

Dept. of Health and Human Services

§ 155.335

(ii) Resulting from an appeal decision, on the date specified in the appeal decision; or

(iii) Affecting enrollment or premiums only, on the first day of the month following the date on which the Exchange is notified of the change;

(2) Except as specified in paragraphs (f)(3) through (5) of this section, the Exchange may determine a reasonable point in a month after which a change described in paragraph (f)(1) of this section will not be effective until the first day of the month after the month specified in paragraph (f)(1) of this section. Such reasonable point in a month must be no earlier than the 15th of the month.

(3) Except as specified in paragraphs (f)(4) and (5) of this section, the Exchange must implement a change described in paragraph (f)(1) of this section that results in a decreased amount of advance payments of the premium tax credit, or a change in the level of cost-sharing reductions, and for which the date of the notices described in paragraphs (f)(1)(i) and (ii) of this section, or the date on which the Exchange is notified in accordance with paragraph (f)(1)(iii) of this section is after the 15th of the month, on the first day of the month after the month specified in paragraph (f)(1) of this section.

(4) The Exchange must implement a change associated with the events described in §155.420(b)(2)(i) and (ii) on the coverage effective dates described in §155.420(b)(2)(i) and (ii), respectively.

(5) Notwithstanding paragraphs (f)(1) through (f)(4) of this section, the Exchange may provide the effective date of a change associated with the events described in §155.420(d)(4), (d)(5), and (d)(9) based on the specific circumstances of each situation.

(g) *Recalculation of advance payments of the premium tax credit and cost-sharing reductions.* (1) When an eligibility redetermination in accordance with this section results in a change in the amount of advance payments of the premium tax credit for the benefit year, the Exchange must:

(i) Recalculate the amount of advance payments of the premium tax credit in such a manner as to account for any advance payments already made on behalf of the tax filer for the

benefit year for which information is available to the Exchange, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for the benefit year, calculated in accordance with 26 CFR 1.36B-3 (or, if less than zero, be set at zero); or

(ii) Recalculate advance payments of the premium tax credit using an alternate method that has been approved by the Secretary.

(2) When an eligibility redetermination in accordance with this section results in a change in cost-sharing reductions, the Exchange must determine an individual eligible for the category of cost-sharing reductions that corresponds to his or her expected annual household income for the benefit year (subject to the special rule for family policies set forth in §155.305(g)(3)).

[77 FR 18444, Mar. 27, 2012, as amended at 78 FR 15533, Mar. 11, 2013; 78 FR 42318, July 15, 2013; 79 FR 30347, May 27, 2014; 79 FR 53005, Sept. 5, 2014; 81 FR 94177, Dec. 22, 2016; 84 FR 71710, Dec. 27, 2019; 85 FR 29259, May 14, 2020]

**§ 155.335 Annual eligibility redetermination.**

(a) *General requirement.* (1) Except as specified in paragraphs (1) and (m) of this section, the Exchange must redetermine the eligibility of a qualified individual on an annual basis.

(2) The Exchange must conduct annual redeterminations required under paragraph (a)(1) of this section using one of the following:

(i) The procedures described in paragraphs (b) through (m) of this section;

(ii) Alternative procedures specified by the Secretary for the applicable benefit year; or

(iii) Alternative procedures approved by the Secretary based on a showing by the Exchange that the alternative procedures would facilitate continued enrollment in coverage for which the enrollee remains eligible, provide clear information about the process to the qualified individual or enrollee (including regarding any action by the qualified individual or enrollee necessary to obtain the most accurate redetermination of eligibility), and provide adequate program integrity protections.

## § 155.335

(b) *Updated income and family size information.* In the case of a qualified individual who requested an eligibility determination for insurance affordability programs in accordance with § 155.310(b) of this part, the Exchange must request updated tax return information, if the qualified individual has authorized the request of such tax return information, data regarding Social Security benefits, and data regarding MAGI-based income as described in § 155.320(c)(1) of this part for use in the qualified individual's eligibility redetermination.

(c) *Notice to qualified individual.* The Exchange must provide a qualified individual with an annual redetermination notice including the following:

(1)–(2) [Reserved]

(3) The qualified individual's projected eligibility determination for the following year, after considering any updated information described in paragraph (b) of this section, including, if applicable, the amount of any advance payments of the premium tax credit and the level of any cost-sharing reductions or eligibility for Medicaid, CHIP or BHP.

