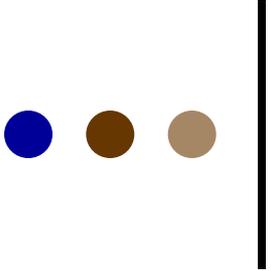


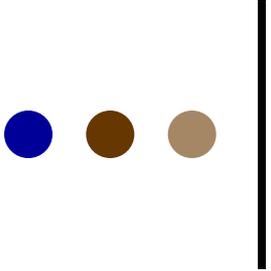
IRS Health Insurance Premium Tax Credit

Pam Silberman, JD, DrPH
President & CEO
NC Institute of Medicine
September 28, 2011



Agenda

- Notice of proposed rulemaking
- Definitions
- Eligibility for premium tax credit
- Computing the premium amount
- Reconciliation
- Information reporting

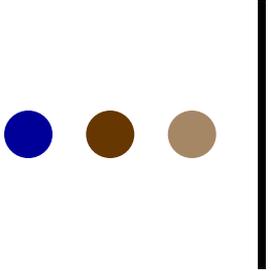


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● ● ● | Notice of Proposed Rulemaking: Health Insurance Premium Tax

- The proposed rules were issued August 17, 2011.
 - 76 Federal Register 50931-50949.
 - Creates 26 CFR 1.36B-0 through 1.36B-5.
- Comments must be received by November 10, 2011.



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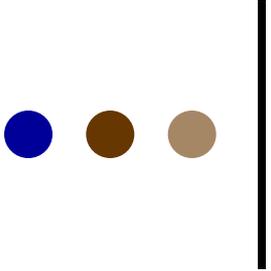
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Selected Definitions (26 CFR 1.36B-1)

- *Family*: Individuals for whom a taxpayer properly claims a deduction for a personal exemption.
- *Household income*: The sum of
 - Taxpayer's modified adjusted gross income, plus
 - Aggregate modified adjusted gross income of all other individuals who are part of the taxpayer's family and are required to file an income tax return.
- *Self-only coverage*: Coverage that covers only one individual.
- *Family coverage*: Coverage that covers more than one individual.

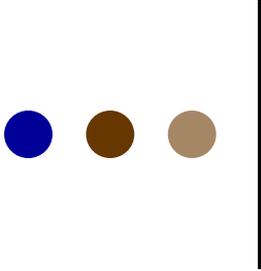
Selected Definitions (26 CFR 1.36B-3)

- *Coverage Family*: Members of the taxpayer's family who are not eligible for minimum essential coverage, are lawfully present in the US, and are not incarcerated.
- *Coverage Month*: Month in which individual is covered by a qualified health plan in the HBE, premiums are paid by taxpayer or advance credit payment, and individual is not eligible for minimum essential coverage (other than through the individual market).
- *Premiums paid for the taxpayer*: Premiums paid by another person for the taxpayer's coverage (or for the spouse or dependent) are treated as paid by the taxpayer.



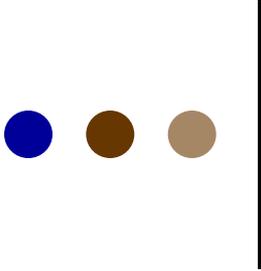
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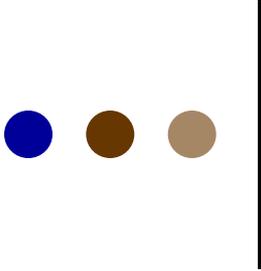
Eligibility for Premium Tax Credit (26 CFR 1.36B-2)

- Applicable taxpayer is eligible for the premium tax credit if the individual taxpayer, spouse or dependent is:
 - Enrolled in one or more qualified health plans in the HBE
 - Is not eligible for “minimum essential coverage” (other than coverage in the individual market)
 - Has a household income between 100-400% FPG
 - Note: Immigrants with incomes less than 100% FPG who are lawfully present, and who do not qualify for Medicaid, are treated as applicable taxpayers who are eligible for a premium tax credit
 - Others with incomes <100% FPG may also be applicable taxpayers if the HBE estimates at the time of enrollment that the taxpayer’s household will be between 100-400% FPG.



