

# State Health Reform Assistance Network

Charting the Road to Coverage

## ISSUE BRIEF

May 2012

# Federal Requirements and State Flexibilities for Verifying Eligibility Criteria

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The Patient Protection and Affordable Care Act (ACA) and the final Medicaid and Exchange regulations issued in March 2012 contemplate: real-time eligibility determinations; coordinated IT eligibility systems across Insurance Affordability Programs (Medicaid, CHIP, Basic Health Program (if offered) and Advance Premium Tax Credits (APTCs)/Cost Sharing Reductions (CSRs)); and a simplified enrollment pathway for applicants that relies, to the maximum extent possible, on electronic database verification coupled with self-attestation.

The ACA and the regulations outline state requirements to obtain data and verify eligibility using IRS data and other federal and state databases. When data obtained by the states is “reasonably compatible” with an applicant’s attestation, state agencies are prohibited from requiring additional documentation. Within these parameters, states have a great deal of flexibility when establishing their income verification processes for Medicaid/CHIP and the APTCs/CSRs. For example, state agencies screening for Medicaid/CHIP have the flexibility to determine what data is “useful” in verifying eligibility, whether and when to use IRS data, and how to assist an applicant in constructing their Modified Adjusted Gross Income. States also have flexibility in defining their “reasonably compatible” standard when determining eligibility for both Medicaid/CHIP and APTCs/CSRs.

The attached chart summarizes some of the key verification requirements, with an emphasis on financial eligibility, as laid out in the ACA and regulations. The chart also summarizes areas for potential state flexibility when verifying eligibility for Medicaid/CHIP and APTCs/CSRs. These requirements and flexibilities are based on the final regulations and are subject to change with the release of sub-regulatory guidance.

### ABOUT THE PROGRAM

State Health Reform Assistance Network, a program of the Robert Wood Johnson Foundation, provides in-depth technical support to states to maximize coverage gains as they implement key provisions of the Affordable Care Act. The program is managed by the Woodrow Wilson School of Public and International Affairs at Princeton University. For more information, visit [www.rwjf.org/coverage](http://www.rwjf.org/coverage).

### ABOUT MANATT HEALTH SOLUTIONS

Manatt Health Solutions (MHS) is an interdisciplinary policy and business advisory division of Manatt, Phelps & Phillips, LLP, one of the nation’s premier law and consulting firms. MHS helps clients develop and implement strategies to address their greatest challenges, improve performance and position themselves for long-term sustainability and growth.

### ABOUT THE ROBERT WOOD JOHNSON FOUNDATION

The Robert Wood Johnson Foundation focuses on the pressing health and health care issues facing our country. As the nation’s largest philanthropy devoted exclusively to health and health care, the Foundation works with a diverse group of organizations and individuals to identify solutions and achieve comprehensive, measurable and timely change. For nearly 40 years the Foundation has brought experience, commitment, and a rigorous, balanced approach to the problems that affect the health and health care of those it serves. When it comes to helping Americans lead healthier lives and get the care they need, the Foundation expects to make a difference in your lifetime. For more information, visit [www.rwjf.org](http://www.rwjf.org).

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### Federal Requirements and State Flexibilities for Verifying Eligibility Criteria

