

§ 155.320

not undermine coordination with Medicaid and CHIP, and that applicable requirements under § 155.260, § 155.270, paragraph (i) of this section, and section 6103 of the Code with respect to the confidentiality, disclosure, maintenance, or use of such information will be met.

(i) *Applicant information.* The Exchange must not require an applicant to provide information beyond the minimum necessary to support the eligibility and enrollment processes of the Exchange, Medicaid, CHIP, and the BHP, if a BHP is operating in the service area of the Exchange, described in this subpart.

(j) *Verification related to eligibility for enrollment through the Exchange in a QHP that is a catastrophic plan.* The Exchange must verify an applicant's attestation that he or she meets the requirements of § 155.305(h) by—

(1) Verifying the applicant's attestation of age as follows—

(i) Except as provided in paragraph (j)(1)(iii) of this section, accepting his or her attestation without further verification; or

(ii) Examining electronic data sources that are available to the Exchange and which have been approved by HHS for this purpose, based on evidence showing that such data sources are sufficiently current and accurate, and minimize administrative costs and burdens.

(iii) If information regarding age is not reasonably compatible with other information provided by the individual or in the records of the Exchange, the Exchange must examine information in data sources that are available to the Exchange and which have been approved by HHS for this purpose based on evidence showing that such data sources are sufficiently current and accurate.

(2) Verifying that an applicant has a certification of exemption in effect as described in § 155.305(h)(2).

(3) To the extent that the Exchange is unable to verify the information required to determine eligibility for enrollment through the Exchange in a QHP that is a catastrophic plan as described in paragraphs (j)(1) and (2) of this section, the Exchange must follow

45 CFR Subtitle A (10–1–14 Edition)

the procedures specified in § 155.315(f), except for § 155.315(f)(4).

[77 FR 18444, Mar. 27, 2012, as amended at 77 FR 31515, May 29, 2012; 78 FR 42316, July 15, 2013]

§ 155.320 Verification process related to eligibility for insurance affordability programs.

(a) *General requirements.* (1) The Exchange must verify information in accordance with this section only for an applicant or tax filer who requested an eligibility determination for insurance affordability programs in accordance with § 155.310(b).

(2) Unless a request for modification is granted in accordance with § 155.315(h), the Exchange must verify or obtain information in accordance with this section before making an eligibility determination for insurance affordability programs, and must use such information in such determination.

(b) *Verification of eligibility for minimum essential coverage other than through an eligible employer-sponsored plan.* (1)(i) The Exchange must verify whether an applicant is eligible for minimum essential coverage other than through an eligible employer-sponsored plan, Medicaid, CHIP, or the BHP, using information obtained by transmitting identifying information specified by HHS to HHS for verification purposes.

(ii) The Exchange must verify whether an applicant has already been determined eligible for coverage through Medicaid, CHIP, or the BHP, if a BHP is operating in the service area of the Exchange, within the State or States in which the Exchange operates using information obtained from the agencies administering such programs.

(2) Consistent with § 164.512(k)(6)(i) of this subchapter, the disclosure to HHS of information regarding eligibility for and enrollment in a health plan, which may be considered protected health information, as that term is defined in § 160.103 of this subchapter, is expressly authorized, for the purposes of verification of applicant eligibility for minimum essential coverage as part of the eligibility determination process for advance payments of the premium tax credit or cost-sharing reductions.

(c) *Verification of household income and family/household size*—(1) *Data*.—(i) *Data regarding annual household income.* (A) For all individuals whose income is counted in calculating a tax filer's household income, as defined in 26 CFR 1.36B-1(e), or an applicant's household income, calculated in accordance with 42 CFR 435.603(d), and for whom the Exchange has a Social Security number, the Exchange must request tax return data regarding MAGI and family size from the Secretary of the Treasury and data regarding Social security benefits described in 26 CFR 1.36B-1(e)(2)(iii) from the Commissioner of Social Security by transmitting identifying information specified by HHS to HHS.