Eligibility for Premium Tax Credit (26 CFR 1.36B-2)

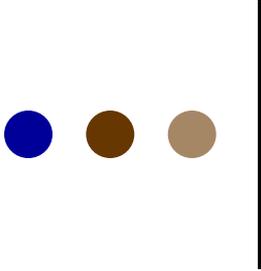
- Other eligibility requirements:
 - If a taxpayer is married, the couple must file jointly in order to qualify for the tax credit
 - Individuals are not applicable taxpayers if someone else can claim them as dependents under their return
 - Individuals who are not lawfully present or who are incarcerated may not be covered by a qualified health plan through the HBE. (However, the individual may be a qualified taxpayer if other family members are eligible to enroll in the plan).



Minimum Essential

Coverage (26 CFR 1.36B-2(c))

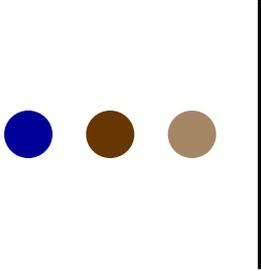
- Minimum essential coverage includes government sponsored programs, eligible employer-sponsored plans, grandfathered health plans.
- Special rules for government-sponsored health plans:
 - Individuals eligible for government-sponsored health plans are considered to have essential minimum coverage, regardless of whether they are enrolled.
 - Individuals are considered eligible for VA benefits only if *enrolled* in a VA program considered minimum essential coverage.



Minimum Essential

Coverage (26 CFR 1.36B-2(c))

- Government-sponsored health plans (cont'd):
 - Individuals eligible for government programs are generally considered eligible the first day of the first full month in which the individual may receive benefits.
 - Special rules if coverage is retroactive to prior month or if person fails to apply reasonably promptly after the event that establishes eligibility.
 - An individual is not treated as eligible for Medicaid, CHIP, or similar program if the Exchange determines that the individual is not eligible for the program when the person enrolled in the QHP.



Minimum Essential

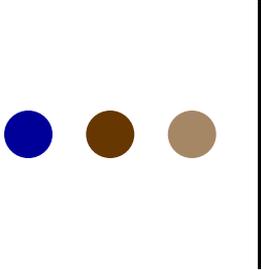
Coverage (26 CFR 1.36B-2(c))

- Special rules for employer-sponsored minimum essential coverage (26 CFR 1.36B-2(c)(3)):
 - Individuals who *may enroll* in eligible employer sponsored plan and those who may enroll because of a relationship to the employee (spouse, child) are eligible for minimum essential coverage *if* the plan is affordable *and* provides minimum value.
 - Individuals and their family members are considered to have access to employer-sponsored coverage if they could have enrolled during annual or special enrollment periods, even if they chose not to enroll.
 - However, different rules apply to people eligible for continuation coverage. In that event, an individual is considered to be covered by minimum essential employer-sponsored coverage only if he/she enrolls in the continuation coverage.

Minimum Essential

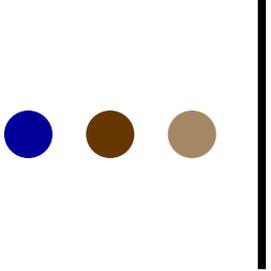
Coverage (26 CFR 1.36B-2(c))

- Employer-sponsored minimum essential coverage (26 CFR 1.36B-2(c)(3)):
 - *Affordability*: “...An eligible employer-sponsored plan is affordable for an employee or a related individual if the portion of the annual premium the employee must pay, whether by salary reduction or otherwise ... for self-only coverage for the taxable year does not exceed the required contribution percentage [9.5%] of the applicable taxpayer’s household income for the taxable year.” (26 CFR 1.36B-2(c)(3)(v)(A))
 - *Note: IRS noted that different rules will apply to determine whether the family is exempt from the individual mandate. If the cost of family coverage exceeds 8% of the family’s household income, then they are not required to have coverage. (IRS Preamble*



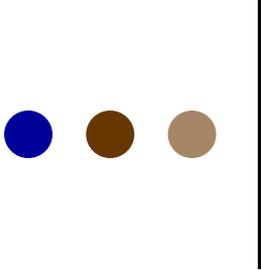
Minimum Essential Coverage (26 CFR 1.36B-2(c))

- Employer-sponsored minimum essential coverage (26 CFR 1.36B-2(c)(3)):
 - *Affordability* (cont'd):
 - If the individual obtains coverage through the HBE and does not seek an advanced determination of affordability of employer-sponsored insurance, then eligibility will be determined later based on actual income and costs of self-only coverage through the employer.
 - *Minimum value*: An eligible employer-sponsored plan provides minimum value if the plan's share of total allowed costs of the covered benefits is at least 60%. (26 CFR 1.36B-2(c)(3)(vi)):
 - *Note: Grandfathered plans and large employer plans are not required to provide the essential benefits.*



