



STATE OF MICHIGAN

DEPARTMENT OF HUMAN SERVICES
LANSING

RICK SNYDER
GOVERNOR

MAURA D. CORRIGAN
DIRECTOR

IV-D MEMORANDUM 2014-005

TO: All Friend of the Court (FOC) Staff
All Prosecuting Attorney (PA) Staff
All Office of Child Support (OCS) Staff

FROM: Erin P. Frisch, Director
Office of Child Support

DATE: April 16, 2014

SUBJECT: The Affordable Care Act (ACA) and the Impacts on the Michigan IV-D Program

UPDATE(S):

Manual

Form(s)

RESPONSE DUE: None

POLICY EFFECTIVE DATE: Upon receipt

PURPOSE:

This IV-D Memorandum provides IV-D workers an overview of The Patient Protection and Affordable Care Act (ACA) and the impacts that the ACA may have on Michigan's IV-D program.

OCS originally published information about this subject in IV-D Memorandum 2013-026, *Introduction of the Affordable Care Act (ACA) and the Impacts on the Michigan IV-D Program*, on October 17, 2013. Since that time, OCS has analyzed some of the outstanding issues and questions, and determined clarifications are needed. Significant changes since the publication of IV-D Memorandum 2013-026 are indicated by a change bar in the right margin of this memorandum.

DISCUSSION:

The ACA was enacted in March 2010 and contains several mandates for all residents of the United States. The mandates are designed to ensure that a majority of U.S. residents have quality, affordable healthcare by requiring most residents to enroll in healthcare plans that meet certain minimum qualifications.

The ACA does not change any requirements for the IV-D program; however, there are steps that IV-D workers can take that will help families in our program meet their

obligations under child support orders and the ACA. The requirements and changes to the healthcare system in the United States may cause confusion for obligated parents and their families in need of healthcare. IV-D workers should familiarize themselves with the main provisions of the ACA and modify current medical support establishment and modification practices to take into account the requirements of the ACA.

A. ACA Requirements

Four main requirements are outlined in the ACA:

- The individual mandate;
- Employer requirements;
- The creation of Health Insurance Marketplaces;¹ and
- Medicaid expansion and changes.

These requirements are detailed below.

1. Individual Mandate

As of January 1, 2014, all U.S. residents are required to maintain minimum essential healthcare coverage or pay a tax penalty to the Internal Revenue Service (IRS). Minimum essential healthcare coverage is the type of coverage an individual needs to meet the individual responsibility requirement under the ACA. Under the individual mandate, an adult or a married couple claiming a child as a dependent on their federal tax return are required to ensure that the child is enrolled in some form of minimum essential healthcare coverage. Parents can meet the responsibility for covering themselves and their children through employer-sponsored coverage, Medicaid, Children's Health Insurance Program (CHIP or MICHild), coverage obtained through the Marketplace, TRICARE, and other plans.

a. Exemptions

- 1) An individual is exempt from the responsibility to cover himself/herself and his/her children if:
 - a) (S)he is uninsured for less than three months out of the year;

¹ A "Health Insurance Marketplace" is a resource where individuals, families, and small businesses can learn about their healthcare coverage options; compare health insurance plans based on costs, benefits, and other important features; choose a plan; and enroll in coverage. The Health Insurance Marketplace also provides information on programs that help people with low to moderate income and resources pay for coverage. Ref: the [Healthcare.gov glossary](#) for more information.

- b) Affordable² quality employer coverage is not available, or (s)he is determined to have very low income, and healthcare coverage is considered unaffordable;³
- c) His/her income is below the federal tax filing threshold;⁴
- d) (S)he would qualify under the new income limits for Medicaid, but his/her state has chosen not to expand Medicaid eligibility;
- e) (S)he is a member of a federally recognized Indian Tribe;
- f) (S)he participates in a healthcare sharing ministry;⁵
- g) (S)he is a member of a recognized religious sect with religious objections to health insurance; or
- h) (S)he has a hardship as defined by the Secretary of Health and Human Services.

