Impact of Affordable Care Act on Child Support

Presented to:
Colorado Family Support Council

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June 2, 2014

Introduction

- ACA has major implications for medical support that require attention by IV-D programs
  - IRS enforcement role conflicts with traditional medical support approach
  - IRS penalties for non-coverage triggered by dependent deduction – usually claimed by CP
  - CP access to Marketplace not available if children claimed by NCP
  - Expanded insurance options available for children and parents

Introduction (continued)

- Post-ACA medical support can yield significant benefits
  - Improved coverage for children and parents
  - Fewer program resources devoted to medical support
  - More cooperation from NCPs
  - Reduced burden for employers
- Agencies should re-structure medical support to reflect new requirements and possibilities emanating from ACA

IRS: The New Sheriff in Town

- ACA requires every citizen (with exceptions) to carry health insurance
- Family membership based on “tax household”
- Tax household consists of members of a tax-paying unit

Dependent Deduction Triggers Insurance Responsibility

- Children are members of taxpayer household that claims dependent deduction
- Dependent deduction therefore triggers responsibility to provide health insurance – even if not residing in that household

Dependent Deduction Normally Defaults to CP

- Child dependent deduction normally defaults to CP
- Can be signed over to NCP, or court-ordered
- Sometimes claimed by step-parent or grand-parent
- Colorado statute provides for allocating between parents based on income (C.R.S. 14-10-115(12))

IRS Role Will Conflict with IV-D

- Current IV-D medical support focused on NCP
- But IRS enforcement will follow dependent deduction, most commonly to CP
- CP subject to penalties if CP claims tax deduction but insurance not provided by NCP
- Conflicting requirements can create courtroom confusion
- Flurry of CP penalty letters likely issued in 2015

Penalties for Failure to Insure Family Members

Tax Year	Penalty
2014	1% of annual income or $95, whichever is higher $47.50 per uninsured child Maximum = $285
2015	2% of annual income or $325, whichever is higher $162.50 per uninsured child Maximum = $975
2016 & thereafter	2.5% of annual income or $695, whichever is higher $347.50 per uninsured child Maximum = $2,085

CP Hardship Exemption Not Readily Available

- CP can obtain hardship exemption, but not easily
- Hardship exemption requires application to Federally-Facilitated Marketplace (FFM)
  - Court order must be in place
  - CP must have applied for Medicaid and CHIP for child and been denied for each period requested for hardship exemption

Better Coverage for Kids… …and Their Parents

- ACA creates hierarchy of subsidized health care coverage
  - Screen for Medicaid first
  - Kids screened for CHIP (CHP+) if not Medicaid eligible
- Medicaid for kids – to approximately138% FPL
- CHP+ for lower middle-income children (up to 250% FPL)
- Premium tax credits for children above 250% FPL and adults above 100 % FPL (up to 400% FPL)
- Cost sharing reduction – reduced out-of-pocket costs for premium subsidies 100 – 250% FPL

ACA Advance Premium Tax Credits (APTC)

- Available to households with income between 100 to 400 percent FPL
- Income defined as “modified adjusted gross income” (MAGI)
- APTCs can be taken in whole or in part to offset monthly premium cost
- APTCs reconciled at tax time

Health Care Plans Available Through Marketplace

- Bronze plan – 60% of estimated health care costs
- Silver plan – 70%
- Gold plan – 80%
- Platinum plan – 90%

Cost Sharing Reductions (CSRs): The Mystery Program

- Reduces co-pays, deductibles, co-insurance for households receiving premium subsidies
- Covers households 100 – 250% FPL
- Households must enroll in Silver plan through Exchange
- In combination with Silver Plan (70% of costs), covers up to 94 percent of estimated health care costs

Cost-Sharing Subsidies

Federal government assists w/out-of-pocket costs (co-pays, deductibles, co-insurance) to cover higher proportions of health care costs for low-income families.