(d) *Timing.* (1) For redeterminations under this section for coverage effective January 1, 2015, the Exchange must satisfy the notice provisions of paragraph (c) of this section and § 155.410(d) through a single, coordinated notice.

(2) For redeterminations under this section for coverage effective on or after January 1, 2017, the Exchange may send the notice specified in paragraph (c) of this section separately from the notice of annual open enrollment specified in § 155.410(d), provided that—

(i) The Exchange sends the notice specified in paragraph (c) of this section no earlier than the date of the notice of annual open enrollment specified in § 155.410(d); and

(ii) The timing of the notice specified in paragraph (c) of this section allows a reasonable amount of time for the enrollee to review the notice, provide a timely response, and for the Exchange to implement any changes in coverage elected during the annual open enrollment period.

## 45 CFR Subtitle A (10–1–23 Edition)

(e) *Changes reported by qualified individuals.* Except as specified in paragraph (e)(1) of this section, the Exchange must require a qualified individual to report any change with respect to the eligibility standards specified in § 155.305 within 30 days of such change.

(1) The Exchange must not require a qualified individual who did not request an eligibility determination for insurance affordability programs to report changes that affect eligibility for insurance affordability programs.

(2) The Exchange must allow a qualified individual, or an application filer, on behalf of the qualified individual, to report changes via the channels available for the submission of an application, as described in § 155.405(c)(2), except that the Exchange is permitted but not required to allow a qualified individual, or an application filer, on behalf of the qualified individual, to report changes via mail.

(f) *Verification of reported changes.* The Exchange must verify any information reported by a qualified individual under paragraph (e) of this section using the processes specified in §§ 155.315 and 155.320, including the relevant provisions in those sections regarding inconsistencies, prior to using such information to determine eligibility.

(g) *Response to redetermination notice.* (1) The Exchange must require a qualified individual, or an application filer, on behalf of the qualified individual, to sign and return the notice described in paragraph (c) of this section.

(2) To the extent that a qualified individual does not sign and return the notice described in paragraph (c) of this section within the 30-day period specified in paragraph (e) of this section, the Exchange must proceed in accordance with the procedures specified in paragraph (h)(1) of this section.

(h) *Redetermination and notification of eligibility.* (1) After the 30-day period specified in paragraph (e) of this section has elapsed, the Exchange must—

(i) Redetermine the qualified individual's eligibility in accordance with the standards specified in § 155.305 using the information provided to the qualified individual in the notice specified in

paragraph (c) of this section, as supplemented with any information reported by the qualified individual and verified by the Exchange in accordance with paragraphs (e) and (f) of this section.

(ii) Notify the qualified individual in accordance with the requirements specified in §155.310(g).

(iii) If applicable, notify the qualified individual employer, in accordance with the requirements specified in §155.310(h).

(2) If a qualified individual reports a change for the information provided in the notice specified in paragraph (c) of this section that the Exchange has not verified as of the end of the 30-day period specified in paragraph (e) of this section, the Exchange must redetermine the qualified individual's eligibility after completing verification, as specified in paragraph (f) of this section.

(i) *Effective date of annual redetermination.* The Exchange must ensure that a redetermination under this section is effective on the first day of the coverage year following the year in which the Exchange provided the notice in paragraph (c) of this section, or in accordance with the rules specified in §155.330(f) regarding effective dates, whichever is later.

(j) *Re-enrollment.* If an enrollee remains eligible for enrollment in a QHP through the Exchange upon annual redetermination and—

(1) The product under which the QHP in which the enrollee is enrolled remains available through the Exchange for renewal, consistent with §147.106 of this subchapter, the Exchange will renew the enrollee in a QHP under that product, unless the enrollee terminates coverage, including termination of coverage in connection with voluntarily selecting a different QHP, in accordance with §155.430, or unless otherwise provided in paragraph (j)(1)(iii)(A) or (j)(4) of this section, as follows:

(i) The Exchange will re-enroll the enrollee in the same plan as the enrollee's current QHP, unless the current QHP is not available through the Exchange;

(ii) If the enrollee's current QHP is not available through the Exchange, the Exchange will re-enroll the enrollee in a QHP within the same prod-

uct at the same metal level as the enrollee's current QHP that has the most similar network compared to the enrollee's current QHP;