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Computing the Premium Assistance Credit Amount

(26 CFR 1.36B-3)

- Taxpayer's premium assistance credit for a taxable year is the sum of the premium assistance amounts for all coverage months for the individual in the taxpayer's family.
- Premium assistance amount for a coverage month is the *lesser* of:
 - Premiums for the month for one or more qualified health plans in which a taxpayer or a member of the taxpayer's family enrolls, *or*
 - The excess of the adjusted monthly premium for the applicable benchmark plan over $1/12^{\text{th}}$ of the product of a taxpayer's household income and the applicable percentage for the taxable year.

Calculating the Premium

Assistance Amount (26 CFR 1.36B-3)

- *Adjusted Monthly Premium:* Premium an insurer would charge for the applicable benchmark plan to cover all members of the taxpayer's coverage family, adjusted only for the age of each family member. (26 CFR 1.36B-3(e))
- *Applicable Benchmark Plan:* The second lowest cost silver plan for self-only or family coverage that is offered at the time a taxpayer or family member enrolls in a qualified health plan in the HBE. The applicable benchmark plan is for the rating area where the taxpayer resides. (26 CFR 1.36B-3(f))
 - If the HBE offers categories of family coverage (eg, two adults, one adult with children, two adults with children), then benchmark for family coverage is based on the coverage category that applies to the taxpayer's coverage family.

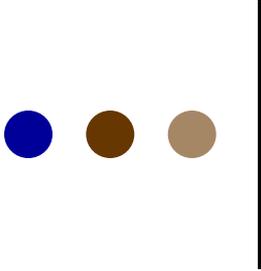
Applicable Percentage Table

(26 CFR 1.36B-3(g)(2))

Household income percentage of federal poverty levels*	Initial Percentage	Final Percentage
Less than 133%	2.0	2.0
At least 133% but less than 150%	3.0	4.0
At least 150%, but less than 200%	4.0	6.3
At least 200%, but less than 250%	6.3	8.05
At least 250%, but less than 300%	8.05	9.5
At least 300%, but less than 400%	9.5	9.5

To determine the amount of the premium tax credit:

- 1) Determine taxpayers required contribution (multiply the household's income by the applicable percentage).
- 2) Subtract the taxpayer's required contribution from second-lowest cost silver benchmark plan. The difference, if any, is the premium tax credit.



Example

- The Smiths family have a modified adjusted gross income of \$46,935/year (210% FPG)
 - They must pay 6.65% of their family income in premiums for the second lowest cost silver plan.*
 - Assume the second lowest cost silver plan for family coverage is \$13,700/year.
 - The Smith's share of the second lowest cost silver plan would be: \$3,121/year. ($6.65\% \times \$46,935$). They would be eligible for a premium tax credit of: \$10,579/year.
 - If the Smiths choose a higher cost plan, they would be responsible for anything above \$10,579/year.

The Smiths household income is 210% of the FPG, which is 10 percentage points over the initial household range (200% FPG). The difference between the lower and upper limits of the income range is 50 points (250-200%). $10/50=20\%$. The difference between the initial premium percentage (6.3) and the second premium percentage (8.05)=1.75. $20\% \text{ of } 1.75 = .35$. Adding this to the lowest premium percentage = 6.65.

Additional Benefits

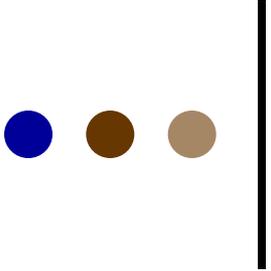
- Individuals are not eligible for premium tax credits for additional benefits.
 - If the QHP offers additional benefits (either voluntarily or as a state-mandated benefit), a portion of the premium will be allocated to the additional benefits under separate regulations issued by the Secretary. (26 CFR 1.36B-3(j))
 - However, if a person purchases a separate dental plan that includes the mandated pediatric dental coverage, that portion allocable to the mandatory pediatric dental coverage will be treated as a premium eligible for the premium tax credit. (26 CFR 1.36B-3(k))

Families with Individuals

Not Lawfully Present (26 CFR

1.36B-3(I))

- If a family who is otherwise eligible for the premium tax credit includes a family member who is not lawfully present:
 - The individual(s) who is not lawfully present is not counted in family size for determining percentage of the federal poverty guidelines, and
 - Household income is reduced proportionately by the number of people who are not lawfully present.



