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***CMCS Informational bulletin***

**DATE:** November 10, 2021

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Center for Medicaid & CHIP Services (CMCS)

**SUBJECT:** Basic Health Program; Revised Federal Funding Methodologies for Program Years 2020 and 2021 and Operational QAs

The Centers for Medicare & Medicaid Services (CMS) is responsible for developing the formula to calculate the amount of federal funding available for a state's Basic Health Program (BHP). This Center for Medicaid and CHIP Services (CMCS) Informational Bulletin (CIB) specifies updated values for factors needed to calculate the federal BHP payment rates for 2020 and 2021, as a result of the American Rescue Plan Act of 2021 (ARP) (Pub. L. 117-2). In addition, this CIB provides several questions and answers related to the states' implementation of the ARP.

**Background**

CMS published the Basic Health Program; Federal Funding Methodology for Program Years 2019 and 2020 in the Federal Register on November 5, 2019 ([84 FR 59529](#)) (hereinafter referred to as the 2019 and 2020 BHP Payment Notice). CMS published the Basic Health Program; Federal Funding Methodology for Program Year 2021 in the Federal Register on August 13, 2020 ([85 CFR 49264](#)) (hereinafter referred to as the 2021 BHP Payment Notice).

Additional information on the funding formula, including the specific methodologies and the full explanation of all factors that go into the methodologies can be found in the 2019 and 2020 BHP Payment Notice ([84 FR 59529](#)) and the 2021 BHP Payment Notice ([85 CFR 49264](#)).

**American Rescue Plan Act**

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) (Pub. L. 117-2). The ARP contains three provisions that impact state operations and federal payments for a BHP. These provisions, which are outlined below, have an impact on the values of certain factors used within the BHP payment methodologies for program years 2020 and 2021. The updated values of these factors can be found in Section "Updated Values for Variables Used in Payment Equations" beginning on page 3 of this CIB.

**Section 9661 – Improving Affordability by Expanding Premium Assistance for Consumers.**

This provision temporarily modifies for 2021 and 2022 the percentage of income an individual is expected to pay for the second lowest cost silver plan on the exchange (known as the "applicable

percentage”). This percentage is used to calculate premium tax credits (PTC) for individuals enrolled in a QHP. The difference between the maximum amount of an individual’s household income that can be charged in premiums and the cost of the second lowest cost silver plan is paid to the individual as PTC. The applicable percentages are factored into the equation for calculating the amount of PTC owed to states. Because section 9661 of the ARP modifies for 2021 and 2022 the applicable percentages, CMS must use the updated applicable percentages to recalculate the federal payments owed to states for their BHPs in 2021.

#### Section 9662 – Temporary Modification of Limitations on Reconciliation of Tax Credits for Coverage Under a Qualified Health Plan with Advance Payments of Such Credits.

In the Marketplace, the difference between the maximum amount of an individual's household income that can be charged in premiums and the cost of the second lowest cost silver plan is paid to the individual as a PTC. For individuals who purchase coverage on the exchange, the advance payments of the PTC (APTC) that they received throughout the course of the year based on projected income is reconciled at tax time with the individual’s actual reported income. If their income is more than projected at the time their APTC was calculated, they repay APTC through a reduction in their tax refund or by paying additional taxes. Section 9662 suspends reconciliation of excess APTC for individuals enrolled in a Qualified Health Plan in the Marketplace for the 2020 Tax year.

There is no reconciliation process for BHP enrollees. Instead, the BHP payment methodology includes an Income Reconciliation Factor (IRF), to account for the differences in BHP enrollees’ income at initial application and the actual income over the year. The 2019 and 2020 BHP Payment Notice finalized an IRF for program year 2020. The Office of Tax Analysis (OTA) of the Department of the Treasury has calculated an updated IRF for 2020, which takes into account the suspension of reconciliation for QHP enrollees. CMS must retroactively apply the updated IRF in order to adjust the BHP payments made to states for 2020.

#### Section 9663 – Application of Premium Tax Credit in Case of Individuals Receiving Unemployment Compensation During 2021.

This provision disregards any household income of a taxpayer in excess of 133% of the Federal Poverty Level (FPL) in 2021 for purposes of calculating the PTC for which the taxpayer is eligible, if the taxpayer received or was approved to receive unemployment compensation (UC) for any week beginning during 2021. The result is that all taxpayers who received or were approved to receive any UC in 2021 are eligible for the maximum amount of PTC provided for Marketplace enrollment; those who purchase the second-lowest cost silver plan on the Exchange will incur \$0 in premiums for essential health benefits.

This provision impacts BHP payments for 2021 by increasing the amount of PTC BHP enrollees who received or were approved to receive UC would have received had they enrolled in the Marketplace. In the Marketplace, if an individual received or was approved to receive UC partway through the year, they may be entitled to greater PTC at the end of year. As stated above, there is no reconciliation process for BHP enrollees. Therefore, OTA has calculated an updated IRF for 2021, which takes into account the increased PTC amounts received by individuals who receive or were approved to receive UC in 2021. CMS must apply the updated IRF to payments to states for 2021.