Verification of Eligibility Criteria	Medicaid/CHIP		Advance Premium Tax Credits (APTCs)/ Cost Sharing Reductions (CSRs)	
	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
<b>Financial Eligibility: Database Verification</b>	<p>To the extent the agency determines such information is useful to verifying the financial eligibility of an individual the State agency <i>must</i> request from other agencies in the State and other federal programs specified financial eligibility information (wages, net earnings from self employment, unearned income and resources) to verify financial eligibility of an individual.<sup>1</sup></p> <p>Agencies from which States <i>may</i> request financial information include: State Wage Information Collection, IRS, Social Security Administration (SSA), unemployment compensation agencies, supplementary payment programs, programs administered under Titles I, X, XIV, or XVI, SNAP, other insurance affordability programs, and child support enforcement program.<sup>2</sup> Note: all eligibility determinations must conduct data matching through PARIS.<sup>3</sup></p>	<ul style="list-style-type: none"> <li>▪ Flexibility to rely exclusively on IRS data or combination of IRS and state and federal data sources, or non-IRS state and federal data sources showing current monthly income.</li> <li>▪ Flexibility to determine what data sources are “useful.”</li> <li>▪ Flexibility to determine the hierarchy of verification through data base matching and attestation: (a) IRS first and stop there? (b) IRS and then current income sources? (c) current income sources and then IRS data? (d) other data sources potentially not including IRS?</li> <li>▪ Flexibility to determine what data sources to rely on for re-determining eligibility.</li> <li>▪ Flexibility to rely on alternate financial eligibility data sources subject to HHS approval and provided they: reduce administrative costs and burdens on individuals and States; maximize accuracy; minimize delay; meet applicable</li> </ul>	<p>The Exchange <i>must</i> use tax return data, to the extent that such data is available, as the basis for determining APTC/CSR eligibility.<sup>8</sup> [The preamble to the final regulation notes that the final rule is modified to clarify that Exchanges have flexibility in verification process sequencing, and may present an applicant with projected income based on tax return data for applicant attestation, or alternatively, request an applicant attestation of projected income and verify the attestation against tax data.<sup>9</sup>]</p> <p>If applicant attests that tax data accurately reflects projected income for the benefit year, Exchanges must determine the applicant’s eligibility for APTC/CSRs. The rule provides that if tax return data is unavailable, or the applicant attests that there is a change of circumstances or a change is reasonably expected to occur,</p>	<ul style="list-style-type: none"> <li>▪ Flexibility to modify verification processes, subject to approval from HHS,<sup>12</sup></li> <li>▪ Flexibility to determine when to pull current monthly income data sources: (a) simultaneous to IRS data verification; (b) when attestation is not “reasonably compatible” with IRS data verification.</li> <li>▪ Flexibility to determine what data sources are “useful” when conducting an alternate income verification process for a qualifying taxpayer.</li> </ul>

\* The verification requirements and potential state flexibilities are based on the final regulations issued in March, 2012. These requirements and potential flexibilities are subject to change based on the release of sub-regulatory guidance issued by CMS/CCIIO.

	Medicaid/CHIP		Advance Premium Tax Credits (APTCs)/ Cost Sharing Reductions (CSRs)	
Verification of Eligibility Criteria	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
	<p>If information is available through the federal hub the State agency <b>must</b> obtain information through such service.<sup>4</sup></p> <p>The agency <b>must</b> develop, update when modified, and submit to HHS when requested a verification plan in a format prescribed by HHS that describes the verification policies and procedures adopted by the agency.<sup>5</sup></p> <p>Each State <b>shall</b> develop secure, electronic interface allowing an exchange of data (including information contained in the application forms) that allows a determination of eligibility for all such programs based on a single application. Such interface <b>shall</b> be compatible with the method established for data verification under section 1411(c)(4). Each applicable health insurance affordability program shall participate in a data matching arrangement for determining eligibility for participation in the program.<sup>6</sup></p>	<p>confidentiality, disclosure and maintenance requirements; and promote coordination with other insurance affordability programs.<sup>7</sup></p> <ul style="list-style-type: none"> <li>▪ State to design Verification Plan that outlines verification processes, “useful” databases and reasonable compatibility standards.</li> <li>▪ Flexibility to establish state specific documentation balancing test weighing when data match would not be effective, administrative costs of data match versus paper documentation and effects of program integrity.</li> </ul> <p><i>Additional Income related considerations:</i></p> <ul style="list-style-type: none"> <li>▪ Flexibility to determine current income by using available annual income and dividing it by 12.</li> <li>▪ Budget periods: Flexibility to employ reasonably predictable income and projected annual income methodologies</li> </ul>	<p>Exchanges must pursue additional verification processes:<sup>10</sup></p> <p>The Secretary <b>shall</b> provide for electronic verification through a federal hub (Social Security Administration, Department of Treasury, Department of Homeland Security).<sup>11</sup> [ACA Statute]</p>	