(B) If the identifying information for one or more individuals does not match a tax record on file with the Secretary of the Treasury that may be disclosed in accordance with section 6103(l)(21) of the Code and its accompanying regulations, the Exchange must proceed in accordance with § 155.315(f)(1).

(ii) *Data regarding MAGI-based income.* For all individuals whose income is counted in calculating a tax filer's household income, as defined in 26 CFR 1.36B-1(e), or an applicant's household income, calculated in accordance with 42 CFR 435.603(d), the Exchange must request data regarding MAGI-based income in accordance with 42 CFR 435.948(a).

(2) *Verification process for Medicaid and CHIP.* (i) *Household size.* (A) The Exchange must verify household size in accordance with 42 CFR 435.945(a) or through other reasonable verification procedures consistent with the requirements in 42 CFR 435.952.

(B) The Exchange must verify the information in paragraph (c)(2)(i)(A) of this section by accepting an applicant's attestation without further verification, unless the Exchange finds that an applicant's attestation to the individuals that comprise his or her household for Medicaid and CHIP is not reasonably compatible with other information provided by the application filer for the applicant or in the records of the Exchange, in which case the Exchange must utilize data obtained through electronic data sources to verify the attestation. If such data sources are unavailable or information

in such data sources is not reasonably compatible with the applicant's attestation, the Exchange must request additional documentation to support the attestation within the procedures specified in 42 CFR 435.952.

(ii) *Verification process for MAGI-based household income.* The Exchange must verify MAGI-based income, within the meaning of 42 CFR 435.603(d), for the household described in paragraph (c)(2)(i) in accordance with the procedures specified in Medicaid regulations 42 CFR 435.945, 42 CFR 435.948, and 42 CFR 435.952 and CHIP regulations at 42 CFR 457.380.

(3) *Verification process for advance payments of the premium tax credit and cost-sharing reductions.* (i) *Family size.* (A) The Exchange must require an applicant to attest to the individuals that comprise a tax filer's family for advance payments of the premium tax credit and cost-sharing reductions.

(B) To the extent that the applicant attests that the information described in paragraph (c)(1)(i) of this section represents an accurate projection of a tax filer's family size for the benefit year for which coverage is requested, the Exchange must determine the tax filer's eligibility for advance payments of the premium tax credit and cost-sharing reductions based on the family size data in paragraph (c)(1)(i) of this section.

(C) To the extent that the data described in paragraph (c)(1)(i) of this section is unavailable, or an applicant attests that a change in circumstances has occurred or is reasonably expected to occur, and so it does not represent an accurate projection of a tax filer's family size for the benefit year for which coverage is requested, the Exchange must verify the tax filer's family size for advance payments of the premium tax credit and cost-sharing reductions by accepting an applicant's attestation without further verification, except as specified in paragraph (c)(3)(i)(D) of this section.

(D) If the Exchange finds that an applicant's attestation of a tax filer's family size is not reasonably compatible with other information provided by the application filer for the family or in the records of the Exchange, with the exception of the data described in

paragraph (c)(1)(i) of this section, the Exchange must utilize data obtained through other electronic data sources to verify the attestation. If such data sources are unavailable or information in such data sources is not reasonably compatible with the applicant's attestation, the Exchange must request additional documentation to support the attestation within the procedures specified in §155.315(f).

(E) The Exchange must verify that neither advance payments of the premium tax credit nor cost-sharing reductions are being provided on behalf of an individual using information obtained by transmitting identifying information specified by HHS to HHS.

(ii) *Basic verification process for annual household income.* (A) The Exchange must compute annual household income for the family described in paragraph (c)(3)(i)(A) of this section based on the data described in paragraph (c)(1)(i) of this section;

(B) The Exchange must require the applicant to attest regarding a tax filer's projected annual household income;

(C) To the extent that the applicant's attestation indicates that the information described in paragraph (c)(3)(ii)(A) of this section represents an accurate projection of the tax filer's household income for the benefit year for which coverage is requested, the Exchange must determine the tax filer's eligibility for advance payments of the premium tax credit and cost-sharing reductions based on the household income data in paragraph (c)(3)(ii)(A) of this section.