Eligibility Range	Percent health care costs covered
100 – 150% FPL	94
150 – 200% FPL	87
200 – 250% FPL	73

Eligibility Levels by FPL and Family Size

HHD Size	100%	133%	200%	250%	300%	400%
1	$11,490	$15,282	$22,980	$28,725	$34,470	$45,960
2	$15,510	$20,628	$31,020	$38,775	$46,530	$62,040
3	$19,530	$25,975	$39,060	$48,825	$58,590	$78,120
4	$23,550	$31,322	$47,100	$58,875	$70,650	$94,200
5	$27,570	$36,668	$55,140	$68,925	$82,710	$110,280

For Tax Year 2014

ACA Coverage Can Still Be Costly

- No out-of-pocket costs for Medicaid
- Minimal premiums for CHP+
- But significant out-of-pocket costs for ACA marketplace plans
- Expected APTC premium contribution above 250% FPL ranges from 6.3 – 9.5% of income; significant co-pays, deductibles
- Out-of-pocket costs need to be considered in guidelines calculations

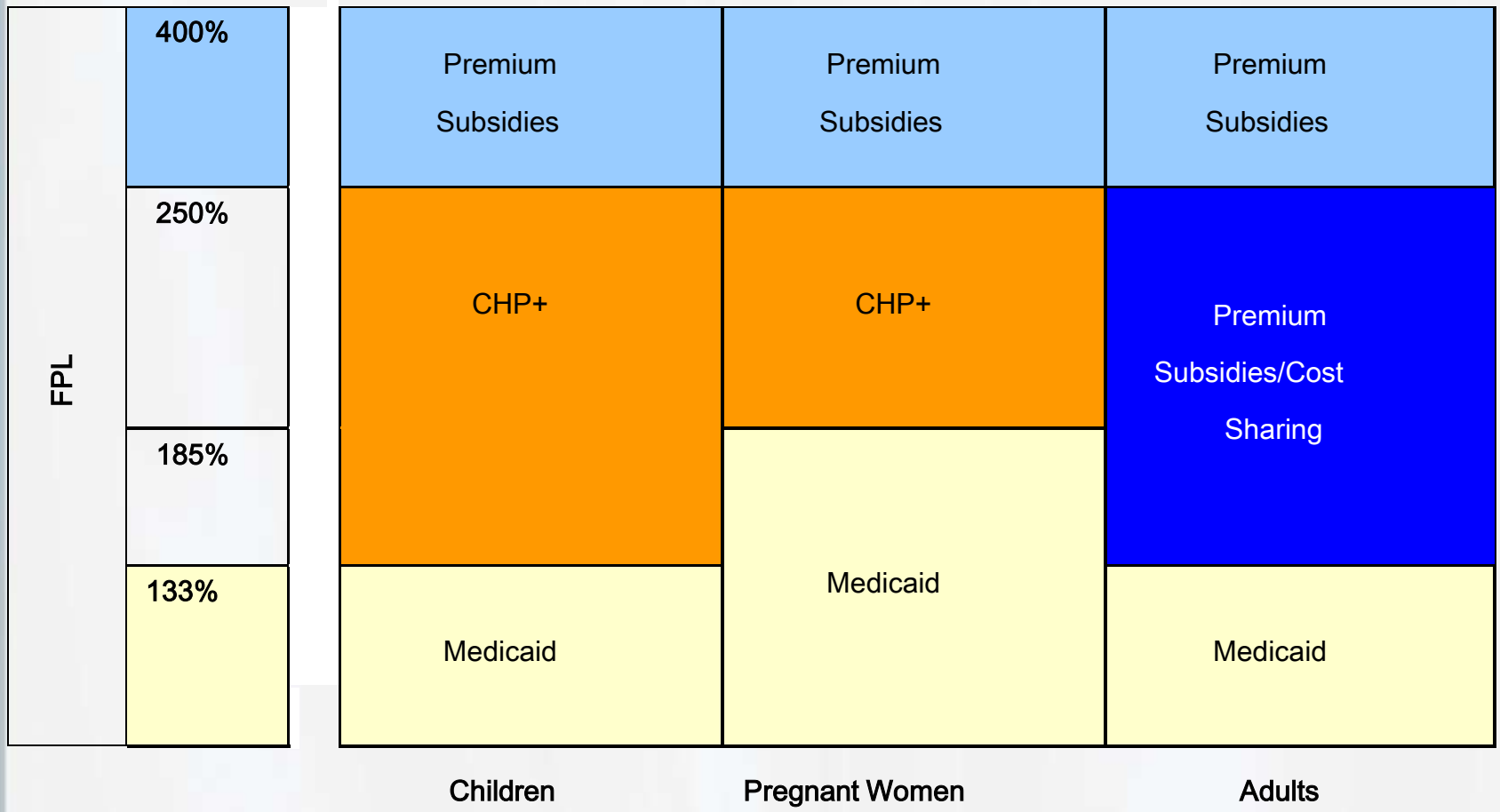
APTC Expected Contributions Based on Income

