



December 22, 2014

The Honorable Sylvia Mathews Burwell
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

The Honorable Marilyn Tavenner
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Re: Notice of Benefit and Payment Parameters for 2016

Dear Secretary Burwell and Administrator Tavenner:

On behalf of H&R Block, I am writing to comment on the proposed Notice of Benefit and Payment Parameters for 2016 [CMS-9944-P], specifically on the proposed annual open enrollment period (“open enrollment”) for benefit year 2016, which would begin on October 1, 2015.

H&R Block is the world’s largest consumer tax services provider, filing more than 650 million returns worldwide since 1955. Last year, we filed more than 22 million U.S. individual income tax returns — about 15 million returns in our offices and another 7 million through our do-it-yourself offerings.

The Patient Protection and Affordable Care Act (“ACA”) has created an intersection of healthcare and tax that has not existed in the past. We believe millions of consumers will seek assistance as they try to navigate the ACA’s new provisions. We also believe that if open enrollment aligns with the tax filing season, the filing of a tax return provides the opportunity to educate consumers about the tax implications of their healthcare decisions, while they can still take action to enroll in health insurance. This would help to alleviate consumer frustration that would arise from the inability to avoid penalties in future years and may encourage consumers to enroll in health insurance.

Helping Consumers Understand and Avoid Tax Penalties

Our own research indicates that many consumers still do not fully understand the impact that the ACA and their healthcare decisions will have on their federal tax returns. They do not realize that they could be assessed a tax penalty for not having health insurance, that the penalty could be based on a percentage of their incomes rather than a fixed amount, or that the penalty increases in future years. They also may not realize that they may have been eligible for a tax credit if they were eligible to purchase insurance from the state or federal marketplaces.

As noted in the comments we submitted to you on July 10, 2014, consumers are likely to receive information about the healthcare penalty and tax credit provisions during the upcoming tax filing season from their tax professionals or software providers. If they file their tax returns on or before February 15, 2015 and are estimated to owe a penalty, they could still purchase insurance through one of the marketplaces to avoid most of the penalty on their 2015 tax return (filed in 2016).

However, consumers who file their tax returns after February 15th would not have the option to purchase insurance from one of the marketplaces. As a result, they would again be subject to the penalty for not having insurance when they file their 2015 return in 2016. This also means that taxpayers who are uninsured in 2015 would be treated differently for tax purposes based upon whether they filed their 2014 tax return before or after February 15, 2015.

While the proposed regulations for benefit year 2016 eliminate this disparity, they do so at greater costs to consumers. By proposing an open enrollment period that ends before tax filing season even begins (October 1, 2015 to December 15, 2015), even more consumers will be subject to the penalty for not having insurance on their 2016 tax returns (filed in 2017) and at greater cost as the penalties increase each year.

If open enrollment aligns with the tax filing season, consumers who learn they will be assessed a penalty will still have the opportunity to enroll in health insurance to avoid some, or all, of the penalty. It may even encourage those facing penalties to enroll. Learning about future penalties while not being able to do anything to avoid them will be extremely frustrating for consumers.

Increased Enrollment and Affordability

Another issue facing consumers is the affordability of health insurance and cash flow. Even with the availability of the advanced premium tax credit, many consumers will still not be able to afford health insurance premiums. For many consumers, their federal tax refund is the most significant financial transaction of the year and may provide the funds needed to pay those premiums. The average refund in the 2014 tax filing season was more than \$2,700.

If open enrollment aligns with the tax filing season, consumers may be able to use their refunds to make their premium payments. Extending open enrollment until April 30th will allow consumers to learn the amount of their possible tax refund, provide additional time to select plans based on the refund amounts, and help ensure they have the funds to pay their premiums. Not allowing these consumers to enroll in health insurance is a lost opportunity to maximize enrollment – one of the key goals of the ACA.

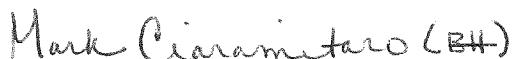
Alternative to Aligning Open Enrollment with Tax Filing Season

Should you decide not to align open enrollment with the tax filing season, we ask that you consider allowing consumers to still enroll in health insurance. We recommend that the filing of a federal tax return (by April 15th) be considered a qualifying event that triggers a special enrollment period. This would allow consumers to use the information they received when filing their tax returns to enroll in health insurance while avoiding penalties or maximizing tax credits on their next return.

In addition, we recommend you provide a hardship exemption from the penalty for not having insurance for those who enroll in health insurance under this special enrollment period.

Thank you for your consideration of our comments. Please do not hesitate to contact me should you have any questions or would like additional information.

Sincerely,



Mark Ciaramitaro
Vice President, Healthcare

cc: The Honorable Jacob J. Lew
The Honorable John Koskinen
The Honorable Mark J. Mazur