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Verification of Eligibility Criteria	Medicaid/CHIP		Advance Premium Tax Credits (APTCs)/ Cost Sharing Reductions (CSRs)	
	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
<p><b>Financial Eligibility: Reasonable Compatibility Standard</b></p> <p>If an individual provides information that is “reasonably compatible” with information that is verified electronically with other State and federal agencies, the agency <i>must</i> determine or re-determine eligibility and may not require additional information or documentation.<sup>13</sup></p> <p>The information provided by an individual and the electronic data <i>must</i> be considered “reasonably compatible” if both are either above or below the applicable income standard.<sup>14</sup></p> <p>If attestation is not reasonably compatible with verification the agency <i>must</i> seek additional information: a statement which explains the discrepancy or paper documentation, which is permitted only if establishing a data match would not be effective, when the administrative costs of data matches versus paper documentation and the effects on program integrity, including the potential for approving ineligible applicants and the potential for denying eligible applicants, are weighed. Reasonable</p>	<ul style="list-style-type: none"> <li>▪ Flexibility to define the “reasonably compatible” standard, with some regulatory minimums.                             <ul style="list-style-type: none"> <li>○ (a) attestation + financial eligibility verification are different and both fall below Medicaid levels = Medicaid eligible. [Regulation requirement];</li> <li>○ (b) attestation + financial eligibility verification are different and both fall above Medicaid levels = APTC eligible. [Regulation requirement]</li> </ul> </li> <li>Additional options:                             <ul style="list-style-type: none"> <li>○ (c) attestation is above Medicaid levels + financial eligibility verification is below Medicaid levels = APTC eligible;</li> <li>○ (d) attestation is below Medicaid levels + data sources are above Medicaid levels = (1) accept attestation and determine eligible; (2) apply reasonable compatibility standard, for example the 10%-like threshold test;</li> </ul> </li> </ul>	<p><i>Verification Processes for Applicants with Increases in Household Income.</i> If the applicant attests that their annual income has increased or is reasonably expected to increase as compared to the available tax data, an Exchange must accept the attestation without further verification unless such attestation is not “reasonably compatible” with other information available to the Exchange.</p> <p><i>“Alternate Verification Process” for Applicants with Decreases in Household Income or Situations in Which No Tax Data Is Available.</i> If the applicant attests that the annual income has decreased or is reasonably expected to decrease as compared to the available tax data or there is no available tax data to verify applicant income, he or she may be eligible for an “alternate verification process.” An applicant must meet one of the following conditions to qualify for an “alternate verification process”:</p> <ul style="list-style-type: none"> <li>▪ the IRS does not have tax data for the applicant that is at least</li> </ul>	<ul style="list-style-type: none"> <li>▪ Flexibility to define the “reasonable compatibility” standard when the difference between attestation and data sources is greater than 10% (and attestation is lower than tax return data)/tax return data is unavailable. Options: (1) apply 10% threshold test to current data sources when attestation is lower than current data sources; (2) when attestation is higher than current data sources assign APTC based on attestation; (3) when current data sources are unavailable resolve inconsistencies.</li> <li>▪ Flexibility to determine how to assist individuals in constructing MAGI household income:                             <ul style="list-style-type: none"> <li>○ (a) applicant will answer a series of questions that will construct MAGI;</li> <li>○ (b) Exchange will show income pulled from data sources and ask applicant to attest;</li> <li>○ (c) Exchange will</li> </ul> </li> </ul>	

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Verification of Eligibility Criteria	Medicaid/CHIP		Advance Premium Tax Credits (APTCs)/ Cost Sharing Reductions (CSRs)	
	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
	time must be provided for an individual to furnish requested information. <sup>15</sup>	<ul style="list-style-type: none"> <li>(3) request/review explanation. If reasonable, determine eligible, if not, require further verification; or (4) require further verification.</li> <li>○ (e) electronic data source not available (e.g., self employed and not required to file taxes) = (1) accept attestation; (2) request/review explanation. If reasonable, enroll, if not require further verification; or (3) require further verification; or</li> <li>▪ Flexibility to determine whether, how and how often to conduct post eligibility data matching.</li> </ul>	<p>as recent as the calendar year two years prior to the calendar year in which APTCs/CSRs would be effective;</p> <ul style="list-style-type: none"> <li>▪ the applicant attests that the family size or family members have changed;</li> <li>▪ the applicant attests to a change in circumstances has occurred or is reasonably expected to occur;</li> <li>▪ the applicant attests that his/her tax filing status has changed or is reasonably expected to change to that the tax filer’s annual income has or is expected to decrease; or</li> <li>▪ an applicant in the tax filer’s family has applied for unemployment benefits.</li> </ul> <p><i>Alternative Verification Process for Applicants with Income Decreases of ≤10% As Compared to Tax Data.</i></p> <p>If an individual qualifies for the alternate verification process (i.e. meets one of the five criteria above) and attests to projected annual income that reflects a decrease of no more than 10% as</p>	<p>populate an income calculator based on available data sources and ask applicant to validate that information.</p>

