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June 6, 2022

The Honorable Charles Rettig
Commissioner
Internal Revenue Service
U.S. Department of the Treasury
P.O. Box 7604, Ben Franklin Station
Washington, D.C. 20044
Re: Affordability of Employer Coverage for Family Members of Employees (REG-114339-21)

Submitted via www.regulations.gov

Dear Commissioner Rettig:

On behalf of the more than 220 children's hospitals across the country, the Children's Hospital Association (CHA) appreciates the opportunity to comment on the proposed rule, [Affordability of Employer Coverage for Family Members of Employees](#), issued by the Internal Revenue Service (IRS). We support the rule, which would correct the "family glitch" by determining the affordability of employer-sponsored minimum essential coverage based on the cost of that coverage for the employee and family members, not solely on the cost for the employee.

Children's hospitals are a vital safety net for all children. They account for less than 5% of hospitals in the United States, but they care for almost one-half of children admitted to hospitals. Children's hospitals are regional centers for children's health, providing care across large geographic areas, and serve the majority of children with serious illnesses and complex chronic conditions and most children in need of major surgical services. As essential pediatric providers, the nation's children's hospitals strongly believe that children must have comprehensive and affordable coverage that provides them timely access to high-quality and age-appropriate care that meets their unique developmental needs.

The family glitch excludes families with children (and other dependents) from subsidized Exchange coverage, even when they lack affordable employer-based coverage, and disproportionately impacts children. When the rule establishing the original methodology to calculate affordability of minimum essential coverage was released in 2013, we joined with other national organizations representing children's health to highlight our concerns about its negative implications for children's access to coverage and care.¹ We called on the IRS to revise the calculation to make clear that children and other family members would be eligible for subsidized coverage if the cost of family-based coverage—not self-only coverage—exceeds 9.5% of household income. We believed then, and have continued to believe, that the original approach taken by the IRS was a misinterpretation of the Affordable Care Act (ACA) and violated congressional intent. Therefore, we applaud you for redefining "minimum essential coverage" in this proposed rule, which will make health insurance more affordable for more than 2.5 million children.

¹ See Children's Organizations Comments: [https://downloads.aap.org/DOFA/10-31-11%20Group%20Comment%20Premium%20Tax%20Medicaid%20Eligibility%20Exchange%20Functions%20-%20Copy%20\(2\).pdf](https://downloads.aap.org/DOFA/10-31-11%20Group%20Comment%20Premium%20Tax%20Medicaid%20Eligibility%20Exchange%20Functions%20-%20Copy%20(2).pdf)

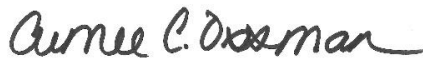
The glitch has had a greater impact on low-income families but has also been a problem for middle-income families. Close to 46% of the family members affected by this policy have incomes under 250% of the federal poverty level (FPL) and another 33% have incomes between 250% and 400% of the FPL.² Forgoing insurance altogether or purchasing coverage that is unaffordable is the only alternative for those low and middle-income families that do not have access to premium subsidies for Exchange coverage due to the glitch. Either scenario threatens families' financial security and may lead to delays in needed care. Children must be able to get the care they need, when they need it, without jeopardizing their families' financial security. Missed screenings, diagnoses and treatments can result in life-long health consequences that generate extensive and avoidable costs.

Fixing the family glitch is consistent with the goals of the ACA to expand access to affordable coverage and will benefit millions of families. It would provide significant premium savings for families with incomes under 200% of the FPL (\$580 average savings per person)³ as well as significant savings in out-of-pocket costs thanks to cost-sharing subsidies available to families with income under 250% of the FPL. This could mean thousands of dollars in cost-sharing savings for these families.⁴

We also support the clarification in the rule that the minimum value requirement is met only if the costs of benefits provided to family members is at least 60%, similar to existing rules that now apply only to the employee. In addition, we support the proposed rule's requirement that employer-sponsored plans must provide substantial coverage of inpatient hospital and physician services to meet the ACA's 60% actuarial value requirement. These clarifications are in keeping with the intent of the ACA to provide comprehensive, affordable health coverage, as well as the goal of improving access to quality and affordable health care.

We thank you for the opportunity to weigh in on these important policy changes and urge you to move quickly to finalize the rule. If you have any questions about our comments, please contact Jan Kaplan at 202-753-5384 or jan.kaplan@childrenshospitals.org.

Thank you,



Aimee Ossman
Vice President, Policy
Children's Hospital Association

² Gary Claxton, Larry Levitt and Matthew Rae, "Many Workers, Particularly at Small Firms, Face High Premiums to Enroll in Family Coverage, Leaving Many in the 'Family Glitch,'" Kaiser Family Foundation, April 12, 2022, accessed at [Many Workers, Particularly at Small Firms, Face High Premiums to Enroll in Family Coverage, Leaving Many in the 'Family Glitch' | KFF](#).

³ Mathew Buettgens and Jessica Banthin, "Changing the 'Family Glitch' Would Make Health Coverage More Affordable for Many Families," The Urban Institute, May 2021, accessed at https://www.urban.org/sites/default/files/publication/104223/changing-the-family-glitch-would-make-health-coverage-more-affordable-for-many-families_1.pdf

⁴ Dania Palanker and Christina Goe, "ACA 'Family Glitch' Increases Health Care Costs for Millions of Low-and Middle-Income Families," Commonwealth Fund, Apr. 22, 2021, accessed at <https://www.commonwealthfund.org/blog/2021/aca-family-glitch-increases-health-care-costs-millions-low-and-middle-income-families>