In June 2013, the Centers for Medicare & Medicaid Services (CMS) clarified the hardship exemption. The clarification states that “Federal Marketplaces⁶ will exempt a child who has been determined ineligible for Medicaid and CHIP, and for whom a party other than the party who expects to claim him or her as a tax dependent is required by court order to provide medical support.”⁷ This clarification has particular importance to the IV-D program. A custodial party (CP) who claims his/her child on his/her tax return but who is **not** obligated to provide health insurance through a support order can receive an exemption and avoid penalties.⁸

In order to claim this exemption, a CP must complete and submit an exemption application in the Health Insurance Marketplace (www.healthcare.gov).

2) This exemption will not affect cases where:

- a) The child is eligible for Medicaid or CHIP; **or**
- b) **Both** parents are ordered to provide healthcare coverage. If the child is eligible for Medicaid or CHIP, and the CP has not applied for coverage, the CP will be subject to a penalty from the IRS if (s)he claims the child as a dependent. The hardship exemption only applies to exempt a person from the penalties the ACA imposes for failure to obtain

² Ref: Section A(2), “Employer Requirements” of this memorandum for more information.

³ Coverage is unaffordable if the premium for the lowest-cost option on the Health Insurance Marketplace exceeds 8 percent of income.

⁴ Ref: www.IRS.gov for more information regarding federal tax filing thresholds.

⁵ A “healthcare sharing ministry” is a healthcare cost-sharing arrangement among persons of similar and sincerely held beliefs, administered by a not-for-profit religious organization.

⁶ Federal Marketplaces are the same as Health Insurance Marketplaces or Partnership Exchanges. A “Partnership Exchange” is a state’s partnership with the federal government in the creation and maintenance of a Health Insurance Marketplace.

⁷ Ref: [Guidance on Hardship Exemption Criteria and Special Enrollment Periods](#), CMS Center for Consumer Information and Insurance Oversight Memorandum, June 26, 2013.

⁸ Ref: Section A(1)(b) of this memorandum.

healthcare coverage. It does not exempt a parent from complying with a child support order to provide coverage for his/her child(ren).

Note: The ACA does not change the IV-D definition of “reasonable cost”⁹ for healthcare coverage. It is possible that a parent could be exempt from providing coverage for his/her child under the ACA but still be required to provide coverage under his/her court order.

b. Penalties

The ACA mandates that all individuals who do not have minimum essential coverage by 2014 must pay a tax penalty to the IRS unless they qualify for an exemption or exception. IRS tax forms will ask filers about healthcare coverage, and if a filer or a filer’s dependent is not covered, a penalty will be assessed and due when the individual files his/her tax return. The tax penalty will increase over the next three years until it reaches the maximum penalty under the law in 2016. The following are the penalties over the next three years:

- In 2014, the higher of \$95 per person, or 1.0 percent of taxable income;
- In 2015, the higher of \$325 per person, or 2.0 percent of taxable income; and
- In 2016, the higher of \$695 per person, or 2.5 percent of taxable income.

The tax penalty does not affect the IV-D program. The IV-D program still has the responsibility to establish and enforce medical support orders. A CP or a non-custodial parent (NCP) can receive both a penalty from the IRS **and** be subject to enforcement mechanisms from the IV-D program, such as a show cause hearing or a *National Medical Support Notice* (NMSN).¹⁰ Conversely, a parent may be exempt from the IRS penalty but be subject to IV-D enforcement of medical support provisions.

2. Employer Requirements

By January 1, 2015,¹¹ large employers¹² must offer affordable quality healthcare coverage¹³ to full-time employees¹⁴ and their dependents¹⁵ or pay a tax penalty if

⁹ Ref: [Section 4.20, “Support Recommendations and Order Entry,” Subsection 3.1.1, “Reasonable Cost,” of the Michigan IV-D Child Support Manual](#) for more information about reasonable cost.

¹⁰ Ref: [Section 6.06, “Medical Support,” of the Michigan IV-D Child Support Manual](#) for more information.

