

# HEALTH REFORM ISSUE BRIEF

## PREMIUM TAX CREDITS AND COST SHARING SUBSIDIES

### Overview

This issue brief will focus on the Affordable Care Act's (ACA) affordability provisions (advance premium tax credits and cost-sharing subsidies) and how these provisions may interact with AIDS Drug Assistance Program (ADAP) insurance assistance programs. A significant goal of the ACA is to increase access to private insurance. The ACA accomplishes this goal by: establishing state-based marketplaces called exchanges where people can easily compare and purchase insurance; eliminating discriminatory insurance practices that have all but foreclosed access to private insurance for people with expensive, chronic conditions; and providing federal subsidies to eligible individuals to make private insurance more affordable. Because exchanges will be designed and implemented over the coming months in preparation for open enrollment in October 2013, it is important for ADAP coordinators and other HIV/AIDS program leadership to be in discussion with state departments of insurance now to ensure that the exchange eligibility, enrollment, and subsidy infrastructure is compatible with and complements ADAP systems and procedures. Even in states where the federal government will be running the exchange, the state department of insurance will play a significant role in insurance oversight and regulation. For questions about how these systems will impact the ADAP in your state, please contact [Amy Killelea](#).

### The ACA's Private Insurance Affordability Provisions

The ACA includes two federally subsidized affordability provisions: the advance premium tax credits and cost-sharing subsidies. Each provision is discussed below.

### Advance Premium Tax Credits

In 2014, people applying for private insurance coverage through exchanges during open enrollment periods<sup>1</sup> may apply for an advance premium tax credit to help offset the monthly cost of insurance premiums.<sup>2</sup> The premium tax credits work as follows:

- The tax credit may be paid in advance by the federal government directly to plans on a monthly basis, starting at the point of enrollment. This means that people do not have to wait until their taxes are filed to receive the subsidy, nor do they have to pay any upfront costs for premiums. However, applicants must *choose* to have the tax credit paid in advance. Applicants also have the option of forgoing the advance tax credit, paying the full cost of their premiums, and receiving the tax credit when they file their federal taxes as part of their tax refund.
- The credit is available to people with income between 100 and 400 percent federal poverty level (FPL)<sup>3</sup> who are not eligible for Medicaid and who do not have access to affordable employer-sponsored health coverage.<sup>4</sup>
- Income eligibility for the premium tax credits will be based on the previous year's income tax returns. Income can also be verified through pay stubs or other documentation.<sup>5</sup>
- The credit amount will vary based on a person's income.<sup>6</sup> Each person applying for the credit will be required to pay between 2 percent of income at the lowest income levels to 9.5 percent of income at the highest income level in premiums. The tax credit makes up the difference between the amount the person is required to pay and the amount the plan charges in premiums.<sup>7</sup>