(D) To the extent that the data described in paragraph (c)(1)(i) of this section is unavailable, or an applicant attests that a change in circumstances has occurred or is reasonably expected to occur, and so it does not represent an accurate projection of the tax filer's household income for the benefit year for which coverage is requested, the Exchange must require the applicant to attest to the tax filer's projected household income for the benefit year for which coverage is requested.

(iii) *Verification process for increases in household income.* (A) Except as specified in paragraph (c)(3)(iii)(B) and (C) of this section, if an applicant's attesta-

tion, in accordance with paragraph (c)(3)(ii)(B) of this section, indicates that a tax filer's annual household income has increased or is reasonably expected to increase from the data described in paragraph (c)(3)(ii)(A) of this section for the benefit year for which the applicant(s) in the tax filer's family are requesting coverage and the Exchange has not verified the applicant's MAGI-based income through the process specified in paragraph (c)(2)(ii) of this section to be within the applicable Medicaid or CHIP MAGI-based income standard, the Exchange must accept the applicant's attestation regarding a tax filer's annual household income without further verification.

(B) If data available to the Exchange in accordance with paragraph (c)(1)(ii) of this section indicate that a tax filer's projected annual household income is in excess of his or her attestation by a significant amount, the Exchange must proceed in accordance with §155.315(f)(1) through (4).

(C) If other information provided by the application filer indicates that a tax filer's projected annual household income is in excess of his or her attestation by a significant amount, the Exchange must utilize data available to the Exchange in accordance with paragraph (c)(1)(ii) of this section to verify the attestation. If such data is unavailable or are not reasonably compatible with the applicant's attestation, the Exchange must proceed in accordance with §155.315(f)(1) through (4).

(iv) *Eligibility for alternate verification process for decreases in annual household income and situations in which tax return data is unavailable.* The Exchange must determine a tax filer's annual household income for advance payments of the premium tax credit and cost-sharing reductions based on the alternate verification procedures described in paragraph (c)(3)(v) of this section, if an applicant attests to projected annual household income in accordance with paragraph (c)(3)(ii)(B) of this section, the tax filer does not meet the criteria specified in paragraph (c)(3)(iii) of this section, the applicants in the tax filer's family have not established MAGI-

based income through the process specified in paragraph (c)(2)(ii) of this section that is within the applicable Medicaid or CHIP MAGI-based income standard, and one of the following conditions is met—

(A) The Secretary of the Treasury does not have tax return data that may be disclosed under section 6103(l)(21) of the Code for the tax filer that is at least as recent as the calendar year two years prior to the calendar year for which advance payments of the premium tax credit or cost-sharing reductions would be effective;

(B) The applicant attests that the tax filer's applicable family size has changed or is reasonably expected to change for the benefit year for which the applicants in his or her family are requesting coverage, or the members of the tax filer's family have changed or are reasonably expected to change for the benefit year for which the applicants in his or her family are requesting coverage;

(C) The applicant attests that a change in circumstances has occurred or is reasonably expected to occur, and so the tax filer's annual household income has decreased or is reasonably expected to decrease from the data described in paragraph (c)(1)(i) of this section for the benefit year for which the applicants in his or her family are requesting coverage;

(D) The applicant attests that the tax filer's filing status has changed or is reasonably expected to change for the benefit year for which the applicants in his or her family are requesting coverage;

(E) An applicant in the tax filer's family has filed an application for unemployment benefits.

(v) *Alternate verification process.* If a tax filer qualifies for an alternate verification process based on the requirements specified in paragraph (c)(3)(iv) of this section and the applicant's attestation to projected annual household income, as described in paragraph (c)(3)(ii)(B) of this section, is no more than ten percent below the annual household income computed in accordance with paragraph (c)(3)(ii)(A) of this section, the Exchange must accept the applicant's attestation without further verification.