¹¹ On February 10, 2014, the Obama Administration announced that employers with between 50 and 99 workers are not subject to the employer coverage requirement until January 1, 2016.

¹² “Large employers” are defined by the ACA as employers that employ 50 or more employees.

¹³ Affordable quality employer coverage means the employee’s share of the annual premium for self-only coverage is no greater than 9.5 percent of annual household income.

¹⁴ “Full-time employees” are defined by the ACA as employees who work an average of at least 30 hours per week.

¹⁵ “Dependents” are defined by the ACA as children under the age of 26.

any full-time employee purchases coverage through a Health Insurance Marketplace and qualifies for an insurance premium tax credit.¹⁶ Employers also are now required to report certain information about healthcare coverage to the IRS.¹⁷

Note: Starting on January 1, 2014, individuals offered employer-sponsored coverage that is affordable and provides minimum value will not be eligible for a premium tax credit.

3. Health Insurance Marketplaces

Under the ACA, each state is required to have a Health Insurance Marketplace implemented by October 1, 2013. States may:

- Choose to create and run their own Marketplace;
- Partner with the federal government in a Partnership Exchange; or
- Opt to have the federal government create and run the state's Marketplace with no assistance from the state.

a. Michigan's Marketplace

Michigan has opted to have the federal government create and run the state's Marketplace. Individuals can access all federally run Marketplaces (also known as the Health Insurance Marketplace) at www.healthcare.gov. The Health Insurance Marketplace uses the federal *Application for Health Coverage & Help Paying Costs* (federal application) for online enrollment in a qualified health plan,¹⁸ Medicaid, and CHIP.

The Health Insurance Marketplace also offers premium tax credits and cost-sharing reductions¹⁹ to those who qualify.²⁰ Applicants have instant eligibility determinations and are able to select from a variety of healthcare options to fit their budgets and needs. Premium tax credits and cost-sharing reductions are available to those who earn 100 percent to 400 percent of the federal poverty

¹⁶ A "premium tax credit" helps individuals afford health coverage purchased through the Health Insurance Marketplace by allowing the credit to be applied toward the monthly premium. Ref: the [Healthcare.gov glossary](#) for information on premium tax credits.

¹⁷ Ref: www.healthcare.gov for more information.

¹⁸ Under the ACA, a "qualified health plan" is an insurance plan that is certified by the Health Insurance Marketplace, provides essential health benefits, follows established limits on cost-sharing (e.g., deductibles, copayments, and out-of-pocket maximum amounts), and meets other requirements. A qualified health plan will have a certification by each Marketplace in which it is sold. Ref: the [Healthcare.gov glossary](#) for more information.

¹⁹ A "cost-sharing reduction" is a discount that lowers the amount individuals have to pay out-of-pocket for deductibles, coinsurance and copayments. The discount is based on an individual's income.

²⁰ Ref: Section B(2)(b) of this memorandum for information about the impacts of tax credits on the child support program.

level. Additionally, the Health Insurance Marketplace offers child-only healthcare plans.

b. Enrollment in Coverage

U.S. residents have from October 1, 2013 until March 31, 2014 to sign up for coverage on a Health Insurance Marketplace. This is known as the open enrollment period. After March 31, 2014, individuals will only be able to sign up for new or different coverage through a Marketplace during the next open enrollment period, or if there has been a qualifying life event.²¹ Individuals can submit an application for health coverage outside of a Health Insurance Marketplace, or apply for Medicaid or CHIP, at any time of the year.

4. Medicaid Expansion and Changes

a. Expansion of Medicaid Eligibility

Prior to the implementation of the ACA, the system for determining if a person was eligible for Medicaid varied from state to state. It involved calculations of income and assets, as well as “disregards”²² of income and assets that varied for different populations.

The ACA streamlines and unifies the system for determining eligibility across all states. States are required to use the Modified Adjusted Gross Income (MAGI) tax rules, which are also used by the Health Insurance Marketplaces to determine eligibility for Marketplace premium tax credits and cost-sharing reductions.

