

§ 1.6011–8 Requirement of income tax return for taxpayers who claim the premium tax credit under section 36B.

(a) *Requirement of return.* Except as otherwise provided in this paragraph (a), a taxpayer who receives the benefit of advance payments of the premium tax credit (advance credit payments) under section 36B must file an income tax return for that taxable year on or before the due date for the return (including extensions of time for filing) and reconcile the advance credit payments. However, if advance credit payments are made for coverage of an individual who is not included in any taxpayer's family, as defined in § 1.36B–1(d), the taxpayer who attested to the Exchange to the intention to include such individual in the taxpayer's family as part of the advance credit payment eligibility determination for coverage of the individual must file a tax return and reconcile the advance credit payments.

(b) *Applicability dates—(1) In general.* Except as provided in paragraph (b)(2) of this section, paragraph (a) of this section applies for taxable years ending on or after December 31, 2020.

(2) *Prior periods.* Paragraph (a) of this section as contained in 26 CFR part 1 edition revised as of April 1, 2016, applies to taxable years ending after December 31, 2013, and beginning before January 1, 2017. Paragraph (a) of this section as contained in 26 CFR part 1 edition revised as of April 1, 2020, applies to taxable years beginning after December 31, 2016, and ending before December 31, 2020.

Sunita Lough,

Deputy Commissioner for Services and Enforcement.

Approved: September 4, 2020.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF JUSTICE**Office of the Attorney General****28 CFR Part 26**

[Docket Number OAG 171; AG Order No. 4911–2020]

RIN 1105–AB63

Manner of Federal Executions*Correction*

In rule document 2020–25867 beginning on page 75846 in the issue of Friday, November 27, 2020, make the following correction:

On page 75846, in the third column, in the last line, “December 24, 2020” should read “December 28, 2020.”

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DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Medicare & Medicaid Services****45 CFR Part 153**

[CMS–9913–F]

RIN 0938–AU23

Amendments to the HHS-Operated Risk Adjustment Data Validation (HHS–RADV) Under the Patient Protection and Affordable Care Act’s HHS-Operated Risk Adjustment Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This final rule adopts certain changes to the risk adjustment data validation error estimation methodology beginning with the 2019 benefit year for states where the Department of Health and Human Services (HHS) operates the risk adjustment program. This rule is finalizing changes to the HHS–RADV error estimation methodology, which is used to calculate adjusted risk scores and risk adjustment transfers, beginning with the 2019 benefit year of HHS–RADV. This rule also finalizes a change to the benefit year to which HHS–RADV adjustments to risk scores and risk adjustment transfers would be applied beginning with the 2020 benefit year of HHS–RADV. These policies seek to further the integrity of HHS–RADV, address stakeholder feedback, promote fairness, and improve the predictability of HHS–RADV adjustments.

DATES: These regulations are effective on December 31, 2020.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**I. Background***A. Legislative and Regulatory Overview*

The Patient Protection and Affordable Care Act (Pub. L. 111–148) was enacted on March 23, 2010; the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) was enacted on March 30, 2010. These statutes are collectively

referred to as “PPACA” in this final rule. Section 1343 of the PPACA¹ established a permanent risk adjustment program to provide payments to health insurance issuers that attract higher-than-average risk populations, such as those with chronic conditions, funded by payments from those that attract lower-than-average risk populations, thereby reducing incentives for issuers to avoid higher-risk enrollees. The PPACA directs the Secretary of the Department of Health and Human Services (Secretary), in consultation with the states, to establish criteria and methods to be used in carrying out risk adjustment activities, such as determining the actuarial risk of enrollees in risk adjustment covered plans within a state market risk pool.² The statute also provides that the Secretary may utilize criteria and methods similar to the ones utilized under Medicare Parts C or D.³ Consistent with section 1321(c)(1) of the PPACA, the Secretary is responsible for operating the risk adjustment program on behalf of any state that elected not to do so. For the 2014 through 2016 benefit years, all states and the District of Columbia, except Massachusetts, participated in the HHS-operated risk adjustment program. Since the 2017 benefit year, all states and the District of Columbia have participated in the HHS-operated risk adjustment program.

Data submission requirements for the HHS-operated risk adjustment program are set forth at 45 CFR 153.700 through 153.740. Each issuer is required to establish and maintain an External Data Gathering Environment (EDGE) server on which the issuer submits masked enrollee demographics, claims, and encounter diagnosis-level data in a format specified by the Department of Health and Human Services (HHS). Issuers must also execute software provided by HHS on their respective EDGE servers to generate summary reports, which HHS uses to calculate the enrollee-level risk scores to determine the average plan liability risk scores for each state market risk pool, the individual issuers' plan liability risk scores, and the transfer amounts by state market risk pool for the applicable benefit year.⁴

Pursuant to 45 CFR 153.350, HHS performs HHS–RADV to validate the accuracy of data submitted by issuers

¹ 42 U.S.C. 18063.

² 42 U.S.C. 18063(a) and (b).

³ 42 U.S.C. 18063(b).

⁴ HHS also uses the data issuers submit to their EDGE servers for the calculation of the high-cost risk pool payments and charges added to the HHS risk adjustment methodology beginning with the 2018 benefit year.