



FEB 12 2016

Stephen Groff
Medicaid Director
Division of Medicaid & medical Assistance Delaware
Department of Health and Social Services
1902 N. Dupont Highway, the Lewis Building
New Castle, DE 19720

Re: Designation of Minimum Essential Coverage

Dear Mr. Groff:

The purpose of this letter is to inform the state whether certain types of Medicaid and CHIP coverage provided in Delaware is recognized by the Centers for Medicare & Medicaid Services (CMS) as minimum essential coverage (MEC) under section 5000A(f)(1)(E) of the Internal Revenue Code of 1986 (the Code).

On November 7, 2014, we explained in State Health Official Letter (SHO) #14-002 that certain types of coverage are not recognized as government-sponsored MEC under section 5000A(f)(1)(A) of the Code, including certain coverage for low-income pregnant women under the Medicaid state plan, coverage for medically needy individuals under the Medicaid state plan, and coverage under a demonstration program authorized under section 1115 of the Social Security Act (the Act). These types of coverage are not included as MEC under Internal Revenue Service (IRS) regulations implementing section 5000A(f)(1)(A)(ii) of the Code.¹ However, in many states, this coverage is comparable to the coverage generally afforded to categorically needy Medicaid beneficiaries. Therefore, pursuant to the authority under section 5000A(f)(1)(E) of the Code, CMS, in consultation with the Secretary of the Treasury, would recognize as MEC, coverage which is not recognized as MEC under the IRS regulations.

Following issuance of SHO #14-002, CMS reviewed the coverage provided under the special terms and conditions (STCs) of Delaware's demonstration project authorized under section 1115 of the Act. We requested additional information from the state to elaborate on any limitations in coverage reflected in the STCs in order to compare the coverage provided against the standard established in the SHO. In the event that the state elects to alter the benefits provided to beneficiaries enrolled under the state's demonstration project, which could affect the MEC

¹ At the time of the SHO, the IRS had not finalized its proposed rule to carve out medically needy or section 1115 coverage as minimum essential coverage. The final rule, implementing 26 CFR 1.5000A-2(b), was published on November 26, 2014.

designation discussed below, CMS will evaluate the new coverage to assess whether the designation in this letter is still appropriate.

Coverage Authorized Under Section 1115

Based on our evaluation of the STCs for the state’s demonstration project and discussion with state staff, we have concluded that the coverage under Delaware’s Diamond State Health Plan Comprehensive Demonstration (Project #11-W-00036/4) provides a managed care benefit package that is equivalent to state plan coverage for categorically needy. Accordingly, CMS has determined that the coverage provided under this demonstration project is recognized as MEC.

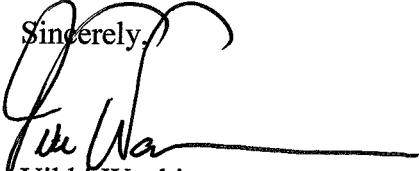
Implications of MEC Designation

Under section 5000A of the Code, “nonexempt individuals” must be enrolled in MEC for each month beginning after December 31, 2013, or make a payment (shared responsibility payment) with their federal income tax return. Individuals enrolled in coverage designated as MEC will not be liable for the shared responsibility payment. In addition, individuals eligible for coverage that is MEC are not eligible for advanced premium tax credits (APTC) and cost-sharing reductions (CSR).

Individuals eligible for Medicaid coverage that is not considered MEC may be eligible for APTC and CSRs for enrollment in a qualified health plan (QHP) through the Marketplace. These individuals may simultaneously elect to enroll in Medicaid and a QHP, or they may elect to enroll in Medicaid with the limited benefit. However, unless they are eligible for a hardship or other exemption from the requirement to maintain MEC, individuals who elect Medicaid coverage that is not recognized as MEC may be subject to the shared responsibility payment.

States are required to comply with IRS reporting requirements with respect to individuals who are covered by (MEC) and therefore are not liable for the individual shared responsibility payment. Copies of the 1095-B forms must be furnished to the person identified as the “responsible individual” on the form. For more information on the IRS reporting requirements, please visit <http://www.irs.gov/instructions/i109495b/ar01.html>.

If you have questions regarding these designations, please contact Ms. Anne Marie Costello, Acting Director, Children and Adults Health Programs Group, Center for Medicaid & CHIP Services, at (410) 786-5647.

Sincerely,

Vikki Wachino
Director

cc:

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Francis McCullough, ARA, CMS Regional Office Philadelphia