(iii) If the enrollee's current QHP is not available through the Exchange and the enrollee's product no longer includes a QHP at the same metal level as the enrollee's current QHP and—

(A) The enrollee's current QHP is a silver level plan, the Exchange will re-enroll the enrollee in a silver level QHP under a different product offered by the same QHP issuer that is most similar to the enrollee's current product and that has the most similar network compared to the enrollee's current QHP. If no such silver level QHP is available for enrollment through the Exchange, the Exchange will re-enroll the enrollee in a QHP under the same product that is one metal level higher or lower than the enrollee's current QHP and that has the most similar network compared to the enrollee's current QHP; or

(B) The enrollee's current QHP is not a silver level plan, the Exchange will re-enroll the enrollee in a QHP under the same product that is one metal level higher or lower than the enrollee's current QHP and that has the most similar network compared to the enrollee's current QHP; or

(iv) If the enrollee's current QHP is not available through the Exchange and the enrollee's product no longer includes a QHP that is at the same metal level as, or one metal level higher or lower than, the enrollee's current QHP, the Exchange will re-enroll the enrollee in any other QHP offered under the product in which the enrollee's current QHP is offered in which the enrollee is eligible to enroll and that has the most similar network compared to the enrollee's current QHP.

(2) No plans under the product under which the QHP in which the enrollee is enrolled are available through the Exchange for renewal, consistent with §147.106 of this subchapter, the Exchange will enroll the enrollee in a QHP under a different product offered by the same QHP issuer, to the extent permitted by applicable State law, unless the enrollee terminates coverage, including termination of coverage in connection with voluntarily selecting a

## § 155.335

different QHP, in accordance with § 155.430, as follows, except as provided in paragraph (j)(4) of this section.

(i) The Exchange will re-enroll the enrollee in a QHP at the same metal level as the enrollee's current QHP in the product offered by the same issuer that is the most similar to the enrollee's current product and that has the most similar network compared to the enrollee's current QHP;

(ii) If the issuer does not offer another QHP at the same metal level as the enrollee's current QHP, the Exchange will re-enroll the enrollee in a QHP that is one metal level higher or lower than the enrollee's current QHP and that has the most similar network compared to the enrollee's current QHP in the product offered by the same issuer through the Exchange that is the most similar to the enrollee's current product; or

(iii) If the issuer does not offer another QHP through the Exchange at the same metal level as, or one metal level higher or lower than the enrollee's current QHP, the Exchange will re-enroll the enrollee in any other QHP offered by the same issuer in which the enrollee is eligible to enroll and that has the most similar network compared to the enrollee's current QHP in the product that is most similar to the enrollee's current product.

(3) No QHPs from the same issuer are available through the Exchange, the Exchange may enroll the enrollee in a QHP issued by a different issuer, to the extent permitted by applicable State law, unless the enrollee terminates coverage, including termination of coverage in connection with voluntarily selecting a different QHP, in accordance with § 155.430, as follows:

(i) As directed by the applicable State regulatory authority; or

(ii) If the applicable State regulatory authority declines to provide direction, in a similar QHP from a different issuer, as determined by the Exchange.

(4) The enrollee is determined upon annual redetermination eligible for cost-sharing reductions, in accordance with § 155.305(g), is currently enrolled in a bronze level QHP, and would be re-enrolled in a bronze level QHP under paragraph (j)(1) or (2) of this section, then to the extent permitted by appli-

## 45 CFR Subtitle A (10–1–23 Edition)

cable State law, unless the enrollee terminates coverage, including termination of coverage in connection with voluntarily selecting a different QHP, in accordance with § 155.430, at the option of the Exchange, the Exchange may re-enroll such enrollee in a silver level QHP within the same product, with the same provider network, and with a lower or equivalent premium after the application of advance payments of the premium tax credit as the bronze level QHP into which the Exchange would otherwise re-enroll the enrollee under paragraph (j)(1) or (2) of this section.

(k) *Authorization of the release of tax data to support annual redetermination.*

(1) The Exchange must have authorization from a qualified individual to obtain updated tax return information described in paragraph (b) of this section for purposes of conducting an annual redetermination.

