

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information & Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201



November 25, 2013

Andy Joseph, Jr.
Chair, Northwest Portland Area Indian Health Board
2121 SW Broadway
Suite 300
Portland, OR 97201

Dear Mr. Joseph:

Thank you for your letter inquiring about the potential options regarding the verification process for the two exemptions pertaining to Indian Country.

As discussed during the Centers for Medicare & Medicaid Services (CMS) tribal consultation held on September 10, 2013, there are two types of exemptions that are available to individuals in Indian Country. The Affordable Care Act (ACA) establishes an exemption for members of an Indian tribe (federally recognized tribe) whereas 77 F.R. 39494 (Exemptions and Minimum Essential Coverage (MEC) final rule) establishes a hardship exemption category for American Indians and Alaska Natives and other individuals of non-Indian descent who are eligible to receive services from an Indian health care provider.

The exemptions application process provides for an applicant to attest that he or she is a member of a federally recognized tribe or eligible to receive services from an Indian health care provider. The Health Insurance Marketplace (Marketplace) must verify such attestation in accordance to 45 C.F.R. 155.615(e) and (f)(3) of the Exemptions and MEC final rule. The final rule establishes a verification process for both exemptions, including procedures to follow in cases in which electronic verification cannot occur or is unsuccessful.

For the first year, all exemptions applications will be conducted through a paper-based process, in which individuals will complete and submit by mail the exemption application. Members of federally recognized tribes may apply for an exemption through the Marketplace or handle it through the federal tax filing process. For individuals who are not members of federally recognized tribes, but are eligible to receive services from an Indian health care provider, they must apply for an exemption through the Marketplace.

The Marketplace will notify an applicant of the information that the Marketplace needs to verify in order to make an eligibility determination for an exemption; the notification will include information pertaining to forms of acceptable documentation. Marketplaces will provide a 90-day period for an applicant to submit documentation demonstrating membership in a federally recognized tribe or eligibility for services from an Indian health care provider. If, at the close of the 90-day period, the Marketplace remains unable to verify such status, an applicant would be determined ineligible for the exemption regarding membership in a federally recognized tribe or the hardship exemption relating to individuals eligible for services from an Indian health care provider.

CMS is committed to an electronic verification for all purposes. We have engaged in discussions with the Indian Health Service (IHS) regarding the eventual utilization of its data for the exemption process in the future. A timeframe from implementation of an electronic verification will be dependent upon various factors such system resources, IT development needed to share the information with Marketplaces, and business processes to support the use of this information.

Until such time, CMS has identified an approach that will further facilitate the verification process. An official letter issued by IHS, which recognizes an individual as a beneficiary, would be an acceptable document that an applicant could provide as supporting documentation. During the application process, an IHS beneficiary would provide a copy of the IHS issued document that will accompany his/her application in order for Marketplaces to make an eligibility determination regarding an exemption from the shared responsibility payment. IHS intends to issue the letter once the exemptions applications are made available for completion. It is our commitment to establish mechanisms that account for the unique factors in Indian Country.

Once again, thank you for your letter and interest in the implementation of the Indian provisions of the Affordable Care Act.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary Cohen", is written over the typed name and title.

Gary Cohen
Director

Center for Consumer Information and Insurance Oversight