



*The Commonwealth of Massachusetts
Commonwealth Health Insurance Connector Authority
100 City Hall Plaza
Boston, MA 02108*

CHARLES D. BAKER
Governor

KARYN POLITO
Lieutenant Governor

MARYLOU SUDDERS
Board Chair

LOUIS GUTIERREZ
Executive Director

May 31, 2022

Douglas W. O'Donnell
Deputy Commissioner for Services and Enforcement
CC:PA:LPD:PR (REG-114339-21)
Room 5203
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Notice of Proposed Rulemaking, "Affordability of Employer Coverage for Family Members of Employees" (Published in Federal Register Volume 87, Number 67, page 20354 on April 7, 2022)

Dear Deputy Commissioner O'Donnell:

The Massachusetts Health Connector ("Health Connector"), a state-based Marketplace (SBM) authorized under the Patient Protection and Affordable Care Act of 2010 ("ACA"), appreciates the opportunity provided by the Department of the Treasury and Internal Revenue Service (IRS) to comment on the proposed rule, "Affordability of Employer Coverage for Family Members of Employees."

Founded in 2006 as part of bipartisan state health reform, the Massachusetts Health Connector is the longest-running State-Based Marketplace (SBM) in the country. The Health Connector is designed to connect Massachusetts residents and small businesses with high quality, affordable health coverage and to promote universal health coverage in the Commonwealth. Today, the Health Connector serves nearly a quarter-million Massachusetts residents, including approximately 230,000 individuals as well as over 11,000 small business employees. The Health Connector's efforts have contributed to the Commonwealth's status as one of the healthiest states in the nation,¹ with a nation-leading health insurance rate over 97%,² and among the lowest-cost average Marketplace premiums in the country in 2022.³

We respectfully offer the following comments relating to the proposed rule and its impact on the policy-related and operational aspects of the Health Connector's ongoing work.

The Health Connector fully supports the proposal to account for the cost of family health coverage when determining access to affordable employer coverage.

¹ See <https://www.beckershospitalreview.com/rankings-and-ratings/50-states-ranked-from-healthiest-to-unhealthiest-090221.html>

² Kaiser Family Foundation analysis of U.S. Census Bureau data, at <https://www.kff.org/other/state-indicator/health-insurance-coverage-of-the-total-population-cps/?currentTimeframe=0&sortModel=%7B%22collid%22:%22Location%22,%22sort%22:%22asc%22%7D>

³ : Kaiser Family Foundation analysis of data from Healthcare.gov, state rate review websites, and state plan finder tools. [Analysis of CMS Public Use Files.](#)

The proposed rule would provide essential access to affordable health coverage for families currently precluded from Advance Premium Tax Credits (APTCs) based on the cost of employee-only coverage from a family member's employer. The current interpretation of the Affordable Care Act that bases affordability on employee-only coverage is not consistent with the ACA's goal of serving as an alternative for Americans whose employer coverage would otherwise require unreasonable contributions from their household budgets. The Health Connector stands ready to implement these long-awaited changes to deliver timely new affordability relief to Massachusetts families.

The provisions of the proposed rule that would apply minimum value rules to family coverage – as well as expand the scope of a plan that provides minimum value to include substantial coverage of inpatient hospitalization and physician services – are helpful clarifications to protect against offers of affordable but insufficient coverage.

The Health Connector also supports the clarification and codification of a policy to exclude minimum loss ratio (MLR) rebates from consideration in the calculation of premium tax credits. Given that MLR rebates are calculated and distributed well after most individuals have filed their tax returns for the prior year, it would be highly burdensome to address them in the premium tax credit reconciliation process.

The Health Connector encourages the Biden administration to continue pursuing and facilitating policies that will address high costs of health insurance coverage, supporting American households and employers alike, by sharing state-level data with Marketplaces.

While the proposed rule will provide significant relief for households struggling with family premium contributions that can be three times as expensive as employee-only coverage, requiring households to contribute nearly 10 percent of income toward insurance premiums – not to mention subsequent cost sharing when they use their coverage – is unsustainable for the many individuals, in Massachusetts and nationally, currently grappling with high costs of household essentials and the lasting economic impacts of the COVID-19 pandemic.⁴

In support of states' efforts to provide access to affordable coverage, the Health Connector would welcome the opportunity to work with IRS in order to receive more detailed state-specific data on premium tax credit utilization, including information on individuals who do not take premium tax credits in advance (via APTC) but claim them when filing a tax return as well as under- and over-payments of advance premium tax credits by household income as a percentage of the federal poverty level.

We thank you for consideration of our comments and look forward to working with the Treasury Department and IRS on continued implementation of the ACA.

Sincerely,



Audrey Morse Gasteier
Deputy Executive Director and Chief of Policy and Strategy

⁴ CHIA. (2019). 2018 Massachusetts Employer Survey Summary of Results. Available at <https://www.chiamass.gov/assets/docs/r/survey/Massachusetts-Employer-Survey-CHIA-2018.pdf>