(vi) *Alternate verification process for decreases in annual household income and situations in which tax return data is unavailable.* If a tax filer qualifies for an alternate verification process based on the requirements specified in paragraph (c)(3)(iv) of this section and the applicant's attestation to projected annual household income, as described in paragraph (c)(3)(ii)(B) of this section, is greater than ten percent below the annual household income computed in accordance with paragraph (c)(3)(ii)(A) of this section, or if data described in paragraph (c)(1)(i) of this section is unavailable, the Exchange must attempt to verify the applicant's attestation of the tax filer's projected annual household income by following the procedures specified in paragraph (c)(3)(vi)(A) through (G) of this section.

(A) *Data.* The Exchange must annualize data from the MAGI-based income sources specified in paragraph (c)(1)(ii) of this section, and obtain any data available from other electronic data sources that have been approved by HHS, based on evidence showing that such data sources are sufficiently accurate and offer less administrative complexity than paper verification.

(B) *Eligibility.* To the extent that the applicant's attestation indicates that the information described in paragraph (c)(3)(vi)(A) of this section represents an accurate projection of the tax filer's household income for the benefit year for which coverage is requested, the Exchange must determine the tax filer's eligibility for advance payments of the premium tax credit and cost-sharing reductions based on the household income data in paragraph (c)(3)(vi)(A) of this section.

(C) *Increases in annual household income.* If an applicant's attestation, in accordance with paragraph (c)(3)(ii)(B) of this section, indicates that a tax filer's annual household income has increased or is reasonably expected to increase from the data described in paragraph (c)(3)(vi)(A) of this section to the benefit year for which the applicant(s) in the tax filer's family are requesting coverage and the Exchange has not verified the applicant's MAGI-based income through the process specified in paragraph (c)(2)(ii) of this section to be within the applicable Medicaid or CHIP

MAGI-based income standard, the Exchange must accept the applicant's attestation for the tax filer's family without further verification, unless the Exchange finds that an applicant's attestation of a tax filer's annual household income is not reasonably compatible with other information provided by the application filer or available to the Exchange in accordance with paragraph (c)(1)(ii) of this section, in which case the Exchange must request additional documentation using the procedures specified in § 155.315(f).

(D) *Decreases in annual household income and situations in which electronic data is unavailable.* If electronic data are unavailable or an applicant's attestation to projected annual household income, as described in paragraph (c)(3)(ii)(B) of this section, is more than ten percent below the annual household income as computed using data sources described in paragraphs (c)(3)(vi)(A) of this section, the Exchange must follow the procedures specified in § 155.315(f)(1) through (4).

(E) If, following the 90-day period described in paragraph (c)(3)(vi)(D) of this section, an applicant has not responded to a request for additional information from the Exchange and the data sources specified in paragraph (c)(1) of this section indicate that an applicant in the tax filer's family is eligible for Medicaid or CHIP, the Exchange must not provide the applicant with eligibility for advance payments of the premium tax credit, cost-sharing reductions, Medicaid, CHIP or the BHP, if a BHP is operating in the service area of the Exchange.

(F) If, at the conclusion of the period specified in paragraph (c)(3)(vi)(D) of this section, the Exchange remains unable to verify the applicant's attestation, the Exchange must determine the applicant's eligibility based on the information described in paragraph (c)(3)(ii)(A) of this section, notify the applicant of such determination in accordance with the notice requirements specified in § 155.310(g), and implement such determination in accordance with the effective dates specified in § 155.330(f).

(G) If, at the conclusion of the period specified in paragraph (c)(3)(vi)(D) of this section, the Exchange remains un-

able to verify the applicant's attestation for the tax filer and the information described in paragraph (c)(3)(ii)(A) of this section is unavailable, the Exchange must determine the tax filer ineligible for advance payments of the premium tax credit and cost-sharing reductions, notify the applicant of such determination in accordance with the notice requirement specified in § 155.310(g), and discontinue any advance payments of the premium tax credit and cost-sharing reductions in accordance with the effective dates specified in § 155.330(f).

(vii) For the purposes of paragraph (c)(3) of this section, "household income" means household income as specified in 26 CFR 1.36B-1(e).

