Clarifications Regarding the Ryan White HIV/AIDS Program and Reconciliation of Premium Tax Credits under the Affordable Care Act

Policy Clarification Notice (PCN) #14-01 Revised 4/3/2015

Scope of Coverage

Ryan White Parts A, B, C, D, and Part F where funding supports direct care and treatment services.

Purpose of PCN

This policy notice clarifies HRSA policy regarding the use of Ryan White HIV/AIDS Program (RWHAP) funds to purchase health insurance for clients in the Marketplace and the reconciliation of premium tax credits.

Background

As discussed in Policy Clarification Notice (PCN) 13-05 (http://hab.hrsa.gov/manageyourgrant/pinspals/pcn1305premiumcostsharing.pdf), many RWHAP clients with incomes between 100-400% of the federal poverty level (FPL) who do not have minimum essential coverage[1] may be eligible for a premium tax credit to offset the cost of purchasing a qualified health plan[2] through the Marketplace.[3] Per PCN 13-05, grantees and subgrantees may use RWHAP funds to pay for any remaining premium amount owed to the health insurance company that is not already covered by the RWHAP client's premium tax credits. PCN 13-05 also encourages RWHAP grantees and subgrantees to use RWHAP funds for premium

[1] "Minimum essential coverage" refers to the type of coverage an individual needs to have to meet the individual responsibility requirement under the Affordable Care Act. This includes employer-sponsored coverage, Medicare, Medicaid, CHIP, TRICARE, and certain other coverage as defined in Internal Revenue Code Section 5000(a).

[2] A qualified health plan is a health insurance plan that is certified by a Marketplace, provides essential health benefits, follows established limits on cost-sharing (like deductibles, copayments, and out-of-pocket maximum amounts), and meets other requirements. A qualified health plan will have a certification by each Marketplace in which it is sold. *See* http://www.healthcare.gov/

[3] Legal residents with incomes below 100% FPL who have been in the United States for less than five years may also be eligible for advance premium tax credits provided they are not eligible for Medicaid or other minimum essential coverage. *See* https://www.healthcare.gov/immigrants/lawfully-present-immigrants/.

assistance for clients not eligible for premium tax credits when it is cost-effective, as appropriate and when resources are available.[4]

When an individual applies for coverage in the Marketplace, the Marketplace will estimate the amount of premium tax credit the individual may claim for the tax year. The amount of the premium tax credit is based on the individual's income, family size, and the cost of the second-lowest cost silver plan[5] available to them in the Marketplace. If the Marketplace determines that an individual qualifies for a premium tax credit, the individual may choose to have some or all of the estimated premium tax credit paid in advance directly to the insurance company as an advance payment of the premium tax credit (APTC) to lower the individual's monthly premium or can wait to get all of the premium tax credit when the individual files a tax return at the end of the year. If the Marketplace determines that an individual does not qualify for a premium tax credit, the individual may still purchase coverage through the Marketplace at the full premium cost.

Individuals who purchased coverage through the Marketplace and received APTCs or plan to claim the premium tax credits at the end of the tax year must file federal income tax returns for that year. This filing requirement applies whether or not the individual would otherwise be required to file a return. Individuals who are married generally must file a joint return to be eligible for the premium tax credit.[6]

Taxpayers will reconcile any APTC when they file their tax returns. Individuals will subtract the total of any APTC they receive during the year from the amount of the premium tax credit calculated on their tax return (*i.e.,* "actual premium tax credit") If an individual receives APTC that is less than the actual premium tax credit for which the individual is eligible, the excess amount of premium tax credit will reduce any tax liability of the individual, and may result in a refund. Similarly, if the individual received APTC that exceeds the actual premium tax credit for which the individual is eligible, the individual will owe that amount back to the IRS.

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[4] RWHAP clients not eligible for premium tax credits include clients under 100% FPL; clients with incomes above 400% FPL; clients who have minimum essential coverage other than individual market coverage available to them, but choose to purchase in the Marketplace; and clients who are ineligible to purchase insurance through the Marketplace.

[5] There are four types of coverage that will be offered in each Marketplace: bronze, silver, gold, and platinum. A bronze level qualified health plan (QHP) is a health plan offered in the Marketplace with an actuarial value (AV) of 60 percent. A silver level QHP has an AV of 70 percent, a gold level QHP has an AV of 80 percent, and a platinum QHP has an AV of 90 percent.

