

June 6, 2022

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
U.S. Department of the Treasury
1111 Constitution Avenue, NW
Washington, DC 20224

Re: Affordability of Employer Coverage for Family Members of Employees (REG-114339-21)

Dear Commissioner Rettig:

Thank you for the opportunity to submit comments on the proposed rule, *Affordability of Employer Coverage for Family Members of Employees*, issued by the Internal Revenue Service (IRS). We are writing to you on behalf of the National Association of Social Workers (NASW). Founded in 1955, NASW has 110,000 members and works to enhance the professional growth and development of social workers, to create and maintain professional standards, and to advance sound social policies. We strongly support the proposed rule, which would correct the “family glitch” that was created by a 2013 misreading of the Affordable Care Act (ACA). That misreading erected a barrier to affordable coverage for millions of Americans barring them from eligibility for premium tax credits, despite having an offer of unaffordable employer coverage.

Social workers serve a critical role in connecting individuals and families to health insurance coverage and health care services. NASW supports the interpretation applied in this proposed rule as the best reading of the statute and consistent with the goals of the ACA to expand access to affordable coverage. As noted in the preamble to this proposed rule, the current interpretation was originally proposed in a broader rule on premium tax credits (76 FR 50931), but not finalized in 2012 (77 FR 30377). In that final rule, IRS noted that commenters opposed the proposed interpretation, calling instead for the IRS to adopt an affordability test for family members based on the cost of family coverage. Despite these objections, IRS finalized the policy in 2013 (78 FR 7264), with an interpretation inconsistent with the text and intent of the ACA, thereby creating the “family glitch.”

The current interpretation affects as many as 5.1 million people who are barred from obtaining premium tax credits because “affordable” coverage is based only on the cost to cover the employee.¹ Most of the people impacted are children, and nearly half a million people go uninsured when faced with unaffordable coverage under a family member’s employer plan.² Workers in small businesses are also impacted as they are more likely to face higher premiums for family coverage. Five percent of covered workers in large businesses face a premium of at least \$10,000 to enroll family members in their employer plan. That number grows to 29 percent of covered workers in small businesses who must pay \$10,000 to obtain family coverage.³

Social workers help people across a broad array of settings with multiple health and social needs overcome barriers to secure health insurance coverage. The family glitch has a greater impact on low-income families that social workers serve, but it is

¹Cynthia Cox, Krutika Amin, Gary Claxton, and Daniel McDermott, “The ACA Family Glitch and Affordability of Employer Coverage,” KFF, Apr. 7, 2021, accessed at <https://www.kff.org/health-reform/issue-brief/the-aca-family-glitch-and-affordability-of-employer-coverage/>

²Ibid.

³ 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,’” KFF, Apr. 12, 2022, accessed at <https://www.kff.org/health-reform/issue-brief/many-workers-particularly-at-small-firms-face-high-premiums-to-enroll-in-family-coverage-leaving-many-in-the-family-glitch/>.

also a problem for middle-income families. Furthermore, despite the incredibly valuable service provided by social workers, this workforce also experiences economic precarity resultant from high student loan debt burdens in combination with historically low salaries and reimbursement for essential services rendered.⁴ Thus, addressing the long-standing challenges associated with the family glitch stands to also benefit this critical workforce. Almost half (46%) of the people in the family glitch have incomes under 250% of the federal policy level (FPL) and another third (33%) have income between 250%-400% of FPL.⁵ Fixing the family glitch would provide greater premium savings for those families with incomes under 200% of FPL (\$580 average savings per person).⁶ Low-income families would also see significant savings in out-of-pocket costs, thanks to cost-sharing subsidies available to families with income under 250% of FPL. This could mean thousands of dollars in cost-sharing savings for these families.⁷

The proposed rule will help millions of families by allowing for a separate affordability test for family members that would be based on the cost to enroll family members in the employer coverage (not the cost of enrolling only the employee). **We strongly support this interpretation of the statute and the approach to determining family members' eligibility for premium tax credits.**

We also appreciate the opportunity to comment on the minimum value definition requiring employer plans to provide substantial coverage of inpatient hospital and physician services in order to satisfy the 60% actuarial value threshold. **We support this definition and the proposed rule clarifying that the minimum value requirement should, like the affordability test, be applied separately for employees and family members.** We agree that this clarification will ensure family members are not barred from premium tax credits by coverage that is affordable but fails to provide minimum value.

NASW agrees with the IRS that the proposed rule's new interpretation is a better reading of the statute. It is also consistent with the goals of the ACA to expand access to affordable coverage. As a result, millions of families – particularly those of low-wage workers -- will no longer be forced to choose between unaffordable employer coverage and unsubsidized marketplace coverage for dependents. Social workers will be able to assist families to choose the coverage option that works best for them, whether that be to remain as a family in the employer plan or to obtain marketplace coverage, with financial assistance, for those family members for whom the employer plan would be unaffordable.

Thank you for the opportunity to comment. If you have any questions, please contact me at sbutts.nasw@socialworkers.org.

Sincerely,



Sarah Christa Butts, MSW
Director of Public Policy
National Association of Social Workers

⁴ NASW, Social Work Salaries, n.d., accessed at <https://www.socialworkers.org/careers/career-center/kickstart-your-job-hunt/social-work-salaries>

⁵ Ibid.

⁶ 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

⁷ 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>