## **Updated Values for Variables Used in Payment Equations**

### 1. Premium Tax Credit Formula (PTCF)

As described in section III.E.5 of the 2021 BHP Payment Notice, CMS will use the formula described in 26 USC 36B(b) to calculate the estimated PTC that would be paid on behalf of a person enrolled in a QHP in the Marketplace as part of the BHP payment methodology. In the 2021 BHP Payment Notice, we stated that applicable percentages, as then defined in 26 USC 36B(b)(3)(A) and 26 CFR 1.36B-3(g), for calendar year 2020 would be effective for BHP program year 2021. We finalized the use of the prior year’s applicable percentages to calculate BHP payments because those were the most recently published percentages at the time the methodology was finalized. However, because the applicable percentages have since been amended for 2021 by the ARP, we will now use updated applicable percentages to calculate payments to states for their BHPs for 2021. The updated applicable percentages, which are described in Table 1 below, increase on a sliding scale in a linear manner from the premium percentage applicable to individuals with income at the lowest end of the premium band to the premium percentage applicable to individuals with income at the highest end of the premium band.

**TABLE 1: Applicable Percentage Table for CY 2021  
Under Section 9661 of the ARP<sup>a</sup>**

<b>In the case of household income (expressed as a percent of poverty line) within the following income tier:</b>	<b>The initial premium percentage is–</b>	<b>The final premium percentage is–</b>
Up to 150%	0.0%	0.0%
150.0% percent up to 200.0%	0.0%	2.0%
200.0% up to 250.0%	2.0%	4.0%
250.0% up to 300.0%	4.0%	6.0%
300.0 percent up to 400.0%	6.0%	8.5%
400.0% percent and higher	8.5%	8.5%

### 2. Income Reconciliation Factor (IRF)

As described in section III.D.7 of the 2019 and 2020 BHP Payment Notice and section III.E.7 of the 2021 BHP Payment Notice, the income reconciliation factor (IRF) accounts for (a) the difference between calculating estimated PTC (which is based on income relative to FPL as determined at initial application for enrollment in a QHP and potentially revised mid-year) and (b) actual income relative to FPL received during the plan year, as reflected on individual federal income tax returns following the end of the plan year. States may not have access to BHP enrollees’ actual income relative to FPL during the plan year. The IRF is used to estimate the reconciliation that otherwise would happen for individuals receiving advance payments of the premium tax credit (APTC) for enrollment in a QHP through an Exchange. The IRF values used in the payment methodologies for 2019 and 2020 were equal to the average of the value of the IRF for states that have implemented the Medicaid eligibility expansion to cover adults up to 133

percent of the FPL and the value of the IRF for states that have not implemented the Medicaid eligibility expansion, for each respective year.

We originally finalized in the 2019 and 2020 BHP Payment Notice that the IRF for program year 2020 would be equal to 98.50 percent. For 2020 and as a result of the ARP, the OTA has estimated that the IRF for states that have implemented the Medicaid eligibility expansion to cover adults up to 133 percent of the FPL will be 101.23 percent, and for states that have not implemented the Medicaid eligibility expansion and do not cover adults up to 133 percent of the FPL will be 101.82 percent. Therefore, we are updating the value of the IRF for 2020 to 101.53 percent, which is the average of the factors, rounded to the nearest hundredth of one-percent.

Under the 2021 final BHP Payment Notice, we calculated the IRF using only the value for states that have implemented the Medicaid eligibility expansion to cover adults up to 133 percent of the FPL, which was 99.23 percent. For 2021 and as a result of the ARP, OTA has estimated that the IRF for states that have implemented the Medicaid eligibility expansion will be 100.61 percent. Therefore, we are updating the value of the IRF for 2021 to be 100.61 percent.

### **Recalculating Payments to States**

Federal payments to states for their BHPs are made on a prospective, quarterly basis. As described in section III.B of the 2019 and 2020 BHP Payment Notice and section III.B of the 2021 BHP Payment Notice, a state implementing a BHP must provide CMS with an estimate of the number of BHP enrollees the state projects will enroll in the upcoming BHP program quarter, by applicable rate cell. Each rate cell represents a unique combination of age range (if applicable), geographic area, coverage category (for example, self-only or two-adult coverage through the BHP), household size, and income range as a percentage of FPL. These enrollment estimates by rate cell are used to calculate prospective payments, to be received by the states in advance of the applicable quarter. Following the end of the quarter, states must submit actual enrollment data to CMS, and the actual enrollment data is used to calculate the final BHP payment amount and make any necessary reconciliation adjustments to the prior quarter's prospective payment amount due to differences between projected and actual enrollment.