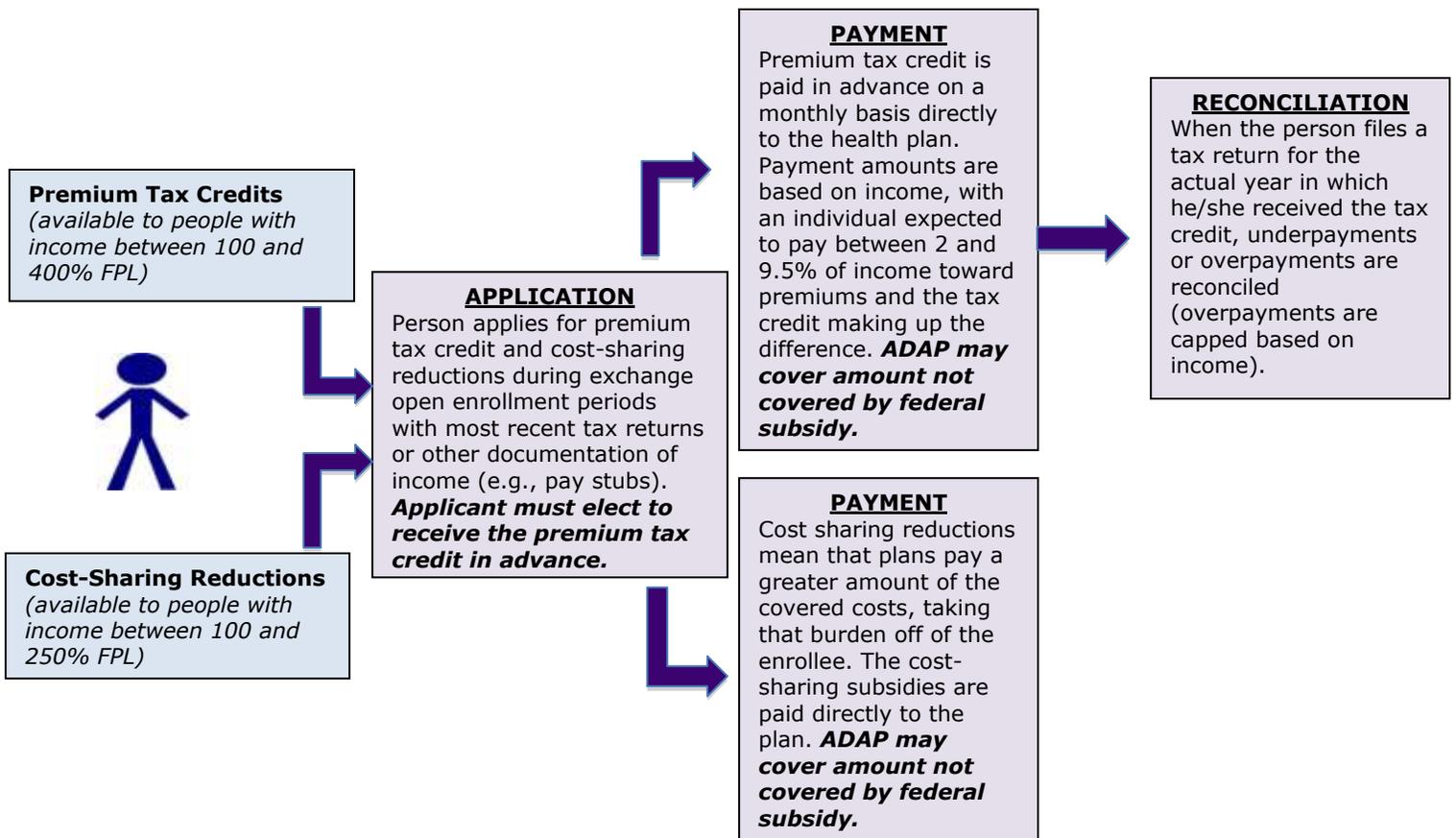
## Individual Premium Contribution Based on Income

FPL (2013 guidelines)	Income (individual)		Minimum Premium Contribution	
	Annual dollar amount	Annual percent of income	Annual dollar amount	
<b>100-150%</b>	\$11,490-\$17,235	2-4%	\$229.80-\$689.40	
<b>150-200%</b>	\$17,235-\$22,980	4-6.3%	\$689.40-\$1,447.74	
<b>200-250%</b>	\$22,980-\$28,725	6.3-8.05%	\$1,447.74-\$2,312.36	
<b>250-300%</b>	\$28,725-\$34,470	8.05-9.5%	\$2,312.36-\$3,274.65	
<b>300-400%</b>	\$34,470-\$45,960	9.5%	\$3,274.65-\$4,366.20	

- Because the premium tax credit amount is based on the previous year's income, there is a reconciliation process when the person files a tax return for the actual year in which she received the tax credit. Either an additional credit will be included in the tax refund for that year if the person was under-credited, or if the person was paid an excess amount, she is liable for the overpayment.<sup>8</sup> The flow chart below walks through the application, payment, and reconciliation process.
- Develop processes to monitor the amount of premium tax credit support a potential ADAP client is receiving and the amount that the potential client is expected to pay in premiums.
- As funding is available and program operations allow, cover the remaining cost of the premiums on behalf of the ADAP client (existing rules for ADAP insurance assistance programs apply).<sup>9</sup>
- Monitor any overpayment or underpayment paid to or taken away from the ADAP client when he/she files federal tax returns and be prepared to possibly recoup ADAP payments in the event of an overpayment.

The role of ADAPs that implement an insurance assistance programs in this process will be to:

### How Federal Subsidies to Purchase Private Insurance Work



## Premium Tax Credit Case Studies

The following case studies illustrate how the premium tax credit amounts are calculated. Michael is a 33-year old<sup>10</sup> individual living with HIV with an annual household income of \$17,235 (150 percent FPL). Michael is not eligible for Medicaid and his employer does not offer health insurance benefits. Michael is expected to contribute about 4 percent of his income toward his premiums. The tax credit amount is the difference between the premium for the second lowest cost silver plan option in the exchange and Michael's expected contribution amount.<sup>11</sup> The amount left over after the premium tax credit is applied is the amount that ADAP may help to cover. Michael can choose either a less or more expensive plan, but his premium tax credit

amount would still be tied to the second lowest cost silver plan premium. Michelle is also an individual living with HIV whose annual household income of \$34,470 (300 percent FPL) is too high to qualify for Medicaid and who does not have access to affordable employer-based coverage. In Michelle's case, because her income is significantly higher than Michael's, her minimum contribution toward her premiums is also higher (9.5 percent of her income) and her federal tax credit amount is lower. Like Michael, Michelle can apply this tax credit amount to either a less or more expensive plan option.