Annual Household Income		Expected Premium Contribution	
% 0f FPL	Income Amount*	% of Income	Dollar Amount**
100 - 133%	<$15,282	2%	<$306
133-150%	$15,282 - $17,235	3% - 4%	$459 - $689
150 – 200%	$17,235 - $22,980	4% - 6.3%	$689 - $1,448
200 – 250%	$22,980 - $28,725	6.3% - 8.05%	$1,448 - $2,312
250 – 300%	$28,725 - $34,470	8.05% - 9.5%	$2,312 - $3,275
300 – 350%	$34,470 - $40,215	9.5%	$3,275 - $3,820
350 – 400%	$40,215 - $45,960	9.5%	$3,820 - $4,366
> 400%	>$45,960	n/a	n/a

* Incomes shown are for a household of one (i.e. an individual)

** Based on second - lowest priced SILVER health plan in marketplace

Eligibility Levels for ACA Programs: Colorado



Subsidized Coverage Now Available for Most Children

- Estimated 90 percent of IV-D CPs/children below income limits for ACA insurance
- But gaps can occur due to affordability test for employer coverage
  - Coverage deemed affordable if single coverage less than 9.5% of income
  - Family coverage can be much higher than 9.5%, yet coverage deemed affordable
- Household not eligible for APTC/CSR if employer insurance deemed "affordable"

Expanded Eligibility Can Help NCPs Too

Health Care Assistance: Single Adult (40 hrs/wk)

Note: eligible for Medicaid below 138% FPL ($15,787); at higher income, assistance comes from APTC and cost-sharing

Example: $16,640 per year ($8/hr full-time)
$1,387 per month (145% FPL)

APTC eligibility: Premium cap – 3.7% of income
Premium limited to $616/year ($51/mo)

CSR eligibility: covers estimated 94 percent of health care costs

Rethinking Medical Support Post-ACA

- Current medical support approach reflexively pursues NCP
- NMSNs sent automatically on every case
- Availability through NCP has declined dramatically
  - Fewer employers provide health insurance
  - Cost renders insurance unaffordable

Rethinking Medical Support (continued)

- Estimates suggest NCP-provided insurance less than 20 percent of IV-D cases
  - 10 % private coverage only in CA
  - 20% or less in WA
  - 6 % for combined IV-D and non-IV-D cases nationally
- Most medical support orders indeterminate on their face

Affordability Test Limits Parent Responsibility

- Colorado affordability test is 20% of income
  - One of highest in the country
  - May not be applied uniformly due to high level
  - Most other states 5 – 10%
- But any downward change will greatly limit requirement that NCPs provide insurance

Family Coverage Not Affordable Under Most Standards

- Average incremental cost of family coverage is $297
  - Average employee premium for single coverage: $83/mo
  - Average employee premium for family coverage: $380/month
- At 10% of gross income, requires $2,970/mo income
- At 5% of gross income, requires $5,940/mo income

Accessibility Limited by Employment Instability

- Median income withholding duration: 5 months (OCSE unpublished data)
- Frequent job churn limits insurance availability (waiting periods)
- Short job tenure sharply limits insurance accessibility – time required for employer response and sign-up
- Job churn cause gaps even if provided

Aligning Deduction with NCP Medical Support Obligation Can Cause Harm

- If NCP fails to provide, but claims deduction, CP CANNOT obtain child coverage through exchange
- Eligibility for ACA subsidies (APTC and cost-sharing) predicated on tax household
- Child deduction must be claimed to include child in household for insurance subsidies