As of the date of publication of this bulletin, CMS has not received actual enrollment data for any quarters of 2020 or 2021 from states that operate a BHP. Recognizing that the changes to the IRF for 2020 and 2021 and applicable percentages for 2021 will increase federal payments to states, CMS will issue updated payments to states based on the estimated enrollment data submitted by the states to CMS. CMS will notify states as to when the updated payments will be issued.

For more information on the Basic Health Program or for questions related to the BHP funding methodology please contact Chris Truffer at [Christopher.Truffer@cms.hhs.gov](mailto:Christopher.Truffer@cms.hhs.gov) or Cassie Lagorio at [Cassandra.Lagorio@cms.hhs.gov](mailto:Cassandra.Lagorio@cms.hhs.gov).

## **Appendix: Impact of the American Rescue Plan Act on the Basic Health Program Operational Q&As for States**

Question 1: What are the maximum monthly premiums BHP enrollees can be charged in 2021 and 2022, under Section 9661 of the ARP?

Answer 1: Section 1331(a)(2)(A)(i) of the Affordable Care Act requires that the amount of the monthly premium an eligible individual pays for coverage under a BHP standard health plan must not exceed the amount of the monthly premium the individual would have been required to pay had the individual instead enrolled in the second-lowest cost silver plan through the Exchange. Section 9661 of the ARP modifies the applicable percentages of income used to calculate the amount of PTC individuals are eligible to receive in the Exchange. Specifically, it specifies that individuals with income below 150 percent of the FPL are not required to contribute to premiums for essential health benefits in the Exchange. Therefore, states cannot charge monthly premiums to BHP enrollees with household income below 150% of the FPL.

Section 9661 of ARP also reduced the amount which individuals with household income between 150 percent and 200 percent of the FPL need to contribute to the cost of coverage in the Exchange. For BHP enrollees with income between 150 percent of the FPL and 200 percent of the FPL, the BHP monthly premiums cannot exceed the premiums that may be charged for an individual enrolled in the second-lowest cost silver plan in the individual's area on the Exchange after the application of premium tax credits. The specific premium amounts will vary based on the individual's household income and size. CMS will work directly with states to determine the maximum premium amounts.

Question 2: Do BHP states need to reimburse any premiums already collected in 2021, for enrollees with income below 150% FPL?

Answer 2: Yes. As described above, Section 9661 of ARP modifies the applicable percentages of income used to calculate the amount of PTC individuals are eligible to receive in the Exchange, and thus modifies the premiums that individuals would have been required to pay for the second-lowest cost silver plan on the Exchange. Because the effective date of Section 9661 is January 1, 2021, states may not collect any BHP premiums from enrollees with income below 150% FPL effective January 1, 2021. Thus, states must reimburse BHP enrollees with income below 150% FPL for any premium amounts collected for any months in 2021.

As described above, states also may not collect premiums from BHP enrollees with income between 150% FPL and 200% FPL that exceed the premiums amounts owed by individuals enrolled in coverage through the Exchange for the second-lowest cost silver plan in the individual's area on the Exchange after application of premium tax credits. If a state has collected higher than authorized premiums for these BHP enrollees for any months in 2021, those excess premium amounts would need to be reimbursed as well.

Question 3: Do BHP states need to retroactively enroll individuals with income below 150% FPL who have been determined eligible for BHP since January 1, 2021, but have not been enrolled because they haven't paid their initial premium?

Answer 3: Yes. If the state determined an individual eligible to enroll in the BHP for 2021, but the individual has not been enrolled due to nonpayment of the initial premium, the state must now enroll the individual with coverage effective January 1, 2021. The state should also work with the individual to ensure any unpaid claims that can now be covered under BHP are processed.

Question 4: Can the state charge BHP premiums to enrollees who received Unemployment Compensation in 2021?

Answer 4: No, states cannot charge BHP premiums to enrollees who received or are approved to receive Unemployment Compensation in 2021, regardless of their income. States also cannot charge BHP premiums to enrollees if a tax filer in the enrollee's tax household received or was approved to receive Unemployment Compensation in 2021. Section 9663 of ARP disregards any household income of a taxpayer in excess of 133% FPL in 2021, if the taxpayer attests to having received or being approved to receive Unemployment Compensation for any week beginning during 2021, subject to documentation as the Secretary may prescribe. Individuals with income of 133% FPL (including those whose income is effectively 133% due to the disregard in section 9663 of the ARP) pay \$0 for the essential health benefits portion of the second lowest cost silver plan on the Exchange, after the application of PTC. Therefore, BHP enrollees who receive Unemployment Compensation (or whose tax filing household member receives Unemployment Compensation) may not be charged any premiums, as any premium charge would exceed the cost to the individual of purchasing the second lowest cost silver plan on the Exchange.

Question 5: If Unemployment Compensation begins midway through the year, does the state need to reimburse premiums paid during the first part of the year?

Answer 5: Yes. States must reimburse any BHP premiums collected since January 1, 2021 from BHP enrollees who receive or are approved to receive Unemployment Compensation in 2021, even if the premiums were collected prior to the receipt of Unemployment Compensation.