terms of the NMSN?

   Federal child support regulations do not include an equivalent to "minimum essential coverage" under the Affordable Care Act. The existing child support regulations do not specify what level of coverage or what medical services need to be included in a medical insurance plan in order for it to be acceptable coverage for a dependent. Therefore, in general you are required to comply with the terms of the NMSN. However, some states may have adopted regulations regarding medical plan adequacy.

   Please contact the agency that issued the NMSN as soon as possible to discuss the type of health insurance you offer your employees. But until the child support agency communicates with you directly regarding the NMSN, you must take the steps required to respond to the NMSN.

4. The NMSN section "Limitations on Withholding" defines net income as the "income left after making mandatory deductions such as State, Federal, local taxes; Social Security taxes; and Medicare taxes." Now that all individuals are required to maintain health insurance coverage for themselves (or pay the individual responsibility payment or be otherwise exempt from the payment), should I consider the employee's medical insurance premium a mandatory deduction in calculating their net pay?

For federal employees, health insurance premiums are considered a mandatory deduction. See 42 U.S.C. 659(h)(2) for a complete list of mandatory deductions for federal employees.

For all other employers, the law of the state where the employee works (the "principal place of employment" state) determines which deductions are mandatory. See State Income Withholding Contacts and Program Information at (http://www.acf.hhs.gov/programs/css/resource/state-income-withholding-contacts-and-program-information) for more information.

5. Our employee has been purchasing a health care plan through us, for their child. Once the Health Insurance Marketplace opened for business, the employee purchased a better plan for the child through the Marketplace. The employee is asking us to discontinue the deduction from their pay, and disenroll the child from our health insurance plan. What should we do?

   Please have your employee contact the child support agency that issued the NMSN to discuss alternative insurance coverage for his or her children. Continue honoring the terms of the NMSN until you receive written notice from the child support agency that the children can be disenrolled from the employer-sponsored coverage.