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	Medicaid/CHIP		Advance Premium Tax Credits (APTCs)/ Cost Sharing Reductions (CSRs)	
Verification of Eligibility Criteria	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
			<p>compared to tax data, the Exchange must accept the applicant's attestation.</p> <p><i>Income Decreases of &gt;10% As Compared to Tax Data or No Tax Data is Available.</i> If the individual qualifies for the alternate verification process and either his or her projected annual income reflects a decrease of more than 10% as compared to tax data, or no tax data is available, an Exchange must attempt to verify household income using alternate data sources, i.e., current income sources. If those alternate data sources are not reasonably compatible with the attestation, then the Exchange must give the applicant 90 days to provide "satisfactory documentation" consistent with the "inconsistencies" provision. If at the end of the 90 day period, the Exchange is unable to verify household income, it must determine eligibility based on tax return data (for those applicants for whom tax data is available).</p>	

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Verification of Eligibility Criteria	Medicaid/CHIP		Advance Premium Tax Credits (APTCs)/ Cost Sharing Reductions (CSRs)	
	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
<b>Residency</b>	<p>States <b>may</b> accept attestation of residency without requiring further paper documentation or data base verification.<sup>16</sup></p> <p>States <b>may</b> also conduct additional data match verification (e.g. with the DMV). States may not require additional information or documentation if data matching is available unless such data matching yields information that is not reasonably compatible with the attestation.<sup>17</sup></p> <p>States <b>may not</b> use immigration status to determine that an individual is not a resident.<sup>18</sup></p>	<ul style="list-style-type: none"> <li>State flexibility to accept attestation of residency alone or to require data base matching for verification. (May be different than Exchange verification process.)</li> <li>State defines “reasonably compatible” standard.</li> </ul>	<p>The Exchange <b>must</b> verify an applicant’s attestation that he or she meets the residency verification standards. With limited exceptions, Exchanges have two options for verifying residency: (1) accept the applicant’s attestation without further verification; or, (2) examine electronic data sources.</p> <p>If Exchanges choose to verify residency through data sources, the sources must be approved by HHS and be sufficiently current, accurate, and minimize administrative cost and burdens. Exchanges <b>may</b> use evidence of residency obtained in verifying applicant immigration status to verify that an applicant is a resident of the Exchange service area, but this information may not be used as evidence that an applicant is not a resident if such information is not consistent with the applicant’s attestation.<sup>19</sup></p> <p>The final rule gives the Exchanges authority to choose a residency verification process for QHP and</p>	<ul style="list-style-type: none"> <li>Exchange flexibility to accept attestation of residency alone or to require data base matching for verification. (May be different than Medicaid verification process.)</li> <li>State defines “reasonably compatible” standard.</li> </ul>

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	Medicaid/CHIP		Advance Premium Tax Credits (APTCs)/ Cost Sharing Reductions (CSRs)	
Verification of Eligibility Criteria	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
			APTC/CSR eligibility determination that is different from the residency verification policies of Medicaid/CHIP agencies.	
Citizenship/ Immigration Status	<p>If information is available through the federal hub the State agency <b>must</b> obtain information through such service.<sup>20</sup></p> <p>The Exchange <b>must</b> verify whether an applicant who is not a citizen or a</p>		For an applicant who attests to citizenship and has a Social Security number, the Exchange <b>must</b> transmit the applicant's Social Security number and other identifying information to HHS, which will submit it to the Social	