(2) The Exchange is authorized to obtain the updated tax return information described in paragraph (b) of this section for a period of no more than five years based on a single authorization, provided that—

(i) An individual may decline to authorize the Exchange to obtain updated tax return information; or

(ii) An individual may authorize the Exchange to obtain updated tax return information for fewer than five years; and

(iii) The Exchange must allow an individual to discontinue, change, or renew his or her authorization at any time.

(l) *Limitation on redetermination.* To the extent that a qualified individual has requested an eligibility determination for insurance affordability programs in accordance with § 155.310(b) and the Exchange does not have an active authorization to obtain tax data as a part of the annual redetermination process, the Exchange must redetermine the qualified individual's eligibility only for enrollment in a QHP and notify the enrollee in accordance with the timing described in paragraph (d) of this section. The Exchange may not proceed with a redetermination for insurance affordability programs until such authorization has been obtained or the qualified individual continues

his or her request for an eligibility determination for insurance affordability programs in accordance with § 155.310(b).

(m) *Special rule.* The Exchange must not redetermine a qualified individual's eligibility in accordance with this section if the qualified individual's eligibility was redetermined under this section during the prior year, and the qualified individual was not enrolled in a QHP through the Exchange at the time of such redetermination, and has not enrolled in a QHP through the Exchange since such redetermination.

[77 FR 18444, Mar. 27, 2012, as amended at 78 FR 42319, July 15, 2013; 79 FR 53005, Sept. 5, 2014; 81 FR 12342, Mar. 8, 2016; 88 FR 25918, Apr. 27, 2023]

**§ 155.340 Administration of advance payments of the premium tax credit and cost-sharing reductions.**

(a) *Requirement to provide information to enable advance payments of the premium tax credit and cost-sharing reductions.* In the event that the Exchange determines that a tax filer is eligible for advance payments of the premium tax credit, an applicant is eligible for cost-sharing reductions, or that such eligibility for such programs has changed, the Exchange must, simultaneously—

(1) Transmit eligibility and enrollment information to HHS necessary to enable HHS to begin, end, or change advance payments of the premium tax credit or cost-sharing reductions; and

(2) Notify and transmit information necessary to enable the issuer of the QHP to implement, discontinue the implementation, or modify the level of advance payments of the premium tax credit or cost-sharing reductions, as applicable, including:

(i) The dollar amount of the advance payment; and

(ii) The cost-sharing reductions eligibility category.

(b) *Requirement to provide information related to employer responsibility.* (1) In the event that the Exchange determines that an individual is eligible for advance payments of the premium tax credit or cost-sharing reductions based in part on a finding that an individual's employer does not provide minimum essential coverage, or provides

minimum essential coverage that is unaffordable, within the standard of 26 CFR 1.36B-2(c)(3)(v), or provide minimum essential coverage that does not meet the minimum value standard of § 156.145, the Exchange must transmit the individual's name and taxpayer identification number to HHS.

(2) If an enrollee for whom advance payments of the premium tax credit are made or who is receiving cost-sharing reductions notifies the Exchange that he or she has changed employers, the Exchange must transmit the enrollee's name and taxpayer identification number to HHS.

(3) In the event that an individual for whom advance payments of the premium tax credit are made or who is receiving cost-sharing reductions terminates coverage from a QHP through the Exchange during a benefit year, the Exchange must—

(i) Transmit the individual's name and taxpayer identification number, and the effective date of coverage termination, to HHS, which will transmit it to the Secretary of the Treasury; and,

(ii) Transmit the individual's name and the effective date of the termination of coverage to his or her employer.

(c) *Requirement to provide information related to reconciliation of advance payments of the premium tax credit.* The Exchange must comply with the requirements of 26 CFR 1.36B-5 regarding reporting to the IRS and to taxpayers.

(d) *Timeliness standard.* The Exchange must transmit all information required in accordance with paragraphs (a) and (b) of this section promptly and without undue delay.

(e) *Allocation of advance payments of the premium tax credit among policies.* If one or more advance payments of the premium tax credit are to be made on behalf of a tax filer (or two tax filers covered by the same plan(s)), and individuals in the tax filers' tax households are enrolled in more than one QHP or stand-alone dental plan, then the advance payment must be allocated as follows:

(1) That portion of the advance payment of the premium tax credit that is less than or equal to the aggregate adjusted monthly premiums, as defined in