Under the MAGI rules, there is one standard 5 percent disregard for most populations. This means that a person’s income can be up to 138 percent of the federal poverty level, but once the 5 percent of his/her income is disregarded, (s)he will meet the 133 percent of the federal poverty level income threshold for Medicaid eligibility. MAGI rules also change the sources of income that count and do not count for eligibility determinations (e.g., assets no longer count) and how family size is determined.

The ACA, as enacted, required all states to expand Medicaid eligibility in January 2014 to individuals under age 65 with incomes up to 133 percent of the federal poverty level. The federal government will pay for almost all of the initial costs of that expansion. In 2012, the U.S. Supreme Court ruled that states could not be required to expand Medicaid, and therefore the expansion would be optional for each state.

²¹ Ref: www.healthcare.gov for more information on open enrollment periods and qualifying life events.

²² “Disregarding” income or assets means not counting it for the purposes of determining eligibility.

On August 27, 2013, Michigan passed legislation to expand the Medicaid program in Michigan. The expansion, called “Healthy Michigan,” is intended to cover individuals aged 19 to 65 with no dependent children. Healthy Michigan went into effect on April 1, 2014. Children are not included in the population eligible for the Healthy Michigan program, and will be enrolled in other Medicaid programs if they are eligible. At this time, OCS does not anticipate any impact (e.g., increased Bridges referral volume) to the child support program as a result of Healthy Michigan.

b. Medicaid Application Changes

The ACA also replaces the current Medicaid application. The federal application contains the questions that state Medicaid agencies are permitted to ask Medicaid applicants. States can choose to adopt the federal application, or they can create their own application. However, any state-created application must contain only the questions that are included on the federal application. Additionally, states cannot require applicants to use a state-created application when applying for Medicaid – applicants can apply through the Health Insurance Marketplace or by using the paper federal application.

State Medicaid agencies must request permission from CMS to add additional questions to the state-created application. Michigan has chosen to create its own application, the *Michigan Application for Health Coverage & Help Paying Costs* (DCH-1426).²³ Under the ACA, only questions about the applicant and the members of the applicant’s household can appear on the Medicaid application. This rule eliminates the ability to ask questions about a potential NCP (known as an “absent parent” in the assistance community).

Bridges functionality requires a group consisting of a parent, an absent parent, and a child in order to send a referral to the child support program for case establishment.²⁴ Because the DCH-1426 and the federal application do not gather information about the absent parent, OCS has been informed that Bridges will no longer send Medicaid-only referrals to the child support program after January 1, 2014.²⁵ However, Bridges will continue to send referrals for other referable assistance programs to the child support program since the application for other services still gathers the required information

²³ The DCH-1426 is available on the [Michigan Department of Community Health \(MDCH\) website](#). Applicants may request that Department of Human Services (DHS) or MDCH staff print out a paper copy of the DCH-1426.

²⁴ Ref: [Section 2.05, “Referrals and Applications,” of the Michigan IV-D Child Support Manual](#) for more information.

²⁵ The federal Office of Child Support Enforcement (OCSE) has published information regarding issues with the Medicaid application. IV-D agencies are encouraged to work with Medicaid agencies in order to prevent inappropriate referrals being sent to the IV-D agency. Inappropriate referrals include referrals that do not include sufficient information to identify an NCP. Ref: [OCSE Information Memorandum \(IM\) 14-01, Medicaid Referrals to the IV-D Agency](#).

about the absent parent. Additionally, if the family receives Medicaid **and** other assistance programs, the child support program will receive referrals.

MDCH intends to ask permission from CMS to add questions about the absent parent to the DCH-1426. MDCH estimates that the questions will be approved and added to the DCH-1426 and online application (through MiBridges). At that time, MDCH intends to request an update to Bridges' functionality, and Bridges will again submit referrals for Medicaid-only cases to the child support program. OCS will notify IV-D staff when MDCH determines an implementation date.

Michigan's Health Insurance Marketplace uses the federal application, which will **not** be modified to include any new questions requested by Michigan. Consequently, Bridges will not send referrals to child support for applications received through the Health Insurance Marketplace.

