July 30, 2015

Update on Income Counting Error for Families with Dependents Receiving Social Security Benefits

Families that include children or other tax dependents receiving Social Security benefits who applied for health coverage through Healthcare.gov before April 17, 2015, may have been affected by a mistake in how their Social Security benefits were treated in calculating their eligibility for Marketplace coverage. The Marketplace is now sending notices to families who may have been affected by this error encouraging them to return to the Marketplace and get a corrected eligibility determination.

Who might be affected?

All households that include dependents who receive Social Security benefits that applied for coverage through Healthcare.gov before April 17, 2015. This group includes families that are not currently enrolled in a Marketplace plan. It does *not* affect families with members who receive Supplemental Security Income (SSI) benefits.

What do the notices from the Marketplace say?

The notices encourage these families to come back to the Marketplace to get a correct determination of eligibility. The families include people who are currently enrolled in Marketplace plans as well as people who are not enrolled. While consumers already enrolled may want to take different steps in response to the notice than those who are not enrolled, the notice does not include different instructions for the two groups.

How do consumers correct their eligibility determination?

Consumers can get a corrected eligibility determination by calling the Marketplace Call Center and reporting a "life change." Though consumers do not have to have experienced a life change, going through the process of reporting a life change allows a consumer to receive a new eligibility determination that correctly counts the Social Security income. This will result in a recalculation of the household's premium tax credits (PTCs).

How will an updated eligibility determination affect consumers currently enrolled in a Marketplace plan?

In some cases, the new determination will mean families can get an increase in their PTCs. In addition to increased PTCs, consumers may also be determined newly eligible for cost-sharing reductions (CSR) or be determined eligible for a different level of CSR. (NOTE: Consumers must be enrolled in a silver plan to receive CSR.)

Can consumers change plans when they update their eligibility determination?

Yes, the notice that consumers receive from the Marketplace triggers a special enrollment period (SEP) that will allow consumers to change plans if they wish. If a consumer is newly eligible for CSR, but is not enrolled in a silver plan, they may use the SEP to switch and enroll in a silver plan.

It is important to note that consumers who change plans will have *all cost-sharing charges (such as the deductible and out-of-pocket maximum) reset to zero*. In other words, any costs that have already been counted toward their deductibles will be wiped out. If consumers stay in the same plan with higher PTCs or new/higher CSRs, the cost-sharing charges will not reset to zero.

Can the recalculated amount of PTCs and level of CSR be applied retroactively?

Yes, consumers can choose to apply their recalculated amount of PTCs or level of CSR retroactively to the date of the original incorrect eligibility determination for 2015 coverage (as far back as January 1, 2015).

Will consumers lose PTCs they would have been eligible for if they do not apply the PTCs retroactively to their 2015 coverage?

No, when consumers reconcile their PTCs at tax time, they will be credited with any underpayment of PTCs that they were eligible for during the coverage year and didn't receive in advance.

What do consumers do if they are not currently enrolled in a Marketplace plan?

Some consumers who were affected by this error may not have enrolled in a plan or may have enrolled in a plan and ended their coverage some time during 2015. Even if a consumer affected by the system issue is not enrolled in a plan, he can contact the Marketplace Call Center and receive a new eligibility determination with the correct eligibility for PTCs and CSR. Consumers can then use the SEP to enroll in a plan.

Consumers can choose to have coverage begin retroactively, but they will be responsible for paying all premiums and applicable cost-sharing charges for all retroactive coverage months.

What if a consumer's corrected household income is within the eligibility range for Medicaid or CHIP?

Some consumers who update their application may now be found to have income in the Medicaid or CHIP range when their eligibility is recalculated without counting their dependents' Social Security income. This is especially true for individuals with incomes at the lower end of the subsidy scale and those who have more than one dependent who receives Social Security benefits. If consumers appear to be eligible for Medicaid or CHIP based on their recalculated income, their cases will be sent to their state Medicaid or CHIP agencies, and they may be required to submit additional information to complete the eligibility determination for those programs. Consumers can choose to stay in their Marketplace coverage pending determination of their Medicaid eligibility, but they must remember to terminate coverage from the Marketplace plan once they are enrolled in Medicaid or CHIP coverage.

What happens if a consumer's corrected household income drops them below the poverty line and into the coverage gap in a Medicaid non-expansion state?

Unfortunately, updating the eligibility determination will result in some consumers falling into the coverage gap in states that have not expanded Medicaid.

What if a consumer does not respond to the notice encouraging him to return to the Marketplace?

There is no requirement that consumers come back to the Marketplace and update their eligibility determination in response to this notice. (If a consumer has otherwise experienced a change in income, the consumer does have a responsibility to report those changes.) Consumers who are satisfied with their Marketplace plan choice and current subsidy amount can choose to wait to reconcile their PTC amount when they file their taxes. Any PTC that a person was eligible for but did not receive in advance will be credited to the consumer at tax time. However, if a person should be receiving a higher cost-sharing reduction, the person will forgo the increased CSR for the remainder of the year.

If a consumer's actual annual income ends up below the poverty line at tax filing, a special rule applies and as long as the Marketplace estimated at the time of enrollment that a consumer's income would be between 100 and 400 percent of the poverty line and he was otherwise eligible for premium tax credits, he won't have to pay back the advance payments he received during the year, and the consumer's actual annual income will be used when reconciling the PTC.

Did this error affect 2014 and 2015 coverage?

The error did affect both coverage years, but updating an eligibility determination will only affect coverage for 2015. Those who received an incorrect amount of PTCs in 2014 because a dependent's Social Security benefits were erroneously counted should have been credited with the correct amount of PTCs when they filed their tax returns and reconciled their PTCs for the 2014 coverage year.

If a person affected by this error was auto-renewed into 2015 coverage based on their 2014 eligibility determination and has not updated his application or reported a life change to the Marketplace, then the error is still affecting his eligibility determination.

What caused this error to occur?

Generally, Social Security benefits are counted towards household income in determining financial eligibility for insurance affordability programs. However, when the benefits are received by children or other individuals claimed as tax dependents, the benefits are only counted if the dependent is required to file a tax return based on her own income. (For example, the 2014 thresholds for when tax dependents are required to file a return is if they have $6,200 in earned income or $1,000 in unearned income—Social Security benefits do not count towards reaching these thresholds.) As we understand it, Healthcare.gov was originally programmed to include Social Security benefits in the determination of whether a dependent had a tax filing requirement. This resulted in Healthcare.gov making incorrect eligibility determinations for health insurance affordability programs, because the Social Security benefits were erroneously included in household income. The system error was corrected on April 17, 2015.

Did this error only occur for people who applied for coverage through Healthcare.gov?

The specific error and related notice is applicable to people who applied for coverage through Healthcare.gov. However, we don't know if all state Medicaid, CHIP and Marketplaces are counting Social Security benefits of dependents accurately. Because this is a complex income counting rule, it would be wise to inquire whether or not your state agencies are implementing this policy accurately.