



Health Care Reform in Indian Country

Self-Governance Communication & Education

Self-Governance Tribes Striving Towards Excellence in Health Care

Did the Trump Administration Eliminate the Individual Shared Responsibility Payment Requirement Under the Affordable Care Act?¹

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This brief provides an update to Tribes on a recent action taken by the Internal Revenue Service (IRS) to ease the regulatory burden associated with the individual mandate under the Affordable Care Act (ACA). On January 20, 2017, President Trump issued an Executive Order that directed the heads of federal departments and agencies with authorities and responsibilities under the ACA to “take all actions consistent with law to minimize the unwarranted economic and regulatory burdens” of the law.² In response to this order, the IRS earlier this month posted a notice of a change in policy regarding the 2017 tax filing process.³ This notice, however, did not modify or eliminate the individual shared responsibility payment requirement, meaning that individuals who were subject to a requirement to secure insurance or make a payment to the federal government are still required to do so. And, eligible American Indians and Alaska Natives (AI/ANs) continue to be exempt from the requirement to make shared responsibility payments.

Background

Section 5000A of the Internal Revenue Code, as added by the ACA, requires individuals to have qualifying health insurance coverage (minimum essential coverage) each month, or obtain an exemption, to avoid making a “shared responsibility payment” when filing their federal income tax return. Under the ACA, members of a federally-recognized Tribe, including shareholders in an Alaska Native regional or village corporation, as well as individuals eligible for services through an Indian health care provider, qualify for an exemption from the shared responsibility payment. **It is important to note that the IRS notice has no impact on the ability of eligible AI/ANs to obtain an exemption from the shared responsibility payment.** Likewise, family members of AI/ANs who were not previously eligible for an exemption might continue to be subject to the requirements.

IRS Notice

The IRS notice rescinded recent system changes that would have automatically rejected electronic and paper tax returns during the filing process this year if taxpayers did not provide information on their health insurance coverage status, effectively retaining the policy from the 2016 tax filing season.⁴ As part of the tax filing process, individuals who had minimum essential coverage for all 12 months of the prior tax year can check the “Full-year coverage” box on their tax return and make no shared responsibility payment. Individuals who did not have coverage for all 12 months either must claim an exemption, if eligible, by attaching Form 8965 or make a shared responsibility payment. **AI/AN taxpayers should continue to file their tax returns as they have in the past, either indicating that they had minimum essential coverage for all 12 months of the tax year or, if eligible, claiming an exemption.**

¹ This brief is for informational purposes only and is not intended as legal advice. For questions on this brief, please contact Doneg McDonough, TSGAC Technical Advisor, at DonegMcD@Outlook.com.

² “Executive Order Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal,” White House Office of the Press Secretary, Jan. 20, 2017. See <https://www.whitehouse.gov/the-press-office/2017/01/20/executive-order-minimizing-economic-burden-patient-protection-and>.

³ IRS, “Individual Shared Responsibility Provision,” IRS Web site. <https://www.irs.gov/affordable-care-act/individuals-and-families/individual-shared-responsibility-provision> (accessed Feb. 24, 2017).

⁴ Similar to previous years, if the IRS has questions about a tax return, the taxpayer might receive follow-up questions and correspondence at a future date, after the completion of the filing process.