agency in accordance with 42 CFR 435.1200(b)(2) for determining eligibility for Medicaid.

**Federal poverty level or FPL** means the most recently published Federal poverty level, updated periodically in the FEDERAL REGISTER by the Secretary of Health and Human Services under the authority of 42 U.S.C. 9902(2), as of the first day of the annual open enrollment period for coverage in a QHP through the Exchange, as specified in §155.410.

**Indian** means any individual as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638).

**Insurance affordability program** has the same meaning as “insurance affordability program,” as specified in 42 CFR 435.4.

**MAGI-based income** has the same meaning as it does in 42 CFR 435.603(e).

**Minimum value**, when used to describe coverage in an eligible employer-sponsored plan, means that the plan meets the requirements with respect to coverage of the total allowed costs of benefits set forth in section 36B(c)(2)(C)(i) of the Code.

**Modified Adjusted Gross Income (MAGI)** has the same meaning as it does in section 36B(d)(2)(B) of the Code.

**Non-citizen** means an individual who is not a citizen or national of the United States, in accordance with section 101(a)(3) of the Immigration and Nationality Act.

**Qualifying coverage in an eligible employer-sponsored plan** means coverage in an eligible employer-sponsored plan that meets the affordability and minimum value standards specified in section 36B(c)(2)(C) of the Code.

**State CHIP Agency** means the agency that administers a separate child health program established by the State under title XXI of the Act in accordance with implementing regulations at 42 CFR 457.

**State Medicaid Agency** means the agency established or designated by the State under title XIX of the Act that administers the Medicaid program in accordance with implementing regulations at 42 CFR parts 430 through 456.

**Tax dependent** has the same meaning as the term dependent under section 152 of the Code.

**Tax filer** means an individual, or a married couple, who indicates that he, she or they expects—

1. To file an income tax return for the benefit year, in accordance with 26 U.S.C. 6011, 6012, and implementing regulations;
2. If married (within the meaning of 26 CFR 1.7703–1), to file a joint tax return for the benefit year;
3. That no other taxpayer will be able to claim him, her or them as a tax dependent for the benefit year; and
4. That he, she, or they expects to claim a personal exemption deduction under section 151 of the Code on his or her tax return for one or more applicants, who may or may not include himself or herself and his or her spouse.

(b) Medicaid and CHIP. In general, references to Medicaid and CHIP regulations in this subpart refer to those regulations as implemented in accordance with rules and procedures which are the same as those applied by the State Medicaid or State CHIP agency or approved by such agency in the agreement described in §155.345(a).

(c) Attestation.

1. Except as specified in paragraph (c)(2) of this section, for the purposes of this subpart, an attestation may be made by the application filer.
2. The attestations specified in §155.310(d)(2)(i) and §155.315(f)(4)(ii) must be provided by the tax filer.

(d) Reasonably compatible. For purposes of this subpart, the Exchange must consider information obtained through electronic data sources, other information provided by the applicant, or other information in the records of the Exchange to be reasonably compatible with an applicant’s attestation if the difference or discrepancy does not impact the eligibility of the applicant, including the amount of advance payments of the premium tax credit or category of cost-sharing reductions.

§155.302 Options for conducting eligibility determinations.

(a) Options for conducting eligibility determinations. The Exchange may satisfy the requirements of this subpart—

1. Directly or through contracting arrangements in accordance with §155.110(a); or
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(2) Through a combination of the approach described in paragraph (a)(1) of this section and one or both of the options described in paragraph (b) or (c) of this section, subject to the standards in paragraph (d) of this section.

(b) Medicaid and CHIP. Notwithstanding the requirements of this subpart, the Exchange may conduct an assessment of eligibility for Medicaid and CHIP, rather than an eligibility determination for Medicaid and CHIP, provided that—

(1) The Exchange makes such an assessment based on the applicable Medicaid and CHIP MAGI-based income standards and citizenship and immigration status, using verification rules and procedures consistent with 42 CFR parts 435 and 457, without regard to how such standards are implemented by the State Medicaid and CHIP agencies.

(2) Notices and other activities required in connection with an eligibility determination for Medicaid or CHIP are performed by the Exchange consistent with the standards identified in this subpart or the State Medicaid or CHIP agency consistent with applicable law.

(3) Applicants found potentially eligible for Medicaid or CHIP. When the Exchange assesses an applicant as potentially eligible for Medicaid or CHIP consistent with the standards in subparagraph (b)(1) of this section, the Exchange transmits all information provided as a part of the application, update, or renewal that initiated the assessment, and any information obtained or verified by the Exchange to the State Medicaid agency or CHIP agency via secure electronic interface, promptly and without undue delay.

(4) Applicants not found potentially eligible for Medicaid and CHIP. If the Exchange conducts an assessment in accordance with paragraph (b) of this section and finds that an applicant is not potentially eligible for Medicaid or CHIP based on the applicable Medicaid and CHIP MAGI-based income standards, the Exchange must consider the applicant as ineligible for Medicaid and CHIP for purposes of determining eligibility for advance payments of the premium tax credit and cost-sharing reductions and must notify such applicant, and provide him or her with the opportunity to—

(A) Withdraw his or her application for Medicaid and CHIP; or

(B) Request a full determination of eligibility for Medicaid and CHIP by the applicable State Medicaid and CHIP agencies.