As of the publication of this memorandum, the DCH-1426 and Bridges corresponding functionality for issuing or not issuing IV-D referrals are still under consideration and development. OCS will notify IV-D staff when these modifications are formally scheduled and/or imminent.

c. Noncooperation in a Medicaid-Only Case

An issue with cooperation/noncooperation²⁶ was discovered with the implementation of changes to Bridges. At this time, in a Medicaid-only case, when a support specialist sends information about an applicant's noncooperation to Bridges, Bridges will not use this information to disqualify the case.

This failure to apply disqualifications to Medicaid cases for child support noncooperation occurs for two reasons:

- 1) Under the ACA, eligibility is determined under the MAGI requirements. These requirements are applied by another automated system, not Bridges. However, recipients of Medicaid are recorded in Bridges. Since Bridges is not the system that determines whether or not a family meets the MAGI requirements, it is not the system authorized to disqualify a family for Medicaid.
- 2) MAGI requirements do not include child support cooperation requirements. Consequently, even if support specialists notified the automated system authorized to apply MAGI requirements of the

²⁶ Ref: [Section 2.15, "Cooperation/Noncooperation/Good Cause," of the Michigan IV-D Child Support Manual](#) for more information about cooperation/noncooperation with the child support program.

noncooperation, the system is unable to disqualify the family for reasons of child support noncooperation.

OCS will notify IV-D staff when a solution to this issue is implemented. Until then, IV-D staff will continue to apply cooperation and noncooperation status as directed in IV-D policy materials.

Note: If noncooperation occurs in a case in which the family receives Medicaid **and** other benefits, Bridges will apply the disqualifications to those other benefits (e.g., cash assistance,²⁷ food assistance).

d. Medicaid Application Process in Michigan

Michigan residents have four ways to apply for Medicaid:

- The Health Insurance Marketplace (which uses the online federal application);
- The online Michigan application (through MiBridges);
- The paper federal application; and
- The DCH-1426 that will be available online and at all DHS and MDCH offices.

As of February 1, 2014, applicants will no longer use the *Assistance Application* (DHS-1171) to apply for Medicaid coverage. MDCH has removed all questions pertaining to Medicaid assistance from the DHS-1171. Individuals who want to apply for benefits (FIP, food assistance, etc.) in addition to Medicaid will be required to complete the DHS-1171 and a Medicaid application (DCH-1426, online through MiBridges, or through the Health Insurance Marketplace). MDCH and DHS intend to provide a single, multi-benefit application in the future. OCS will announce the publication of any new forms when the forms become available.

B. The ACA and IV-D Program Goals

The ACA does not change Title IV-D of the Social Security Act or its accompanying regulations. This means that Michigan's IV-D program is not required to make any changes to the way it establishes, enforces or modifies medical support orders. However, there are steps that Michigan IV-D partners may take to help align the goals of the IV-D program, the Michigan Child Support Program Strategic Plan, and the ACA.

1. Enforcement of Healthcare Coverage

²⁷ Family Independence Program (FIP)

The ACA does not change any healthcare coverage enforcement requirements for the IV-D program. Also, as described above, the tax penalty does not affect the IV-D program. Federal law requires child support orders to include a provision for healthcare coverage. FOC staff must continue to enforce these healthcare coverage provisions, including the continued use of NMSNs.²⁸ FOC staff can help parties comply with their order by explaining that they may be able to satisfy their healthcare coverage requirements by enrolling for coverage through the Marketplace.

