April 28, 2014

The Honorable Jack Lew
CC:PA:LPD:PR (REG-141036-13), Room 5205
Internal Revenue Service
Post Office Box 7604
Ben Franklin Station
Washington, DC 20044
Via Electronic Submission (www.regulations.gov)

Re: Minimum Essential Coverage and Other Rules Regarding the Shared Responsibility Payment for Individuals

Dear Secretary Lew:

The Children’s Hospital Association appreciates the opportunity to comment on the proposed rule “Minimum Essential Coverage and Other Rules Regarding the Shared Responsibility Payment for Individuals” (REG-141036-13). We anticipate many of the children served by children’s hospitals will be affected by policies surrounding minimum essential coverage and premium tax credit eligibility. While we appreciate the Internal Revenue Services (IRS) efforts to implement the Affordable Care Act (ACA), we are concerned the proposed rule does not address the challenges families with children with special health care needs may face navigating the coverage options available to them.

Children’s hospitals across the country are actively engaged in their local communities to improve the health of the pediatric population. Children’s hospitals are a vital safety net for all children, treating uninsured, underinsured and publicly covered children across the country. Although children’s hospitals are less than 5 percent of all hospitals in the U.S., they account for 45 percent of all pediatric inpatient days. Children’s hospitals serve the majority of children with serious illnesses and complex chronic conditions and most children in need of major surgical services. Children’s hospitals provide almost all of the care for children with cancer, cardiac conditions, cystic fibrosis and spina bifida.

We appreciate the IRS’ recognition of the differences in benefits offered through the various Medicaid eligibility pathways in the proposed rule. However, the Association is very concerned that low-income children with disabilities may not be able to receive premium tax credits to make their Exchange coverage affordable and receive Medicaid supplemental coverage. We strongly believe that children who receive premium tax credits should be allowed to access supplemental Medicaid benefits if state eligibility requirements are met. If this cannot be achieved for all children, we encourage the IRS, at a minimum, to maintain that individuals can receive both premium tax credits
for Exchange coverage and supplemental Medicaid benefits when Medicaid eligibility does not lead to comprehensive benefits.

We also agree with the IRS that individuals should not be penalized if they are enrolled in only limited Medicaid coverage in 2014. We believe this guidance should be extended to future years as the Administration continues to implement the ACA and families become more familiar with the coverage options resulting from the health reform law. We anticipate increased difficulty for families with children with special health care needs to navigate the coverage options available to their children and confusion about the implications of those options on access to premium tax credits. We urge the IRS to work with the Department of Health and Human Services (HHS) to ensure that families are educated about the various coverage options available to them and how these options impact access to premium tax credits.

The Association also urges the IRS and HHS to monitor children’s access to comprehensive Medicaid coverage. Historically, federal and state Medicaid policies have allowed children with disabilities to enroll in Medicaid even if they have private insurance. States have encouraged families to maintain private coverage for children with disabilities and allow Medicaid to fill gaps in private insurance to limit costs to the Medicaid program. Under these circumstances, Medicaid is the payer of last resort and supplements the child’s private insurance plan, covering co-pays, deductibles and uncovered health care services. States may not realize the implications of Medicaid eligibility on access to premium tax credits and inadvertently discourage a family from enrolling their child in comprehensive Medicaid coverage only.

We appreciate the opportunity to share our views regarding the proposed rule and its implications on children. If we may provide further information or otherwise be of assistance, please contact Shannon Lovejoy with the Children’s Hospital Association at 703-684-1355 or shannon.lovejoy@childrenshospitals.org.

Sincerely,

M. James Kaufman, PhD
Vice President, Public Policy