



November 27, 2020

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*By email to* Ben.Gagliardi@exchange.ri.gov

Dear Mr. Gagliardi,

Thank you for the opportunity to provide these comments in response to the proposed amendment to 220-RICR-90-00-1, Rules and Regulations Pertaining to HealthSource RI. RIPIN recommends two specific revisions to the regulation as proposed, described in greater detail below:

1. Extend the Covid-19 hardship exemption through the end of the public health emergency, to provide clarity for individuals who may face hardships accessing health care coverage in 2021; and
2. Revisit the Department's 2019 decision regarding implementing a blanket exemption for households with annual modified adjusted gross income (MAGI) below 138% of the federal poverty level, in the context of the impact of the Covid-19 pandemic.

The Rhode Island Parent Information Network (RIPIN) helps thousands of Rhode Islanders to navigate the healthcare system every year. We operate an all-payer consumer assistance program (in partnership with OHIC) that helped save Rhode Islanders more than \$3 million in health care costs in the past two years. We additionally operate numerous other programs that help Rhode Islanders, especially those with disabilities and special needs, to access the care they need. In this capacity, RIPIN supports many individuals who access their health insurance through the individual market.

We are appreciative of the Department's decision to implement an exemption for individuals who have suffered a hardship due to the pandemic. We are doubly appreciative of the Department's decision to allow individuals to attest to the hardship they experienced through tax forms, rather than relying on the more burdensome process of requesting an exemption through HealthSource RI.



RIPIN's two proposed revisions work to ensure that individuals suffering financial hardships are better protected as we move into a second (and potentially more devastating) wave of the Covid-19 pandemic. More details regarding each proposed revision follow.

## **RIPIN proposes making the Covid-19 hardship exemption open-ended through the end of the pandemic**

While we understand that limiting the proposed tax form hardship exemption for individuals impacted by the Covid-19 pandemic to a single tax year may be less complicated administratively, it is clear that the negative financial impacts of the Covid-19 pandemic will continue well into 2021. As the pandemic's second wave begins in earnest, we have already seen disruptive impacts on the state's economy, and we anticipate these reverberations will continue in the future.

Consumers who will be hit with financial difficulties due to loss of employment, medical expenses, unexpected moves, or any other reason should have certainty that a financial hardship that makes purchasing health insurance coverage unaffordable will not result in an additional tax penalty. Many other State regulations extending benefits or granting leniency due to Covid-19 are time-limited by the final month of the emergency declaration, to allow for beneficiaries of those regulations to have predictability in when those benefits or leniency will terminate.

We would recommend slightly modifying the proposed 220-RICR-90-00-1.11(B)(6) as follows:

- Section 1.11(B)(6)(a)(1) to read "Lost minimum essential coverage; and";
- Section 1.11(B)(6)(a)(2) to read "Suffered a hardship with respect to the capability to obtain coverage under a Qualified Health Plan during subsequent months.";
- Section 1.11(B)(6)(b) to read "The exemption described in § 1.11(B)(6)(a) of this part applies to months of April 2020 through the latter of the end of the declared Public Health Emergency as originally declared by the United States Secretary of Health and Human Services on January 31, 2020 and thereafter renewed, or the end of the state of emergency as originally declared by the Governor of Rhode Island on March 9, 2020 in Executive Order 20-02 and thereafter renewed."

## **RIPIN recommends considering implementing an automatic exemption for households with annual modified adjusted gross income below 138% FPL**

In the Department's 2019 rulemaking, the Department solicited comments on the enactment of a blanket exemption for households whose MAGI falls below 138% FPL, the Medicaid income threshold for adults eligible for Medicaid through the Affordable Care Act's Medicaid expansion. At that time, RIPIN provided comments in support of such a blanket



exemption, for a variety of reasons including that the vast majority of individuals below 138% FPL are already eligible for an exemption; that the process of claiming the exemption is burdensome and many eligible individuals pay the penalty in error; that a tax-form based exemption is more administrable than an exemption claimed through HealthSource RI; and that very low income households below 138% FPL are disproportionately harmed by the expense of the shared responsibility payment penalty.

RIPIN reiterates those comments now, which we believe are even more relevant in the context of the Covid-19 pandemic and the implementation of a hardship exemption for individuals negatively financially affected by the pandemic. While many households below 138% FPL could also claim the Covid-19 hardship exemption, there are many others who cannot. It is inequitable that very low income individuals and households, many of whom may be limited English proficient, recipients of a lower level of education, or otherwise less well-equipped to navigate complex bureaucratic systems, must request a tax mandate exemption through HealthSource RI while better-off, better-educated households may simply check a box on a tax form.

Additionally, at the time the blanket exemption was rejected, one rationale for rejection was that the Department wanted to streamline all exemptions through a single process and not carve out an automatic exemption that fell within the Division of Taxation's sphere of governance. As the new Covid-19 exemption will be implemented via an attestation on tax forms, there is no reason that a similar process could not be followed (automatically or via a similar attestation) for tax filers whose income falls below 138% FPL.

We urge the Department to reconsider its decision not to permit such an exemption because it is clear that a blanket affordability exemption for households below 138% FPL would be more equitable and more administrable, as well as being the right thing to do during a pandemic that has disproportionately affected low-income Rhode Islanders.

Thank you for the opportunity to provide these comments. Should you have any further questions or wish to discuss these proposed recommendations further, please do not hesitate to contact us.

Sincerely,

/s/

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