

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES HOUSE OF REPRESENTATIVES,)
)
 Plaintiff,)
)
 v.) Case No. 1:14-cv-01967-RMC
)
SYLVIA MATHEWS BURWELL, in her official)
 capacity as Secretary of Health and Human Services, *et al.*,)
)
 Defendants.)
)
_____)

EXHIBIT 15

CMS, Frequently Asked Questions on Health Insurance Marketplaces and Income Verification (Aug. 5, 2013)

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information & Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201



Date: August 5, 2013

Subject: Frequently Asked Questions on Health Insurance Marketplaces and Income Verification

Q: Will Marketplaces be verifying the income of consumers as a part of the eligibility process for advance payments of the premium tax credit and cost-sharing reductions?

A: Yes. According to 45 CFR 155.320(c)(3), Marketplaces will always use data from tax filings and Social Security data to verify household income information provided on an application, and in many cases, will also use current wage information that is available electronically. The multi-step process begins when an application filer applies for insurance affordability programs (including advance payments of the premium tax credit and cost-sharing reductions) through the Marketplace and affirms or inputs their projected annual household income. The applicant's inputted projected annual household income is then compared with information available from the Internal Revenue Service (IRS) and Social Security Administration (SSA). If the data submitted as part of the application cannot be verified using IRS and SSA data, then the information is compared with wage information from employers provided by Equifax. If Equifax data does not substantiate the inputted information, the Marketplace will request an explanation or additional documentation to substantiate the applicant's household income.

When documentation is requested, the Affordable Care Act and implementing regulations specify that if the applicant meets all other eligibility requirements, he or she will be provided with eligibility for advance payments of the premium tax credit and cost-sharing reductions based on the inputted projected annual household income for 90 days (which may be extended based on good faith), provided that the tax filer attests to the Marketplace that he or she understands that any advance payments of the premium tax credit paid on his or her behalf are subject to reconciliation. If documentation is requested and is not provided within the specified timeframe, regulations specify that the Marketplace will base its eligibility determination on IRS and SSA data, unless IRS data is unavailable, in which case the Marketplace will discontinue any advance payments of the premium tax credit and cost-sharing reductions.

For 2014 only, we recently indicated that HHS will exercise enforcement discretion such that a Marketplace may choose to request additional documentation from a statistically-significant sample of the group of individuals in only one specific situation: when the Marketplace has IRS data, the application filer inputs projected annual household income that is more than ten percent below IRS and SSA data, Equifax data is unavailable, and the individual does not provide a reasonable explanation for the inconsistency between the attestation and IRS and SSA data. In all other cases in which the data submitted by the individual cannot be verified using IRS and SSA data or Equifax data, and the individual does not provide a reasonable explanation for any discrepancy identified between their attestation and electronic data, the Marketplace must request additional documentation. This includes,

for example, all cases in which IRS data is not available for an individual, and the attestation to projected annual household income cannot be verified using Equifax data; and all cases in which there is both IRS data and Equifax data for an individual but the attestation to projected annual household income cannot be verified using that data.

We are clarifying that, for the Federally-facilitated Marketplace, CMS intends to set the initial size of the sample at 100 percent, such that everyone who is in the circumstance described above in which sampling may be used is asked to submit satisfactory documentation. Since publication of the final rule, we have ascertained that there are sufficient resources to ask every individual in this circumstance for such documentation with no exceptions. State-based Marketplaces may choose to use other sample sizes, provided that they are statistically significant for 2014. As described 45 CFR 155.320(c)(3)(vi)(F), if satisfactory documentation is not submitted by the end of the resolution period, the Marketplace will determine eligibility based on the IRS and SSA data.

We note that application filers must attest, under penalty of perjury, that they are not providing false or fraudulent information. In addition to the existing penalties for perjury, the Affordable Care Act applies penalties when an individual fails to provide correct information based on negligence or disregard of program rules, or knowingly and willfully provides false or fraudulent information. Moreover, the IRS will reconcile advance payments of the premium tax credit when consumers file their annual tax returns at the end of the year, and it will recoup overpayments and provide refunds when appropriate, subject to statutory limits. These safeguards all apply no matter which type of Marketplace is operating in a state.