Highlighted column is amount that ADAP may help to cover

### Premium Tax Credit Case Studies

	Income (individual)		Second Lowest Cost Silver Level Plan Premium		Individual Minimum Contribution		Federal Premium Tax Credit	
	Annual	Monthly	Annual	Monthly	Annual	Monthly	Annual	Monthly
<b>(Michael)</b> <b>150%</b> <b>FPL</b>	\$17,235	\$1,436.25	\$4,500	\$375	\$689.40	\$57.45	\$3,810.60	\$317.55
<b>(Michelle)</b> <b>300%</b> <b>FPL</b>	\$34,470	\$2,872.50	\$4,500	\$375	\$3,274.65	\$272.89	\$1,225.35	\$102.11

### Cost-Sharing Subsidies

People with income between 100 percent and 250 percent FPL<sup>12</sup> are also eligible for cost-sharing subsidies, which allow them to enroll in plans with a higher actuarial value (i.e., are more generous). This means that the plan will pay a greater amount of the covered costs, taking that burden off of the enrollee. Importantly, there are no requirements for how plans may impose cost sharing,

and plans will likely continue to have significant flexibility to design plans with a combination of deductibles, copayments, and coinsurance within the actuarial value requirements. Like the premium tax credits, the cost-sharing subsidies are paid directly to the plan (however, unlike the premium tax credits there is no reconciliation requirement at the end of the tax year).

### Actuarial Value (Generosity of Plan) Based on Income

	Income (individual)	Actuarial Value of Coverage
FPL	Annual dollar amount	Percent
<b>100-150%</b>	\$11,490-\$17,235	94%
<b>150-200%</b>	\$17,235-\$22,980	87%
<b>200-250%</b>	\$22,980-\$28,725	73%
<b>250-300%</b>	\$28,725-\$34,470	70%
<b>300-400%</b>	\$34,470-\$45,960	70%

## Potential Implications for Premium Tax Credits and Cost-Sharing Subsidies for ADAP

Even with premium tax credits and cost-sharing subsidies, there will still be affordability gaps for people living with HIV. For ADAPs that currently have (or are in the process of setting up) insurance assistance programs, coordination with the premium tax credits and cost-sharing subsidies will be very important to ensure that consumers are able to afford private insurance and to ensure that ADAP funds are being used appropriately. The specifics of how each ADAP will interact with the exchange will vary depending on how the ADAP is currently set up and how the exchange is set up, but the following are possible issues for ADAPs to consider as they prepare for health reform implementation:

- ***Is it possible for the ADAP to enter into an agreement directly with the exchange?***

Exchanges are charged with conducting eligibility determinations and administering premium tax credits and cost-sharing reductions for eligible individuals. It will be important for ADAPs to work with the exchanges to develop mechanisms and procedures to facilitate the ability of ADAPs to cover the unsubsidized portion of a client's premiums and cost-sharing obligations. For instance, exploring the possibility of exchanges aggregating premium and cost-sharing payments made by ADAPs might facilitate the ability of ADAPs to provide insurance assistance to clients enrolled in exchange coverage.

- ***Can payments be made to the exchange or individual health plans in different increments than once a month?***

ADAPs with insurance assistance programs have developed processes and procedures with high risk pools and individual insurance plans to facilitate payment of client premiums and cost-sharing obligations. For instance, it is administratively easier for many ADAPs to pay premiums and cost-sharing obligations in a batch amount on a quarterly (as opposed to monthly) basis. Whether the ADAP is able to negotiate an arrangement with the exchange or develops arrangements directly with individual health plans, the timing of payments will be an important piece of the process.

- ***Will ADAPs need to ensure that clients are filing federal tax returns?***

Because the federal subsidies to help people pay for insurance premiums are in the form of a tax credit, people receiving these credits will be expected to file federal tax returns. This will be challenging for many ADAP clients who may not have filed federal tax returns in the past. ADAPs should be prepared to direct clients to tax filing resources, such as low-income tax filing clinics run by legal assistance programs.