2. Establishment and Modification of Medical Support Orders

[The Michigan Child Support Program Strategic Plan for 2013-2017](#) outlines several strategic goals for the next five years. IV-D staff can help work toward some of these goals by considering the requirements and limitations of the individual mandate and by following the steps that the [2013 Michigan Child Support Formula Supplement](#) lists for IV-D staff when determining which parent should be ordered to maintain healthcare coverage.

a. Streamline Services and Eliminate Redundancy

The business process goal of the Strategic Plan calls for the IV-D program to streamline services and eliminate redundancy. IV-D staff are encouraged to consider the following²⁹ when establishing or modifying medical support orders:

- Do the parents agree who should maintain the children's coverage?
- Does only one parent have coverage available through employment or self-employment?
- If only one parent has coverage available through employment, is the parent's coverage at or below the reasonable cost of coverage?
- If both parents have coverage available through employment:
 - Does either parent's coverage exceed the reasonable cost of coverage?
 - Does the child have special healthcare needs that one plan covers better?
- If neither parent has coverage available through employment at a reasonable cost, are there other coverage options available to either parent?
- If other coverage options are available to either parent, which parent would be better suited to obtain the other options?

²⁸ Ref: Section 6.06 of the *Michigan IV-D Child Support Manual* for more information.

²⁹ Ref: Section 3.02, "Determining Which Parent Should Maintain Health Care Coverage" of the 2013 Michigan Child Support Formula Supplement for more information.

In addition to the above factors, knowing the ACA link between claiming a child for tax purposes and the individual mandate requirements, IV-D staff may wish to ask which parent will claim the child prior to establishing or modifying support orders.

The 2013 Michigan Child Support Formula Supplement also instructs IV-D staff to avoid requiring both parties to provide coverage since it can lead to duplicate coverage, extra costs, and unnecessary enforcement actions.

Once IV-D staff determine which parent is in the best position to provide healthcare coverage for his/her child, they can seek to set the medical support order accordingly.

b. Evaluate and Respond to Change to Maximize Compliance

The support payment goal of the Strategic Plan calls for the IV-D program to evaluate and respond to social, legal, technological, and economic changes to maximize compliance. IV-D workers can help ensure parents can comply with medical support orders by determining which parent is in the best position to provide healthcare under the rules of the ACA.

Under the requirements of the ACA and the requirements of many court orders, cost and the inability to receive tax credits may present a barrier to some parents seeking to provide healthcare coverage for their children. Parents can cover their child(ren) under a qualified health plan, but they are not eligible for the premium tax credit to offset the cost of coverage unless the enrolling parent can legitimately claim the child(ren) as a dependent on his/her federal income tax filing.³⁰ Additionally, only the CP may enroll the child in Medicaid.

An NCP living in a different state from his/her child is not allowed to enroll the child in a state healthcare coverage plan outside the child's home state; (s)he must enroll the child using the Marketplace in the child's home state. This is true even if the NCP claims the child as a dependent.

By considering these factors, IV-D workers will streamline the requirements that parents have under both the court order and under the ACA by helping parents find coverage for their children to satisfy the court order and the individual mandate.

c. Provide Excellent Customer Service

The customer service goal of the Strategic Plan calls for the IV-D program to establish a "How can I help you?" attitude and provide respectful and

³⁰ Ref: Question and answer 4, 5 and 20 in [Exhibit 2014-005E1, Affordable Care Act \(ACA\) Frequently Asked Questions \(FAQs\) for IV-D Workers](#) for further information.

knowledgeable customer service. OCS encourages IV-D staff to direct parents to the Health Insurance Marketplace to obtain healthcare for their children. By doing this, IV-D workers will provide excellent service to customers, and help them understand and navigate their responsibilities under their child support order.

NECESSARY ACTION:

Retain this IV-D Memorandum until further notice. This IV-D Memorandum and its attached exhibit replace and obsolete IV-D Memorandum 2013-026 and Exhibit 2013-026E1, published on October 17, 2013.

REVIEW PARTICIPANTS:

Case Management Work Improvement Team
Enforcement Work Improvement Team
Establishment Work Improvement Team
Program Leadership Group

CONTACT PERSON:

Amy Rebideaux
OCS Policy Analyst
(517) 373-8541
rebideauxa@michigan.gov

CC:

None

SUPPORTING REFERENCES:

Federal
45 Code of Federal Regulations (CFR) 303.31
Public Law 111-148

OCSE IM14-01

State
None

ATTACHMENT:

2014-005E1: Affordable Care Act (ACA) Frequently Asked Questions (FAQs) for IV-D Workers

EPF/AER