

VIA ELECTRONIC SUBMISSION

May 27, 2022

CC:PA:LPD:PR
(REG-114339-21)
Room 5203
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Comments to REG-114339-21
Affordability of Employer Coverage for Family Members of Employees

Dear Sir or Madam:

Thank you for the opportunity to comment on the proposed rule REG-114339-21, "Affordability of Employer Coverage for Family Members of Employees."

The Colorado Children's Campaign is a nonprofit, nonpartisan advocacy organization committed since 1985 to realizing every chance for every child in Colorado. We advocate for the development and implementation of data-driven public policies that improve child well-being in health, K-12 education, and early childhood. We do this by providing Coloradans with trusted data and research on child well-being and organizing an extensive statewide network of dedicated child advocates.

We appreciate the opportunity to make the following comments to this IRS proposed rule. We enthusiastically support the proposed rule for finally fixing the "family glitch" and ask that the proposed rule be finalized, as-is and as soon as possible, so that it can take effect in advance of open enrollment for the upcoming 2023 marketplace plan year.

We strongly agree with the preamble to the proposed rule that the proposed changes to 26 C.F.R. § 1.36B-2 (Eligibility for premium tax credits), as well as the related amendments to 26 C.F.R. §§ 1.36B-3 (Computing the premium assistance credit amount) and 1.36B-6 (Minimum value), are a sound and reasonable legal interpretation of the statutory language.

We also strongly agree with the preamble that the proposed changes would substantially advance the goals of the Affordable Care Act in expanding access to affordable and comprehensive health coverage.

- Many families offered family coverage through their employers are required to pay premiums that they cannot afford or that impose undue financial burdens. But because

of the family glitch, children and other dependent family members are ineligible for premium tax credits to purchase marketplace coverage. Family members thus either end up uninsured or face premiums and out-of-pocket costs that seriously strain limited household budgets. Structural inequities mean that low-income women and children and families of color are most likely to end up in the family glitch.¹ In Colorado, families below 300% of the federal poverty level (FPL) stuck in the family glitch have an uninsured rate of 13%.² Nationwide, almost half (46%) of the people in the family glitch have incomes under 250% of the FPL and another third (33%) have income between 250%-400% of FPL.³

- Nationally, the Kaiser Family Foundation finds, on average, that 12 percent of workers offered family coverage in 2021 had to pay at least \$10,000 for their share of the total premium cost of family coverage. And among small employers, 29 percent of workers faced family premiums of at least \$10,000. In addition, 19 percent of workers in the service industry and 16 percent of workers in the agriculture/mining/construction industries were required to contribute at least \$10,000 in premium costs.
- The proposed rule would extend the availability of subsidized marketplace coverage to at least 64,000 children and other family members in Colorado who are currently ineligible, according to the Urban Institute.⁴ Fixing the family glitch would provide substantial premium savings for those families with incomes under 200% of FPL – an average of \$580 in annual savings per person.⁵
- The proposed rule thus will help reduce thousands of families’ out-of-pocket costs in Colorado and could significantly reduce the ranks of uninsured children and adults in our state. Nationally, the Urban Institute estimates that 4.8 million people would be made newly eligible for premium tax credits, including 2.2 million children. The Kaiser Family Foundation similarly estimates that 5.1 million are now in the family glitch and could benefit from the proposed rule, including 2.8 million children. According to the Urban Institute, 710,000 more people would newly enroll in subsidized marketplace plans and the number of uninsured people would fall by 190,000, with the coverage gains likely to

¹ Goe, C.L., & Palanker, D. (2021, April 22). *ACA family glitch increases health costs for millions of families*. The Commonwealth Fund. Retrieved from <https://www.commonwealthfund.org/blog/2021/aca-family-glitch-increases-health-care-costs-millions-low-and-middle-income-families>

² Claxton, G., Levitt, L., & Rae, M. (12, April 2022). *Many workers, particularly at small firms, face high premiums to enroll in family coverage, leaving many ‘family glitch’*. Kaiser Family Foundation. Retrieved from <https://www.kff.org/health-reform/issue-brief/the-aca-family-glitch-and-affordability-of-employer-coverage/>

³ Claxton, G., Levitt, L., & Rae, M. (12, April 2022).

⁴ Buettgens, M., & Banthin, J. (2021, May). *Changing the “family glitch” would make health coverage more affordable for many families*. The Urban Institute. Retrieved from <https://www.urban.org/research/publication/changing-family-glitch-would-make-health-coverage-more-affordable-many-families>

⁵ Claxton, G., Levitt, L., & Rae, M. (12, April 2022).

be even larger if the temporary increases in PTCs under the American Rescue Plan Act are extended.

- The proposed rule could also lower premiums in the marketplaces and the overall non-group market in our state. Those becoming newly eligible for premium tax credits in Colorado would likely be in better health, on average, than people who are already enrolled. For example, the Kaiser Family Foundation estimates that 94 percent of those stuck in the family glitch report they are in better health and the Urban Institute expects overall premiums in the individual to fall by about 1 percent nationally.
- The proposed rule would also better ensure that more of the 1.6 million low-income children and other Coloradans now enrolled in Medicaid in Colorado who may lose such coverage when the COVID-19 public health emergency expires have access to affordable coverage through the marketplaces, rather than end up uninsured.⁶ The Families First Coronavirus Response Act included a critically important continuous coverage protection to keep children and other Medicaid beneficiaries enrolled during the public health emergency, which avoided a spike in the number of the uninsured during the pandemic. But when this protection ends, hundreds of thousands of children in our state could lose their Medicaid coverage. Nationally, the Georgetown University Center for Children and Families estimates that 6.7 million children now enrolled in Medicaid will likely lose their Medicaid coverage when the continuous coverage protection expires.⁷ Some could end up uninsured because they get trapped in the family glitch. The proposed rule, however, would help mitigate this risk by extending premium tax credit eligibility to more children losing Medicaid coverage and therefore reduce the number of children in Colorado who may become newly uninsured.

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Respectfully submitted,

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⁶ Colorado Department of Health Care Policy & Financing. (2022, April 15). *Planning for the end of the public health emergency: Continuous coverage requirements*. Retrieved from <https://hcpf.colorado.gov/sites/hcpf/files/Planning%20for%20the%20end%20of%20the%20Public%20Health%20Emergency.pdf>

⁷ Alker, J., & Brooks, T. (2022, February 17). *Millions of children may lose Medicaid: What can be done to help prevent them from becoming uninsured?* Georgetown University Health Policy Institute Center for Children and Families. Retrieved from <https://ccf.georgetown.edu/2022/02/17/millions-of-children-may-lose-medicaid-what-can-be-done-to-help-prevent-them-from-becoming-uninsured/>