

# Proposed Amendments to the Rules and Regulations Pertaining to HealthSource RI

## Economic Impact Analysis

### **I. Introduction**

The Rhode Island Health Benefits Exchange (“Exchange”) proposes to amend the Rules and Regulations Pertaining to HealthSource RI for the purposes of implementing the recent statutory revisions to R.I. Gen. Laws c. 42-157 and 44-30 under Article 11 of H5151, titled “Relating to Healthcare Market Stability” (“Article 11”). Pursuant to the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.9 (“APA”), the Exchange has conducted a regulatory analysis for the proposed amendments. The Exchange used the best available information at the time of publication to estimate the benefits and costs of the proposed regulatory provisions. The following analysis examines the costs and benefits of a reasonable range of regulatory alternatives reflecting the scope of discretion provided by Article 11.

### **II. Analysis of Regulatory Alternatives**

#### **a. § 1.11 Minimum Essential Coverage Exemptions**

##### **1. 1.11(B) Exchange Eligibility Determination**

*Application:* The proposed amendments to §1.11(B)(1) clarify that the Exchange may require an applicant to submit a separate exemption application if the individual is requesting an exemption from the SRP. Additionally, the application may request information that is duplicative of the information the applicant provided in their application for health coverage. Federal rules prohibit the Exchange from requesting duplicate information to process exemptions from the IRP where the applicant is applying for health coverage. (45 CFR § 155.610(c)). Federal rules also restrict the use of personally identifiable information (PII) collected for the purposes of applying for health coverage to the functions described in 45 CFR § 155.200 or to other functions that the Secretary of the U.S. Department of Health and Human Services (HHS)

determines to be in compliance with § 1411(g)(2)(A) of the Affordable Care Act and for which an individual provides consent. (45 CFR §155.260(a)).

Processing exemptions from the SRP is not a function described in 45 CFR § 155.200, and the Secretary of HHS has not determined this use to be in compliance with § 1411(g)(2)(A) of the Affordable Care Act. Accordingly, in order to comply with federal law, the Exchange is proposing to revise this section so that it may require applicants seeking an exemption from the SRP to submit information that is duplicative of the information in their application for health coverage.

*Exemptions:* The proposed amendments to §1.11(B)(5) would establish an exemption from the SRP that closely mirrors an exemption from the IRP added to federal law in 2018. This exemption would apply to an individual who is a member of a religious sect or division thereof which is not described in 26 U.S. Code §5000A, who relies solely on a religious method of healing, and for whom the acceptance of medical health services would be inconsistent with the religious beliefs of the individual. The population that may be eligible for this exemption is believed to be less than one hundred Rhode Island residents. As such, it would have a minimal financial impact to anticipated tax revenue from collection of the SRP.

The alternative to the proposed amendments to §1.11(B)(5) is to not establish this exemption. The Exchange has considered this, as it would serve the policy goal of market stability by keeping as many Rhode Islanders insured and in the risk pool as possible. Additionally, not establishing an exemption could reduce uninsured individuals seeking medical care, and therefore decrease uncompensated care for medical providers and facilities.

The religious beliefs of many members of these religious groups guide them to rely only on their religious based system of health care. Some government entities, like Medicare, reimburse for services provided in certain religious health facilities. However, most insurance carriers do not. Therefore, requiring members of these religious groups to purchase health insurance creates a financial burden on the members because their religious care is not, in many instances, covered by health insurance. To mitigate risks of uncompensated care, applicants for this exemption would be required to attest that they have not used medical health services in the

preceding tax year. Accordingly, the Exchange is proposing to establish an exemption from the SRP for a member of a religious sect or division that is not described in 26 U.S. Code § 5000A, who relies solely on a religious method of healing, and for whom the acceptance of medical health services would be inconsistent with the religious beliefs of the individual.

The Exchange estimates that around 100 individuals would qualify and apply for this exemption. Given that the individual health insurance marketplace is made up of approximately 34,600 customers in 2019, the impact on uncompensated care and health insurance premiums is expected to be de minimis. There is a potential fiscal impact to the State in the form of reduced SRP revenue, which is discussed in the fiscal note that accompanies this rulemaking.