Most Medical Support Orders Indeterminate on Face

- Require that coverage be provided "if available at reasonable cost"
- Contrast with cash orders that specify sum-certain and payment through SDU
- Enforcement requires separate determination of availability/affordability at given time

NMSNs Sent for All Medical Support Orders

- Effectiveness limited by availability, affordability
- Effectiveness limited by short job tenure
- Creates significant employer burden for relatively low return

ACA Calls for New Medical Support Strategy

- Broad availability of affordable coverage suggests default to CP
- If CP claims dependent exemption, ordering medical support through CP aligns IV-D responsibility with IRS requirement in most cases
- Enables IV-D (or court) to default to IRS for enforcement, avoid conflict between IV-D and ACA provisions

NCP Medical Support Orders Should Be Exception

- Should be ordered only if NCP coverage is accessible, affordable, and stable
- Specific coverage should be incorporated into determinate order
- Should be aligned with dependent tax deduction
- Should be modified if circumstances change

New Child Support Role Emphasizes Adequate Coverage

- IV-D agencies (and court) should ensure adequate child coverage through CP or NCP
- Coverage can be public or private through CP, step-parent, or NCP
- IV-D agencies should refer NCP to available coverage when appropriate
  - Will help relationship with agencies
  - Better health can contribute to employability

States Have Flexibility in Absence of Federal Guidance

- States must continue to follow federal statutes requiring medical support provisions in all child support orders (Soc. Sec. Act 452(f) and 466(a)(19)
- But federal OCSE not yet initiating changes for ACA impact on medical support
- Prior issuance holds states harmless for non-compliance with medical support rules (AT 10-02)
- Earlier federal guidance permits states to count Medicaid and CHIP public coverage as medical support (AT 10-10)
- States have opportunity to implement new approaches to reflect ACA provisions

Shift Toward CP-Provided Coverage Affects Guidelines Calculation

- CP premium expense for ACA or employer premiums
- Shared out-of-pocket costs for co-pays, deductibles, co-insurance
- Increased cash support – will result from shift to CP for health care costs

Operational Implications

- Ensure coverage for child(ren) from stable private (first priority) or public sources
- Refer parents to new resources (if needed)
- Default to CP for coverage ("through private or public sources") if NCP coverage not accessible, affordable, stable

Operational Implications (continued)

- Align tax deduction with health insurance responsibility
- For modifications, review health insurance provisions

Policy Implications

- Statutes need review regarding affordability threshold
- Guidelines need review concerning tax deduction language
- Order form may need revision
  - Ensure medical support is ordered in every case
  - More definitive order language
- NMSN issuance can be restricted to cases with NCP-ordered medical support

Operational Issues – Kansas Pilot

- Assessing CP and NCP eligibility for coverage (referral to navigators)
- Determining cost of child coverage obtained through marketplace
- Suppressing NMSN issuance

Conclusion: Carpe Annum to Re-Think Medical Support

- Medical support must be restructured to avoid confusion, conflicts with IRS
  - IV-D should order CP to provide medical support in most cases – default to IRS for enforcement
  - Dependent deduction should be aligned with medical support responsibility
  - NMSNs should be issued only for definitive NCP medical support orders

Conclusion (continued)

- Post-ACA medical support offers exciting benefits
  - Better coverage for children and parents
  - Redeployment of medical support resources to core functions or other services
  - Greater fairness for NCPs
  - Reduced employer burden
- States should seize the opportunity streamline program and improve services

Additional Resources

- Robert G. Williams, *Time to Re-Think Medical Support: Impact of the Affordable Care Act on Child Support*, www.veritas-hhs.com, or NCSEA *Communique*, February 2014.
- Robert G. Williams, *Eligibility Primer for Affordable Care Act Programs*, www.veritas-hhs.com, May 2012.
- HMS, *Child Support & Healthcare Reform Bill Analysis*, prepared for California Child Support Directors' Association, www.csdaca.org, July 2013.

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