(viii) For the purposes of paragraph (c)(3) of this section, "family size" means family size as specified in 26 CFR 1.36B-1(d).

(viii) For purposes of paragraph (c)(3) of this section, "family size" means family size as specified in section 36B(d)(1) of the Code.

(4) The Exchange must provide education and assistance to an applicant regarding the process specified in this paragraph.

(d) *Verification related to enrollment in an eligible employer-sponsored plan and eligibility for qualifying coverage in an eligible employer-sponsored plan—(1) General requirement.* The Exchange must verify whether an applicant reasonably expects to be enrolled in an eligible employer-sponsored plan or is eligible for qualifying coverage in an eligible employer-sponsored plan for the benefit year for which coverage is requested.

(2) *Data.* The Exchange must—

(i) Obtain data about enrollment in and eligibility for an eligible employer-sponsored plan from any electronic data sources that are available to the Exchange and which have been approved by HHS, based on evidence showing that such data sources are sufficiently current, accurate, and minimize administrative burden.

(ii) Obtain any available data regarding enrollment in employer-sponsored coverage or eligibility for qualifying

coverage in an eligible employer-sponsored plan based on federal employment by transmitting identifying information specified by HHS to HHS for HHS to provide the necessary verification using data obtained by HHS.

(iii) Obtain any available data from the SHOP that corresponds to the State in which the Exchange is operating.

(3) *Verification procedures.* (i) Except as specified in paragraphs (d)(3)(ii) or (iii) of this section, the Exchange must accept an applicant's attestation regarding the verification specified in paragraph (d) of this section without further verification.

(ii) If an applicant's attestation is not reasonably compatible with the information obtained by the Exchange as specified in paragraphs (d)(2)(i) through (iii) of this section, other information provided by the application filer, or other information in the records of the Exchange, the Exchange must follow the procedures specified in § 155.315(f).

(iii) Except as specified in paragraph (d)(3)(iv) of this section, if the Exchange does not have any of the information specified in paragraphs (d)(2)(i) through (iii) of this section for an applicant, the Exchange must select a statistically significant random sample of such applicants and—

(A) Provide notice to the applicant indicating that the Exchange will be contacting any employer identified on the application for the applicant and the members of his or her household, as defined in 26 CFR 1.36B-1(d), to verify whether the applicant is enrolled in an eligible employer-sponsored plan or is eligible for qualifying coverage in an eligible employer-sponsored plan for the benefit year for which coverage is requested;

(B) Proceed with all other elements of the eligibility determination using the applicant's attestation, and provide eligibility for enrollment in a QHP to the extent that an applicant is otherwise qualified;

(C) Ensure that advance payments of the premium tax credit and cost-sharing reductions are provided on behalf of an applicant who is otherwise qualified for such payments and reductions, as described in § 155.305, if the tax filer at-

tests to the Exchange that he or she understands that any advance payments of the premium tax credit paid on his or her behalf are subject to reconciliation;

(D) Make reasonable attempts to contact any employer identified on the application for the applicant and the members of his or her household, as defined in 26 CFR 1.36B-1(d), to verify whether the applicant is enrolled in an eligible employer-sponsored plan or is eligible for qualifying coverage in an eligible employer-sponsored plan for the benefit year for which coverage is requested;

(E) If the Exchange receives any information from an employer relevant to the applicant's enrollment in an eligible employer-sponsored plan or eligibility for qualifying coverage in an eligible employer-sponsored plan, the Exchange must determine the applicant's eligibility based on such information and in accordance with the effective dates specified in § 155.330(f), and if such information changes his or her eligibility determination, notify the applicant and his or her employer or employers of such determination in accordance with the notice requirements specified in § 155.310(g) and (h);

(F) If, after a period of 90 days from the date on which the notice described in paragraph (d)(3)(iii)(A) of this section is sent to the applicant, the Exchange is unable to obtain the necessary information from an employer, the Exchange must determine the applicant's eligibility based on his or her attestation(s) regarding coverage provided by that employer.

(G) To carry out the process described in paragraph (d)(3)(iii) of this section, the Exchange must only disclose an individual's information to an employer to the extent necessary for the employer to identify the employee.