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	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
	national meets the requirements of 42 CFR 435.406 and section 1903(v)(4) of the Social Security Act. <sup>21</sup>		<p>Security Administration.</p> <p>For an applicant who has documentation that can be verified through the Department of Homeland Security and who attests to lawful presence, or who attests to citizenship and for whom the Exchange cannot substantiate a claim of citizenship through the Social Security Administration, the Exchange <i>must</i> transmit information from the applicant’s documentation and other identifying information to HHS, which will submit necessary information to the Department of Homeland Security.</p> <p>For an applicant who attests to citizenship, status as a national, or lawful presence, and for whom the Exchange cannot verify such attestation through the SSA or DHS the Exchange <i>must</i> follow the process to resolve “inconsistencies” and provide the applicant 90 days to resolve the inconsistency.<sup>22</sup></p>	

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	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
Incarceration			<p>The Exchange <b>must</b> verify an applicant’s attestation that they are not incarcerated through data base verification, if the sources are approved by HHS and are sufficiently current, accurate, and minimize administrative cost and burdens.</p> <p>If such data sources are unavailable, attestation (without further verification) shall suffice. If the attestation is not reasonably compatible with data or other information provided by the applicant or in the records of the Exchange, the Exchange <b>must</b> follow the process to resolve “inconsistencies.”<sup>23</sup></p>	<ul style="list-style-type: none"> <li>State defines “reasonably compatible” standard.</li> </ul>
Social Security Number	<p>The agency <b>must</b> require a SSN for each applicant, including children, unless the individual is not eligible for an SSN, may only be issued an SSN for valid non-work reasons, or refuses to obtain an SSN due to well-established religious objections.<sup>24</sup></p> <p>The agency <b>must</b> verify each SSN of each applicant and recipient with SSA to insure that each SSN</p>		<p>Exchanges <b>must</b> transmit applicant SSNs to HHS for validation through the Social Security Administration (SSA). If the Exchange is unable to validate an applicant’s SSN through SSA, it must follow the final rule’s “inconsistencies” provisions.<sup>27</sup></p>	

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Verification of Eligibility Criteria	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
	<p>furnished was issued to that individual, and to determine whether any others were issued.<sup>25</sup></p> <p>The agency <b>must not</b> deny or delay services to an otherwise eligible applicant pending issuance or verification of the individual's SSN by SSA or because the individual is not required to obtain a SSN because of ineligibility, eligibility only for non-work reasons or religious objection.<sup>26</sup></p>			
<b>Pregnancy</b>	<p>The agency <b>must</b> accept self-attestation of pregnancy, with no further verification (documentation or data base) unless the State has information (such as claims history) that is not reasonably compatible with such attestation.<sup>28</sup></p>	<ul style="list-style-type: none"> <li>State defines “reasonably compatible” standard.</li> </ul>		<ul style="list-style-type: none"> <li>State defines “reasonably compatible” standard.</li> </ul>
<b>Household Size</b> (Not a condition of eligibility)	<p>The agency <b>may</b> accept attestation of household size without requiring further verification (documentation or data base).<sup>29</sup></p> <p>The agency <b>may</b> also conduct additional data match verification. States may not require additional information if data matching is</p>	<ul style="list-style-type: none"> <li>State flexibility to accept attestation alone or conduct additional data base verification.</li> <li>State defines “reasonably compatible” standard.</li> </ul>	<p>The Exchange <b>must</b> require an applicant to attest to the individuals that comprise a tax filer’s family.</p> <p>If an applicant attests that tax data represent an accurate projection “of a tax filer’s family size for the benefit year for which coverage is</p>	<ul style="list-style-type: none"> <li>State defines “reasonably compatible” standard.</li> </ul>

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	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
	available unless such data matching yields information that is not reasonably compatible with the attestation. <sup>30</sup>		projected”, the Exchange <b>must</b> use family size information from tax data to determine eligibility for APTCs/CSRs. If tax data is unavailable, or the applicant attests to a change in circumstances that occurred or is reasonably expected to occur, an Exchange <b>must</b> accept the applicant attestation of family size unless the explanation of change in circumstances is not reasonably compatible with the information provided or available in Exchange records. If the Exchange finds that the attestation of family size is not reasonably compatible, it <b>must</b> attempt to verify family size through other electronic data sources. If other data sources are unavailable or not reasonably compatible with the attestation, then the Exchange <b>must</b> request additional documentation from the applicant consistent with the “inconsistencies” provisions. <sup>31</sup>	