[6] Clients that are married and file using the filing status Married Filing Separately will not be eligible for the premium tax credit unless they meet the criteria in Notice 2014-23, which allows certain victims of domestic abuse to claim the premium tax credit using the Married Filing Separately filing status for the 2014 calendar year.

Clients initially deemed ineligible for APTC who purchased full-price coverage on the Marketplace may be found eligible for an actual premium tax credit when they file their returns. This could occur because of income fluctuations during the year that result in an annual income that fell within the 100-400% FPL range, or because of changes in family composition that occurred during the year but were not reported to the Marketplace. The resulting premium tax credit will reduce any tax liability of the individual, and may result in a refund, which should be recouped by the grantee or subgrantee if the RWHAP funds were used to pay premiums during the year.

To learn more about premium tax credits and the IRS reconciliation process, please visit http://www.irs.gov/uac/Newsroom/Questions-and-Answers-on-the-Premium-Tax-Credit.

Importance of Reporting Accurate Information to the Marketplace

RWHAP grantees and subgrantees should convey to clients the importance of reporting accurate income information on their Marketplace application and reporting to the Marketplace any income or family size changes throughout the year. Notifying the Marketplace about changes in circumstances will decrease the likelihood of a significant difference between the APTC payments (or lack thereof) and the actual premium tax credit. Changes in circumstances that can affect the amount of an individual's premium tax credit include: increases and decreases in household income, marriage, divorce, birth or adoption of a child, other changes to household composition, and gaining or losing eligibility for government-sponsored or employer-sponsored health care coverage.[7]

Grantee Expectations for Excess Premium Tax Credits

As discussed above, it is possible that a RWHAP client's actual premium tax credit calculated on the tax return is more than the client's APTC resulting in the client receiving excess premium tax credit either through a reduction in overall tax liability or a refund from the IRS. RWHAP grantees and subgrantees that use program funds to purchase health insurance in the Marketplace must establish appropriate mechanisms to vigorously pursue any excess premium tax credit a client receives from the IRS. RWHAP grantees and subgrantees must establish and maintain policies and procedures for the pursuit of excess premium tax credit from individual clients. Grantees and subgrantees must document the steps that were taken to pursue these funds from clients. When establishing such policies, grantees

[7] *See* https://www.healthcare.gov/how-do-i-report-life-changes-to-the-marketplace/ for a full list of changes to report to the Marketplace.

and subgrantees should consider requiring clients to provide a copy of relevant tax forms to determine whether a client received a premium tax credit in excess of the client's APTC. Recovered excess premium tax credits are considered insurance refunds, not program income. As such, grantees and subgrantees must use recovered excess premium tax credits in the Health Insurance Premium and Cost-sharing Assistance service category in the grant year when the refund is received by the grantee or subgrantee.[8]

Grantee Options for Paying for Tax Liabilities Related to APTC

It is also possible that a RWHAP client's actual premium tax credit is less than the client's APTC resulting in the client owing the difference back to the IRS. Had the client's APTC been calculated to reflect the actual premium tax credit, RWHAP would have been able to pay this difference on the front-end, in the form of higher insurance premiums. Therefore, if grantees choose and if resources are available, they may use RWHAP funds to pay the IRS any additional tax liability a client may owe to the IRS solely based on reconciliation of the premium tax credit. RWHAP grantees should take into consideration their decision to pay such additional tax liability for clients when determining how to operationalize a premium and cost-sharing assistance program in accordance with HAB Policy Clarification Notice 13-05: *Clarifications Regarding Use of Ryan White HIV/AIDS Program Funds for Premium and Cost-Sharing Assistance for Private Health Insurance*. RWHAP grantees and subgrantees are responsible for establishing and maintaining policies and procedures for coordinating such payments to the IRS since RWHAP grantees and subgrantees are prohibited from making any direct payments to clients.[9] This payment to the IRS must be made from funds available in the year when the tax liability is due, even if the premiums that generated the tax liability were incurred in a previous funding year. However, under no circumstances can RWHAP funds be used to pay the fee (*i.e.,* shared responsibility payment) for a client's failure to enroll in minimum essential coverage or any other tax liability owed by the client that is not directly attributed to the reconciliation of the premium tax credits.

[8] *See* 45 CFR §75.447(e).
[9] *See* Sections 2604(i) and 2612(f) of the Public Health Service Act.