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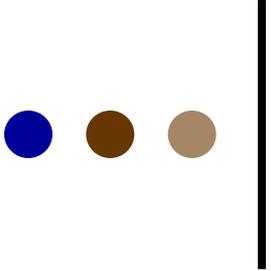
● ● ● | **Reconciliation** (26 CFR 1.36B-4)

- At the end of the year, the taxpayer's advance premium tax credit will be reconciled with what the taxpayer should have received (using actual household income and family size for the taxable year).
 - If the advance premium tax credit was less than the actual premium tax credit, the individual will receive an additional refund.
 - If the advance premium tax credit was greater than the actual tax credit, the individual will owe the excess as an additional tax liability.

Reconciliation (26 CFR 1.36B-4)

Household income as percentage of federal poverty lines*	Repayment amount maximum for individuals	Repayment amount maximum for families
Less than 200%	\$300	\$600
At least 200% but less than 300%	\$750	\$1,500
At least 300%, but less than 400%	\$1,250	\$2,500
400% or more	No limits on repayment amounts	No limits on repayment amounts

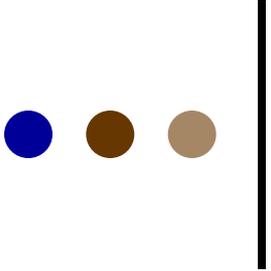
* As an example, the 2011 Federal Poverty Levels are: \$10,890/yr. (individual); \$14,710 (family of 2); \$18,530 (family of three); \$22,350 (family of four).



Special Circumstances

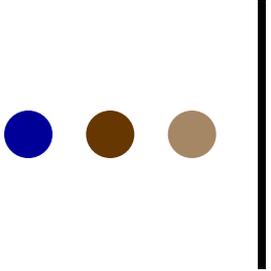
- Change in filing status:

- Individuals whose marital status changes during the year computes the premium tax credit by using the applicable benchmark plan(s) for the taxpayer's marital status as of the first day of each coverage month, but the taxpayers contribution amount is determined using the taxpayers income and family size at the end of the year. (26 CFR 1.36B-4(b)(1))
- Individuals who divorce during the coverage year must allocate the premium for the applicable benchmark plan, premium for the plan in which the taxpayers enroll, and the advance credit payments for the period the taxpayers were married. (26 CFR 1.36B-4(b)(2))



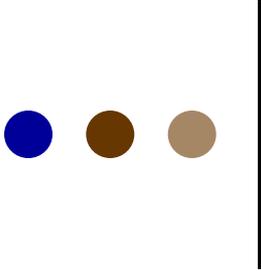
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HBE Reporting (26 CFR 1.36B-5)

- HBE's must report information to the IRS and taxpayers:
 - 1) Premium and category of coverage for the applicable benchmark plans used to compute advance credit payment and period of coverage it was in effect;
 - 2) total premium for the coverage without reduction for advance credit payments or cost sharing;
 - 3) Aggregate amounts of any advance credit payments or cost sharing reductions;
 - 4) name, address, and taxpayer identification number of the primary insured and every person covered under the policy;
 - 5) All information provided to the HBE at enrollment or during the taxable year needed to determine eligibility for and the amount of the premium tax credit.

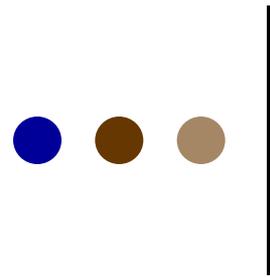


HBE Reporting (26 CFR 1.36B-5)

- HBE's must report information to the IRS and taxpayers:
 - 5) All information provided to the HBE at enrollment or during the taxable year needed to determine eligibility for and the amount of the premium tax credit;
 - 6) All information needed to determine whether the taxpayer has received excess payments; and
 - 7) Any other information required in published guidance of general applicability.
- Taxpayers who receive advance payments of the premium tax credit must file their income tax return by April 15th of the following year. (26 CFR 1.36B-6)

● ● ● | Safe Harbor for Employers

- The ACA requires large employers (50+ FTE employees) to offer affordable minimum essential coverage to their employees or pay a penalty.
 - Affordability based on the premium for self-only coverage not exceeding 9.5% of an employee's household income.
 - This is difficult for employers, as employers know their employees' wages—but not total household income.
 - IRS noted that future rulemaking is expected to provide a *safe harbor* for employers if the employee portion of the self-only coverage for the lowest cost plan does not exceed 9.5% of the employee's wages.



Questions