(ii) To the extent that an applicant described in paragraph (b)(4)(i) of this section requests a full determination of eligibility for Medicaid and CHIP, the Exchange must—

(A) Transmit all information provided as a part of the application, update, or renewal that initiated the assessment, and any information obtained or verified by the Exchange to the State Medicaid agency and CHIP agency via secure electronic interface, promptly and without undue delay; and

(B) Consider such an applicant as ineligible for Medicaid and CHIP for purposes of determining eligibility for advance payments of the premium tax credit and cost-sharing reductions until the State Medicaid or CHIP agency notifies the Exchange that the applicant is eligible for Medicaid or CHIP.

(5) The Exchange adheres to the eligibility determination for Medicaid or CHIP made by the State Medicaid or CHIP agency;

(6) The Exchange and the State Medicaid and CHIP agencies enter into an agreement specifying their respective responsibilities in connection with eligibility determinations for Medicaid and CHIP.

(c) Advance payments of the premium tax credit and cost-sharing reductions. Notwithstanding the requirements of this subpart, the Exchange may implement a determination of eligibility for advance payments of the premium tax credit and cost-sharing reductions made by HHS, provided that—

(1) Verifications, notices, and other activities required in connection with an eligibility determination for advance payments of the premium tax credit and cost-sharing reductions are performed by the Exchange in accordance with the standards identified in this subpart or by HHS in accordance with the agreement described in paragraph (c)(4) of this section;
(2) The Exchange transmits all information provided as a part of the application, update, or renewal that initiated the eligibility determination, and any information obtained or verified by the Exchange, to HHS via secure electronic interface, promptly and without undue delay;

(3) The Exchange adheres to the eligibility determination for advance payments of the premium tax credit and cost-sharing reductions made by HHS; and

(4) The Exchange and HHS enter into an agreement specifying their respective responsibilities in connection with eligibility determinations for advance payments of the premium tax credit and cost-sharing reductions.

(d) Standards. To the extent that assessments of eligibility for Medicaid and CHIP based on MAGI or eligibility determinations for advance payments of the premium tax credit and cost-sharing reductions are made in accordance with paragraphs (b) or (c) of this section, the Exchange must ensure that—

(1) Eligibility processes for all insurance affordability programs are streamlined and coordinated across HHS, the Exchange, the State Medicaid agency, and the State CHIP agency, as applicable;

(2) Such arrangement does not increase administrative costs and burdens on applicants, enrollees, beneficiaries, or application filers, or increase delay; and

(3) Applicable requirements under 45 CFR 155.260, 155.270, and 155.315(i), and section 6103 of the Code with respect to the confidentiality, disclosure, maintenance, and use of information are met.

§ 155.305 Eligibility standards.

(a) Eligibility for enrollment in a QHP through the Exchange. The Exchange must determine an applicant eligible for enrollment in a QHP through the Exchange if he or she meets the following requirements:

(1) Citizenship, status as a national, or lawful presence. Is a citizen or national of the United States, or is a non-citizen who is lawfully present for the entire period for which enrollment is sought;

(2) Incarceration. Is not incarcerated, other than incarceration pending the disposition of charges; and

(3) Residency. Meets the applicable residency standard identified in this paragraph (a)(3).

(i) For an individual who is age 21 and over, is not living in an institution as defined in 42 CFR 435.403(b), is capable of indicating intent, and is not receiving an optional State supplementary payment as addressed in 42 CFR 435.403(f), the service area of the Exchange of the individual is the service areas of the Exchange in which he or she is living and—

(A) Intends to reside, including without a fixed address; or

(B) Has entered with a job commitment or is seeking employment (whether or not currently employed).

(ii) For an individual who is under the age of 21, is not living in an institution as defined in 42 CFR 435.403(b), is not eligible for Medicaid based on receipt of assistance under title IV–E of the Social Security Act as addressed in 42 CFR 435.403(g), is not emancipated, is not receiving an optional State supplementary payment as addressed in 42 CFR 435.403(f), the Exchange service area of the individual—

(A) Is the service area of the Exchange in which he or she resides, including without a fixed address; or

(B) Is the service area of the Exchange of a parent or caretaker, established in accordance with paragraph (a)(3)(i) of this section, with whom the individual resides.

(iii) Other special circumstances. In the case of an individual who is not described in paragraphs (a)(3)(i) or (ii) of this section, the Exchange must apply the residency requirements described in 42 CFR 435.403 with respect to the service area of the Exchange.

(iv) Special rule for tax households with members in multiple Exchange service areas. (A) Except as specified in paragraph (a)(3)(iv)(B) of this section if all of the members of a tax household are not within the same Exchange service area, in accordance with the applicable standards in paragraphs (a)(3)(i), (ii), and (iii) of this section, any member of the tax household may enroll in a QHP.