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	Medicaid/CHIP		Advance Premium Tax Credits (APTCs)/ Cost Sharing Reductions (CSRs)	
Verification of Eligibility Criteria	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
Age/date of birth	<ul style="list-style-type: none"> <li>▪ The agency <i>may</i> accept attestation of age/date of birth without requiring further verification (documentation or data base).<sup>32</sup></li> <li>▪ The agency <i>may</i> also conduct additional data match verification. States may not require additional information if data matching is available unless such data matching yields information that is not reasonably compatible with the attestation.<sup>33</sup></li> </ul>	<ul style="list-style-type: none"> <li>▪ State flexibility to accept attestation alone or conduct additional data base verification.</li> <li>▪ State flexibility to define “reasonably compatible” standard.</li> </ul>		

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	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
Verification related to enrollment in an eligible employer sponsored plan			<p>The Exchange <b>must</b> verify whether an applicant requesting an eligibility determination for advance payments of the premium tax credit or cost-sharing reductions is enrolled in an eligible employer-sponsored plan by accepting his or her attestation without further verification.</p> <p>If such attestation is not reasonably compatible with other information provided by the applicant or in the records of the Exchange, the Exchange <b>must</b> utilize data obtained through data sources to verify the attestation.</p> <p>If such data sources are unavailable or information in such data sources is not reasonably compatible the Exchange <b>may</b> request additional documentation within the procedures described for resolving “inconsistencies.”<sup>34</sup> [FINAL]</p>	<ul style="list-style-type: none"> <li>State defines “reasonably compatible” standard.</li> </ul>

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	Medicaid/CHIP		Advance Premium Tax Credits (APTCs)/ Cost Sharing Reductions (CSRs)	
Verification of Eligibility Criteria	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
Verification related to eligibility for qualifying coverage in an eligible employer sponsored plan			The Exchange <i>must</i> require an applicant to attest to his or her eligibility for qualifying coverage in an eligible employer-sponsored plan and the Exchange <i>must</i> verify whether an applicant is eligible for qualifying coverage in an eligible employer sponsored plan for the purposes of eligibility for advance payments of the premium tax credit and cost-sharing reductions. <sup>35</sup> [FINAL]	
Minimum Essential Coverage other than through an eligible employer sponsored plan, Medicaid, CHIP or the Basic Health Program			The Exchange <i>must</i> verify whether an applicant is eligible for minimum essential coverage other than through an eligible employer-sponsored plan, Medicaid, CHIP, or the Basic Health Program, using information obtained by transmitting identifying information specified by HHS to HHS or by using information obtained from the agencies administering such programs. <sup>36</sup>	
Resolving Inconsistency	If information provided by or on behalf of an individual is not reasonably compatible with information obtained through an electronic data match, the agency must seek additional information from the individual, including— (i) A	<ul style="list-style-type: none"> <li>Flexibility to establish operational infrastructure (scan capacity, in-person kiosks, email) to accept paper documentation.</li> </ul>	If an applicant’s attestation is found not reasonably compatible, Exchanges must reconcile the inconsistencies by first: (i) identifying and addressing the	<ul style="list-style-type: none"> <li>Flexibility to determine when to apply “special circumstances.”</li> </ul>

