Health Reform: Avoiding the Individual Tax Penalty

The Department of Health and Human Services recently released a proposed rule regarding exemptions individuals may apply for in order to avoid the penalty for not having health insurance. Depending on the type of exemption, the IRS or a state’s exchange will determine exemption eligibility. In total, there are nine different types of exemptions.

**Minimum Essential Coverage (MEC)**
Starting in 2014, most Americans will be required to have minimum essential coverage (MEC) or be subject to a tax penalty. The following programs meet MEC requirements:

- Government sponsored program including Medicare, Medicaid, CHIP, TRICARE
- Eligible employer sponsored plan
- Coverage offered in an individual market in a state
- Grandfathered plans

**Length of Exemptions**
Certificates for hardships may be provided for an entire calendar year, more than a calendar year, or just a few months within a specific time frame. Individuals may be eligible for multiple exemptions and may apply for multiple ones at any given time. With the exception for reasons of religious conscience and being a member of an Indian tribe, exemptions will need to be applied for annually. HHS has also proposed that notices should be sent to exempted individuals to remind them of the opportunity to apply for an exemption for the following calendar year. Individuals who were provided with certificate of exemption prior to the age of 18 will receive a notice informing them of the requirement to submit a new exemption application if they would like to maintain the exemption.

**Exchange Issued Exemptions**
The following are exemptions for which States will determine eligibility:

- Incarcerated persons will be exempted only for the months of actual confinement.

- Financial hardship exemptions may be awarded for a calendar year if an individual is determined ineligible for Medicaid due to his or her home State not expanding its Medicaid program.
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- Religious consciousness exemptions will be awarded on a continual basis until an individual reports he or she is no longer a member of the organization. Once exempted individuals reach the age of 18, they will need to reapply.

- Member of an Indian tribe.

- Hardship due to financial or domestic circumstances, including unexpected natural or human-caused events, such that he or she has a significant, unexpected increase in essential expenses.

- Individuals who are members of a health care sharing ministry will need to apply every calendar year since membership is contingent on funding.

- Individuals who have one or more family members who are eligible for self-only coverage, but for whom the aggregate cost of employer-sponsored coverage for all employed family members exceeds 8 percent of the household income.

IRS Issued Exemptions
The IRS will award exemptions for individuals with household incomes below the filing threshold and the inability to afford coverage other than limited hardship. Both exemptions require assessment of actual household income and are a matter of tax compliance.

The Exemption Process
Through a process similar for determining eligibility for exchange enrollment, individuals will apply for an exemption via an application established by HHS. Individuals who receive coverage and tax credits through an exchange may later realize an exemption is needed. In that instance, HHS will attempt to use the information on the exchange enrollment application for exemption determination purposes.

A certification number will accompany the notification of exemption that individuals will need to report when they file taxes. Exempted individuals must retain records that demonstrate receipt of the certificate of exemption and any supporting data regarding special circumstances.

The exemption application may be available in both paper and electronic formats and HHS estimates it will take about 16 minutes to complete. While the Congressional Budget Office (CBO) estimates about 24 million people will be exempt from the penalty, it is not sure how many will actually apply for an exemption. HHS estimates that about 12 million exemption applications will be submitted for approval.

An exchange will contact an applicant regarding any issues regarding the inability to verify submitted information. Applicants will then have 30 days from the notice date to provide satisfactory documentation. An exchange will not grant an exemption while additional information is pending. Ultimately, if applicants can't provide the needed documentation, they won't receive an exemption. It is proposed that HHS provide a blueprint to exchanges regarding the collection and verification of information for exemption determination.

Health Insurance Issuer Standards Under ACA
HHS and the Treasury have the power to designate other health benefits coverage as meeting MEC standards. As a result, this would allow individuals who are not currently enrolled in plans
that qualify as MEC not to be penalized. It is essential that the qualifying plans provide certain consumer protections. To date, the following types of coverage will be designated per se as MEC:

1. Self-funded student health insurance plans
2. Foreign health coverage
3. Refugee medical assistance supported by the Administration for Children and Families
4. Medicare advantage plans
5. AmeriCorps coverage

The above plans are designed to protect individuals against catastrophic losses. HHS is open to comments regarding other existing categories of coverage that should be considered as MEC.

The proposed rule requests that state high risk pools should be considered MEC for a period of time as determined by HHS.

**Carriers Seeking MEC Approval**
HHS will devise an electronic process through which health insurance issuers apply to have their plan or plans recognized as providing MEC. Issuers would need to certify that their plans substantially meet all of the requirements in the Title I of the ACA. An approved plan will be required to provide notice to its enrollees of its MEC-awarded status. HHS has the authority to revoke the status of coverage previously recognized as MEC. HHS is asking for comments regarding a possibility of an appeals process for issuers.

**Source**

[HHS: Patient Protection and Affordable Care Act; Exchange Functions: Eligibility for Exemptions; Miscellaneous Minimum Essential Coverage](#)

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about specific circumstances.*