



June 2, 2022

The Honorable Charles Rettig
Commissioner
Internal Revenue Service
U.S. Department of the Treasury
P.O. Box 7604, Ben Franklin Station
Washington, D.C., 20044

Re: Affordability of Employer Coverage for Family Members of Employees (REG-114339-21)

Dear Commissioner Rettig:

On behalf of the American Academy of Family Physicians (AAFP), representing more than 127,600 family physicians and medical students across the country, I write in response to the notice of proposed rulemaking titled “Affordability of Employer Coverage for Family Members of Employees” published in the [Federal Register](#) on April 7, 2022.

To date, the Department of Treasury has interpreted the health insurance affordability provisions of the Affordable Care Act (ACA) to mean that an *individual* purchasing marketplace coverage qualifies for premium tax credits when there is no other minimum essential coverage deemed affordable, i.e., costing no more than 9.5 percent of household income when adjusted for inflation. However, this interpretation only measures the affordability of *individual* employee coverage and does not take into account the affordability of *family* coverage, which is often much more costly. In other words, coverage is deemed affordable for the entire family if the coverage for the employee only does not cost more than 9.5 percent of household income. Approximately 5.1 million individuals do not qualify for premium tax credits due to this interpretation, known as the family glitch.¹ As a result, these families are forced to cover unaffordable insurance premiums or remain uninsured.

This proposed rule would address the family glitch eligibility barrier for premium tax credits and improve affordable health insurance coverage by clarifying language and interpretation of the ACA. Under the proposed rule, an eligible employer-sponsored plan is defined as affordable for the family member of the insured employee if the portion of annual premiums that must be paid for family coverage does not exceed 9.5 percent of household income. This creates a separate affordability test for family members that would be based on the cost to enroll family members in the employer coverage, not the cost of enrolling only the employee.

The AAFP strongly supports this proposed interpretation and encourages the IRS to swiftly finalize the rule. The AAFP believes that every individual should have access to affordable health care coverage providing equal access to services, including comprehensive primary care. Every day, family physicians encounter patients who struggle to make ends meet, and the escalating costs of health care have led many patients to delay or forgo needed care. The proposed interpretation is also consistent with the intent of the ACA.

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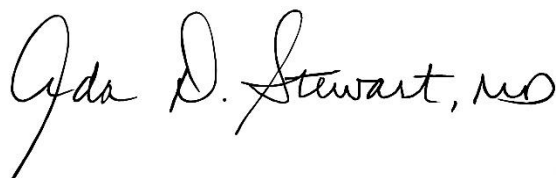
Currently, 29 percent of small business employees currently pay at least \$10,000 in premiums to obtain family coverage.ⁱⁱ Almost half (46 percent) of the people in the family glitch have incomes under 250 percent of the federal poverty level (FPL) and another third (33 percent) have incomes between 250-400 percent of FPL.ⁱⁱⁱ Fixing the family glitch would provide greater premium savings for those families with incomes under 200 percent of FPL (\$580 average savings per person).^{iv} Low-income families would also see significant savings in out-of-pocket costs, as a result of cost-sharing subsidies available to families with income under 250 percent of FPL. Improving affordability of health coverage is critically important to improving health outcomes. In fact, 46 percent of insured adults report difficulty affording their out-of-pocket costs and over a quarter (27 percent) report difficulty affording their deductible, which leads to delayed or forgone care.^v

Moreover, an estimated 450,000 individuals are currently uninsured due to unaffordable insurance costs because of the family glitch.^{vi} This proposed rule would ensure approximately 200,000 of those uninsured individuals become insured with affordable, comprehensive coverage.^{vii} This would also improve access to coverage for about 90,000 children who would be enrolled in Medicaid or CHIP when their parents sought marketplace insurance, thanks to the “no wrong door” approach that would automatically identify their eligibility.

Additionally, the proposed rule clarifies that the definition of the minimum value requirement for employer plans to cover 60 percent of costs and include substantial coverage of inpatient hospital and physician services is expanded beyond the individual to include the family members as well. **The AAFP supports the additional requirement that plans must provide substantial coverage of inpatient hospital services and physician services for the entire family.** If finalized as proposed, this clarification will ensure that related individuals with employer-based coverage also have affordable, [comprehensive coverage](#).

The AAFP supports the proposed rule and appreciates the IRS’s efforts to uphold the goals of the ACA to expand access to affordable coverage. For additional questions or comments, please contact Meredith Yinger, Manager of Regulatory Affairs, at myinger@aafp.org. Thank you for the opportunity to comment and we look forward to continued engagement with the agency.

Sincerely,

A handwritten signature in black ink that reads "Ada D. Stewart, MD". The signature is written in a cursive, flowing style.

Ada D. Stewart, MD, FAAFP
Board Chair, American Academy of Family Physicians

ⁱ Cynthia Cox, Krutika Amin, Gary Claxton, and Daniel McDermott, “The ACA Family Glitch and Affordability of Employer Coverage,” KFF, Apr. 7, 2021, accessed at <https://www.kff.org/health-reform/issue-brief/the-aca-family-glitch-and-affordability-of-employer-coverage/>

ⁱⁱ Gary Claxton, Larry Levitt and Matthew Rae, “Many Workers, Particularly at Small Firms, Face High Premiums to Enroll in Family Coverage, Leaving Many in the ‘Family Glitch,’” KFF, Apr. 12, 2022, accessed at <https://www.kff.org/health-reform/issue-brief/many-workers-particularly-at-small-firms-face-high-premiums-to-enroll-in-family-coverage-leaving-many-in-the-family-glitch/>

ⁱⁱⁱ Cynthia Cox, Krutika Amin, Gary Claxton, and Daniel McDermott, “The ACA Family Glitch and Affordability of Employer Coverage,” KFF, Apr. 7, 2021, accessed at <https://www.kff.org/health-reform/issue-brief/the-aca-family-glitch-and-affordability-of-employer-coverage/>

^{iv} Mathew Buettgens and Jessica Banthin, “Changing the ‘Family Glitch’ Would Make Health Coverage More Affordable for Many Families,” The Urban Institute, May 2021, accessed at https://www.urban.org/sites/default/files/publication/104223/changing-the-family-glitch-would-make-health-coverage-more-affordable-for-many-families_1.pdf

^v Audrey Kearney, Liz Hamel, Mellisha Stokes, Mollyann Brodie. Kaiser Family Foundation. Americans’ Challenges with Health Care Costs. Published Dec. 14, 2022. Accessed at: <https://www.kff.org/health-costs/issue-brief/americans-challenges-with-health-care-costs/>

^{vi} Timothy Jost. Commonwealth Fund. *A Fix for Family Glitch*. Blog. Published April 12, 2022. Accessed at: <https://www.commonwealthfund.org/blog/2022/fix-family-glitch>

^{vii} Ibid.