*Alternative Exemption:*

Further, the Exchange seeks comment regarding adoption of an additional alternative: an exemption for individuals and/or households with income less than 138% Federal Poverty Level (FPL)<sup>1</sup>. In 2016<sup>2</sup>, federal mandate penalties collected from 16,777 Rhode Island taxpayers totaled \$11.3 million. Of that total, taxpayers with earnings under 138% FPL made 2,993 payments – totaling \$1.7 million. The average payment made was \$569 per tax household.<sup>3</sup> 45% of uninsured Rhode Islanders fell into this income bracket<sup>4</sup>, but only a small portion paid a penalty.

Two relevant exemptions already exist. One for taxpayers below the RI tax filing threshold, which is typically near 100% FPL but varies depending on family size. A second is the affordability exemption. Most taxpayers under 138% FPL are eligible for Medicaid, and if they are, they typically do not have access to an affordable employer plan or to a qualified health plan through the Exchange. Since 2016, an increased filing threshold and streamlined IRS forms for requesting affordability exemptions are expected to reduce the total tax payments made by those under 138% FPL. The State intends to adopt similarly streamlined forms. To adjust for these changes and to be conservative, the expectation of mandate penalty revenue in 2020 is \$9.55 million. The baseline projections for Rhode Island's 2020 mandate revenue assumes many individuals and households under 138% FPL will no longer pay penalties.

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<sup>1</sup> In 2016, 138% FPL = \$16,394 for an individual, or, \$33,534 for a family of 4

<sup>2</sup> This is the most recent year for which federal tax data is available.

<sup>3</sup> RI Division of Taxation analysis

<sup>4</sup> HIS 2016

If half the \$1.7 million in revenue in 2016 from those under 138% FPL is no longer collected due to changes already made, then the revenue impact of creating a new broad exemption based on income under 138% FPL will be \$850,000 per year.

While this alternative would simplify the filing process and reduce the burden on some RI taxpayers, this is a deviation from the federal exemption model that RI is implementing. Adding this exemption would increase the likelihood that projections for available funding for the reinsurance program are not met. Additionally, the existence of a penalty for those who are uninsured may encourage them to find out about their coverage options and enroll. The Exchange did not elect to include this new exemption in the proposed regulation but seeks comment on whether to create this exemption.

*PII Disclosure:* The proposed revisions to §1.11(B)(7) define the types of PII the Exchange may transmit to the Rhode Island Division of Taxation. This disclosure would help ensure that the Rhode Island Division of Taxation has the information it needs to verify the accuracy of a tax filer's return that claims an exemption from the SRP. Alternatively, if the Exchange does not include this PII in its transmission of SRP data to the Rhode Island Division of Taxation, it would be difficult for the Rhode Island Division of Taxation to verify whether a tax filer received an exemption from the SRP without auditing the tax filer's return. Audits may have a burdensome impact on tax filers, and transmitting the data described in §1.11(B)(7) has the potential of reducing the likelihood of an audit. Accordingly, the Exchange is proposing to revise §1.11(B)(7) to authorize it to transmit certain PII of applicants granted exemptions from the SRP to the Rhode Island Division of Taxation.

### **III. Determinations**

Upon review of all the costs and benefits, the Exchange has determined that the benefits of the proposed rule justify the costs of the proposed rule. Further, the proposed rule will achieve the objectives of the authorizing statutes in a more cost-effective manner, or with greater benefits, than other regulatory alternatives.

### **IV. Supporting Documentation**

*Rhode Island Health Insurance*, HEALTH INSURANCE.ORG,  
<https://www.healthinsurance.org/rhode-island/> (last visited October 15, 2019).

2016 Health Insurance Survey data compendium, HealthSource RI  
<https://healthsourceri.com/surveys-and-reports/> (last visited October 16, 2019)

Tax Year 2016: RI Historic Table 2, Internal Revenue Service  
<https://www.irs.gov/statistics/soi-tax-stats-historic-table-2> (last visited October 16, 2019)

Market Stability Workgroup Meeting 4 Presentation, HealthSource RI  
<http://healthsourceri.wpengine.com/market-stability-workgroup/> (last visited October 16, 2019)