(iv) For eligibility determinations for advance payments of the premium tax credit and cost-sharing reductions that are effective before January 1, 2015, if the Exchange does not have any of the information specified in paragraphs (d)(2)(i) through (iii) of this section for an applicant, the Exchange may accept an applicant's attestation regarding enrollment in an eligible employer-

§ 155.330

sponsored plan and eligibility for qualifying coverage in an eligible employer-sponsored plan for the benefit year for which coverage is requested without further verification, instead of following the procedure in paragraph (d)(3)(iii) of this section.

(e) *Additional verification related to immigration status for Medicaid and CHIP.*

(1) For purposes of determining eligibility for Medicaid, the Exchange must verify whether an applicant who does not attest to being a citizen or a national has satisfactory immigration status to be eligible for Medicaid, as required by 42 CFR 435.406 and, if applicable under the State Medicaid plan, section 1903(v)(4) of the Act.

(2) For purposes of determining eligibility for CHIP, the Exchange must verify whether an applicant who does not attest to being a citizen or a national has satisfactory immigration status to be eligible for CHIP, in accordance with 42 CFR 457.320(b) and if applicable under the State Child Health Plan, section 2107(e)(1)(J) of the Act.

[77 FR 11718, Feb. 27, 2012, as amended at 78 FR 42316, July 15, 2013; 78 FR 54136, Aug. 30, 2013; 79 FR 30347, May 27, 2014]

§ 155.330 Eligibility redetermination during a benefit year.

(a) *General requirement.* The Exchange must redetermine the eligibility of an enrollee in a QHP through the Exchange during the benefit year if it receives and verifies new information reported by an enrollee or identifies updated information through the data matching described in paragraph (d) of this section.

(b) *Requirement for individuals to report changes.* (1) Except as specified in paragraphs (b)(2) and (3) of this section, the Exchange must require an enrollee to report any change with respect to the eligibility standards specified in § 155.305 within 30 days of such change.

(2) The Exchange must not require an enrollee who did not request an eligibility determination for insurance affordability programs to report changes that affect eligibility for insurance affordability programs.

(3) The Exchange may establish a reasonable threshold for changes in income, such that an enrollee who expe-

riences a change in income that is below the threshold is not required to report such change.

(4) The Exchange must allow an enrollee, or an application filer, on behalf of the enrollee, to report changes via the channels available for the submission of an application, as described in § 155.405(c).

(c) *Verification of reported changes.* The Exchange must—

(1) Verify any information reported by an enrollee in accordance with the processes specified in §§ 155.315 and 155.320 prior to using such information in an eligibility redetermination; and

(2) Provide periodic electronic notifications regarding the requirements for reporting changes and an enrollee's opportunity to report any changes as described in paragraph (b)(3) of this section, to an enrollee who has elected to receive electronic notifications, unless he or she has declined to receive notifications under this paragraph (c)(2).

(d) *Periodic examination of data sources.* (1) The Exchange must periodically examine available data sources described in § 155.315(b)(1) and § 155.320(b) to identify the following changes:

(i) Death; and

(ii) For an enrollee on whose behalf advance payments of the premium tax credit or cost-sharing reductions are being provided, eligibility determinations for Medicare, Medicaid, CHIP, or the BHP, if a BHP is operating in the service area of the Exchange.

(2) *Flexibility.* The Exchange may make additional efforts to identify and act on changes that may affect an enrollee's eligibility for enrollment in a QHP through the Exchange or for insurance affordability programs, provided that such efforts—

(i) Would reduce the administrative costs and burdens on individuals while maintaining accuracy and minimizing delay, that it would not undermine coordination with Medicaid and CHIP, and that applicable requirements under §§ 155.260, 155.270, 155.315(i), and section 6103 of the Code with respect to the confidentiality, disclosure, maintenance, or use of such information will be met; and

(ii) Comply with the standards specified in paragraph (e)(2) of this section.

45 CFR Subtitle A (10–1–14 Edition)