

Eligibility for Minimum Essential Coverage for Purposes of the Premium Tax Credit

Notice 2015-37

PURPOSE

This notice provides guidance on eligibility for minimum essential coverage under § 36B of the Internal Revenue Code for individuals who may enroll in coverage under Children's Health Insurance (CHIP) "buy-in" programs that the Department of Health and Human Services (HHS) designates as minimum essential coverage.

BACKGROUND

Beginning in 2014, certain individuals covered under a qualified health plan through the Health Insurance Marketplace, also called the Affordable Insurance Exchange, are allowed a premium tax credit under § 36B. Under § 36B and § 1.36B-2 of the Income Tax Regulations, coverage of an individual (who may be the taxpayer claiming the premium tax credit or a member of the taxpayer's family) may be subsidized by the premium tax credit only for months the individual is not eligible for other minimum essential coverage, except coverage in the individual market. Minimum essential coverage is defined in § 5000A(f) and includes coverage under certain government-sponsored programs, including CHIP coverage under title XXI of the Social Security Act, and coverage HHS designates as minimum essential coverage.

In general, an individual is treated as eligible for minimum essential coverage under a government-sponsored program if the individual meets the eligibility criteria for coverage under the program. However, the Commissioner may define eligibility for minimum essential coverage under specific government-sponsored programs in additional published guidance. Section 1.36B-2(c)(2)(i). The regulations under § 36B provide that, for purposes of the premium tax credit, an individual is eligible for minimum essential coverage under a health care program under chapter 17 or 18 of Title 38, U.S.C. (programs administered by the Department of Veterans Affairs) only if the individual is enrolled in the program. Section 1.36B-2(c)(2)(iii). Under Notice 2014-71, 2014-49 I.R.B. 912, and Notice 2013-41, 2013-29 I.R.B. 60, for purposes of the premium tax credit, individuals are eligible for minimum essential coverage under certain other government-sponsored programs and certain programs HHS has designated as minimum essential coverage only if they are enrolled in the program.

In certain states, certain individuals in households with income exceeding eligibility levels for CHIP may enroll in coverage resembling coverage under the state's CHIP program. These programs, commonly called CHIP "buy-in" programs, generally require the payment of premiums with little or no government subsidy. The programs are not authorized or funded under title XXI of the Social Security Act and therefore are not government-sponsored minimum essential coverage under § 5000A(f)(1)(A). Additionally, a segment of the population who otherwise would be eligible for subsidized qualified health plan coverage could enroll in coverage through a CHIP buy in program only at high cost. HHS will consider recognizing CHIP buy-in programs as minimum essential coverage when an application is filed under 45 CFR §156.604 on behalf of a

program.

GUIDANCE

An individual who may enroll in a CHIP buy-in program that HHS has designated as minimum essential coverage is eligible for minimum essential coverage under the program for purposes of the premium tax credit only for the period the individual is enrolled.

EFFECTIVE DATE

This notice is effective for coverage on or after January 1, 2015.

DRAFTING INFORMATION

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