

## § 155.300

within 6 years from the date on which the violation occurred.

[79 FR 30346, May 27, 2014, as amended at 81 FR 61581, Sept. 6, 2016]

### Subpart D—Exchange Functions in the Individual Market: Eligibility Determinations for Exchange Participation and Insurance Affordability Programs

#### § 155.300 Definitions and general standards for eligibility determinations.

(a) *Definitions.* In addition to those definitions in § 155.20, for purposes of this subpart, the following terms have the following meaning:

*Applicable Children's Health Insurance Program (CHIP) MAGI-based income standard* means the applicable income standard as defined at 42 CFR 457.310(b)(1), as applied under the State plan adopted in accordance with title XXI of the Act, or waiver of such plan and as certified by the State CHIP Agency in accordance with 42 CFR 457.348(d), for determining eligibility for child health assistance and enrollment in a separate child health program.

*Applicable Medicaid modified adjusted gross income (MAGI)-based income standard* has the same meaning as “applicable modified adjusted gross income standard,” as defined at 42 CFR 435.911(b), as applied under the State plan adopted in accordance with title XIX of the Act, or waiver of such plan, and as certified by the State Medicaid 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).

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*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 employer-sponsored plan meets the standards for coverage of the total allowed costs of benefits set forth in § 156.145.

*Modified Adjusted Gross Income (MAGI)* has the same meaning as it does in 26 CFR 1.36B-1(e)(2).

*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 26 CFR 1.36B-2(c)(3).

*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)(ii) 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.

[77 FR 18444, Mar. 27, 2012, as amended at 78 FR 42314, July 15, 2013]

#### § 155.302 Options for conducting eligibility determinations.

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

(1) Directly, through contracting arrangements in accordance with §155.110(a), or as a State-based Exchange on the Federal platform through a Federal platform agreement under which HHS carries out eligibility determinations and other requirements contained within this subpart; or

(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 deter-

mination 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 paragraph (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.* (i) 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, unless the Exchange has assessed the applicant as potentially eligible for Medicaid based on factors not otherwise considered in this subpart, in accordance with §155.345(b), and provided that the application will not be considered withdrawn if he or she appeals his or her