



June 3, 2022

Submitted via [www.regulations.gov](http://www.regulations.gov)

Internal Revenue Service  
P.O. Box 7604  
Ben Franklin Station  
Washington, DC 20044

**Re: Affordability of Employer Coverage for Family Members of Employees – Notice of Proposed Rulemaking, REG–114339–21**

To Whom It May Concern:

The District of Columbia Health Benefit Exchange Authority (HBX) strongly supports the proposed change to the affordability standard.

By way of background, HBX is a private-public partnership established by the District of Columbia (District) to develop and operate the District's on-line health insurance marketplace, DC Health Link (DCHealthLink.com). We cover approximately 100,000 people -- District residents and people who work for District small businesses. DC Health Link fosters competition and transparency in the private health insurance market, enabling individuals and small businesses to compare health insurance prices and benefits and to purchase affordable, quality health insurance. Since we opened for business, we have cut the uninsured rate by half and now more than 96% of District residents have health coverage.

HBX supports the IRS's proposal to amend the employer-sponsored insurance (ESI) affordability regulations to expand advance premium tax credit (APTC) eligibility to related individuals for whom family coverage would exceed the affordability threshold. Additionally, HBX supports the updates to the definition of "minimum value" as it relates to ESI coverage.

Family ESI Affordability

The proposed affordability standard will help District residents and working families nationwide. In the District's small business market, employers contribute on average 38% to premium for dependents compared to 82% for employee coverage. Approximately half of employers (48%) that offer coverage to dependents do not contribute to the dependent's premium. Looking at covered lives for employers that offer dependent coverage, 61% are employees and 39% are dependents. These data indicate that job-based coverage while affordable for employees because of the employer contribution, is not affordable for their family members. Our experience is consistent with national studies.



According to the Kaiser Family Foundation employer survey, on average, covered workers pay 17% of the premium for employee only coverage and 28% of the premium for family coverage.<sup>1</sup> The 2021 survey reported employee-only coverage average annual premiums were \$7,739 compared to \$22,221 for average family premium.<sup>2</sup> Lower or no employer contribution to dependent coverage makes family coverage unaffordable for many working families. The IRS' proposed change will address this problem by allowing dependents to qualify for APTC through ACA marketplaces.

Additionally, the proposed change would result in an interpretation consistent with the statutory intent of the ACA. The intent of the ACA is to make health coverage more affordable for working families. IRS's proposal to look at the cost of job-based family coverage instead of the cost of employee-only coverage means that many families will now qualify for affordable coverage with APTC. The prior interpretation of looking only at the cost for employee-only coverage left many families uninsured because they were not eligible for APTC and could not afford the cost of job-based family coverage.

Furthermore, the prior interpretation created an internal inconsistency in IRS's affordability regulations because the ESI affordability test for purposes of family members' APTC eligibility used the employee-only ESI premium while the affordability test for the purpose of receiving an exemption from the requirement to have minimum essential coverage used the family ESI premium. The change to the ESI affordability test in this NPRM resolves the inconsistency.

We also support legal arguments delineated in comments submitted by scholars at the Tax Law Center at New York University and the Urban Institute, and at Democracy Forward and George Washington University Law School.

### Minimum Value

HBX also supports the proposed clarification to 26 C.F.R. §1.36B-6. The proposal clarifies that, to be considered "minimum value," ESI offered to employees, as well as to both employees and their family members, must provide a minimum of 60% actuarial value. IRS is also updating the ESI "minimum value" standard to require the coverage to include "substantial coverage of inpatient hospital services and physician services." This update makes IRS standards consistent with CMS standards in 45 C.F.R. §156.145. HBX supports both clarifications.

### Conclusion

As a state-based marketplace, DC Health Link has started the preliminary planning to update our IT on-line application, develop cost calculator tools to assist families, and develop a robust education campaign that will include working with our largest chambers – the DC Chamber of

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<sup>1</sup> Kaiser Family Foundation, "2021 Employer Health Benefits Survey", 10 Nov. 2021, available at: <https://www.kff.org/report-section/ehbs-2021-summary-of-findings/>

<sup>2</sup> *Id.*

Commerce, the Greater Washington Hispanic Chamber of Commerce, and the Restaurant Association Metropolitan Washington. In updating our IT and developing a cost-calculator for our residents, we are assuming that the IRS will finalize the rule as proposed. We strongly support the IRS as soon as possible finalizing the rule as proposed. Thanks you for you consideration of our comments.

Sincerely,

Mila Kofman  
Executive Director  
DC Health Benefit Exchange Authority