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Verification of Eligibility Criteria	Federal Requirement	Potential State Flexibility*	Federal Requirement	Potential State Flexibility*
	<p>statement which reasonably explains the discrepancy; or</p> <p>(ii) Other information (which may include documentation), provided that documentation from the individual is permitted only to the extent electronic data are not available and establishing a data match would not be effective, considering such factors as the administrative costs associated with establishing and using the data match compared with the administrative costs associated with relying on paper documentation, and the impact on program integrity in terms of the potential for ineligible individuals to be approved as well as for eligible individuals to be denied coverage;</p> <p>(iii) The agency must provide the individual a reasonable period to furnish any additional information required under paragraph (c) of this section.</p> <p>(d) The agency may not deny or terminate eligibility or reduce benefits for any individual on the basis of information received in accordance with regulations under § 435.940 through § 435.960 of this subpart unless the agency has sought additional information from the individual in accordance with paragraph (c) of this section, and provided proper notice and hearing rights to the individual in accordance with this subpart and subpart E of part 431.<sup>37</sup></p>		<p>cause of the inconsistency (e.g. typographical or other clerical errors) by contacting the application filer; then, (ii) providing the applicant 90 days to submit “satisfactory documentation” to reconcile the inconsistency. An applicant must be able to submit such documentation online, in person or by mail (not by telephone). Exchanges may extend the 90 day period if the applicant demonstrates a good faith effort to provide documentation. During the period when the Exchange is resolving the inconsistency, it must ensure that an APTC/CSR is provided on behalf of the applicant if the tax filer attests that they understand that such advance payments are subject to reconciliation. If, after the 90 days, Exchanges remain unable to verify the attestation, the applicant’s eligibility must be determined based on the information in the data sources, unless the applicant qualifies for the exception for special circumstances.<sup>38</sup></p>	

\* The verification requirements and potential state flexibilities are based on the final regulations issued in March, 2012. These requirements and potential flexibilities are subject to change based on the release of sub-regulatory guidance issued by CMS/CCIIO.



## Notes

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- 1 Federal Register/Vol. 77, No. 57, March 23, 2012 (hereinafter “42 C.F.R.”), § 435.948.  
2 42 C.F.R. §§ 435.945, 435.948(a).  
3 42 C.F.R. §§ 435.945(d).  
4 42 C.F.R. §§ 435.948(b), 435.949(b).  
5 42 C.F.R. § 435.945(j).  
6 P.L. 111-148 (hereinafter “ACA”) § 1413.  
7 42 C.F.R. § 435.948(d).  
8 Federal Register/Vol. 77, No. 59, March 27, 2012 (hereinafter “45 C.F.R.”), § 155.320(c)(3)(ii).  
9 45 C.F.R. preamble.  
10 45 C.F.R. § 155.320(c)(3)(ii).  
11 ACA § 1411.  
12 45 C.F.R. § 155.315(f).  
13 42 C.F.R. § 435.952.  
14 42 C.F.R. §435.952(c)(1).  
15 42. C.F.R. § 435.952(c).  
16 42 C.F.R. §§ 435.956(c), 435.945(a).  
17 42 C.F.R. § 435.956(c).  
18 42 C.F.R. § 435.956(c)(2).  
19 45 C.F.R. § 155.315(d).  
20 42 C.F.R. § 435.949.  
21 45 C.F.R. § 155.320(f).  
22 45 C.F.R. § 155.315(c).  
23 45 C.F.R. § 155.315(e).  
24 42 C.F.R. §§435.910(a), 435.910(h).  
25 42 C.F.R. § 435.956(d) citing § 435.910(g).  
26 42 C.F.R. § 435.956(d) citing § 435.910(f).  
27 45 C.F.R. § 155.315(b).  
28 42 C.F.R. § 435.956(e).  
29 42 C.F.R. §§ 435.956(f), 435.945(a).  
30 42 C.F.R. §§ 435.956(f), 435.952.  
31 45 C.F.R. § 155.320(c)(3)(i).  
32 42 C.F.R. §§ 435.956(f), 435.945(a).  
33 42 C.F.R. §§ 435.956(f), 435.952.  
34 45 C.F.R. § 155.320(d); The federal government has indicated that they will investigate whether they may provide assistance in verifying minimum essential coverage. Center for Medicaid and Medicare Services, State Exchange Implementation Questions and Answers, November 29, 2011.  
35 45 C.F.R. § 155.320(e).  
36 45 C.F.R. § 155.320(b).  
37 42 C.F.R. 435.952(c)(2).  
38 45 C.F.R. 155.315(f).

\* The verification requirements and potential state flexibilities are based on the final regulations issued in March, 2012. These requirements and potential flexibilities are subject to change based on the release of sub-regulatory guidance issued by CMS/CCIIO.