- ***Should ADAPs require clients to accept the premium tax credit in advance?***

Applicants will have the choice to receive the premium tax credit in advance (meaning that the credit is paid directly to the plans on a monthly basis at the point a person enrolls in coverage) or to forego the advance payments, pay the full cost of premiums, and receive the tax credit when federal taxes are filed (meaning that the credit would be paid directly to the taxpayer). For administrative purposes, if ADAPs are assisting clients by paying premiums, they should consider requiring clients to take the premium tax credit in advance. Clients indicate this decision when applying for insurance and the premium tax credit during open enrollment. This will allow ADAPs to better track the amount of premium tax credit clients are receiving and to coordinate monthly payment of any remaining premium obligation. It will also prevent the ADAP from having to attempt collection of any overpayments returned to the client at the end of the year.

- ***Are there exchange verification and audit processes the ADAP can leverage to ensure it is appropriately wrapping around federal subsidies?***

It may be possible for ADAPs to either leverage existing data sharing agreements with Medicaid or explore a new data sharing agreement directly with the exchange to facilitate eligibility determinations for both ADAP and federal subsidies.

- ***Will payments made by ADAPs through exchanges be eligible for rebates?***

ADAP payments for client premium and cost-sharing obligations are eligible for

pharmaceutical rebates now. Processing those payments through an exchange should not affect the availability of a rebate.

- ***In states that do not expand Medicaid, can ADAPs pay for premiums and cost-sharing obligations of people with income under 100 percent FPL?***

The federal subsidies for private insurance purchased through exchanges are only available to people with income between 100 and 400 percent FPL (with the exception of legal immigrants with income

below 100 percent FPL who are not eligible for Medicaid). This means that in states that do not expand Medicaid, people with income under 100 percent FPL who are not eligible for Medicaid under traditional rules may be left out of reform altogether. However, ADAPs may cover the unsubsidized cost of premiums and cost-sharing obligations for clients with income under 100 percent FPL to enable them to access insurance coverage through exchanges (following assessment of formulary comparability and cost-effectiveness).

### **Resources on ACA Affordability Provisions**

- [Enroll America](#) is a non-profit organization whose mission is to ensure that all Americans are enrolled in and retain health coverage. Enroll America will be developing a number of resources to assist consumers as they transition to ACA insurance coverage options in 2014.
- [Consumers Union](#) is a non-profit organization that advocates for consumer protections in the health insurance world and is developing resources to help inform health reform implementation in ways that ensure smooth enrollment processes.
- [Families USA](#) has developed a number of issue briefs and other documents geared toward consumers on a range of ACA topics, including affordability provisions.

### **NASTAD Resources on Health Reform**

- [NASTAD Health Reform Website](#) houses NASTAD's presentations, issue briefs, fact sheets, and other resources on health reform.
- [NASTAD Blog](#) provides timely updates and breaking news with regard to federal and state health reform implementation.

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<sup>1</sup> The initial open enrollment period for exchange coverage will begin in October 2013 and run until the end of March 2014. There will be shorter annual enrollment periods (mid-October to mid-December) in subsequent years with special enrollment periods for specified qualifying events. Department of Health and Human Services, [Final Rule: Establishment of Exchanges and Qualified Health Plans](#).

<sup>2</sup> ACA, § 1411; Internal Revenue Service, [Final Rule: Health Insurance Premium Tax Credit](#).

<sup>3</sup> Tax credits are also available for legal immigrants with incomes *below* 100 percent of the FPL and not eligible for Medicaid.

<sup>4</sup> “Minimum essential coverage” is defined as having access to a plan that costs less than 9.5 percent of the individual’s household income and has an actuarial value of at least 60 percent.

<sup>5</sup> For a discussion of the new “Modified Adjusted Gross Income” definitions, see NASTAD’s [chart](#).

<sup>6</sup> The credit amount will be the difference between the premium for the second lowest-cost “silver” exchange plan in the area and the amount the individual is expected to pay in premiums based on income. The ACA requires the exchanges to offer four different levels of coverage based on actuarial value. Actuarial value is the measure of how generous a plan is and is expressed as the percentage of health costs that, for an average population, would be covered by the health plan as opposed to the consumer. Platinum plans are the most generous plans and will have an actuarial value of 90 percent, gold plans will have a value of 80 percent, silver plans will have a value of 70 percent, and bronze plans will have a value of 60 percent.

<sup>7</sup> The fact that the premium tax credit amount is pegged to the silver level plan does not necessarily mean that the individual must purchase that plan. The silver plan serves as a reference for the premium tax credit amount, but the individual can apply the premium tax credit to either a lower or higher cost plan available through the exchange.

<sup>8</sup> The overpayment amount is capped at \$300 for an individual with income of 200 percent FPL or lower and gradually increasing to a cap of \$1,750 for an individual with income of 500 percent FPL.

<sup>9</sup> Existing rules governing ADAP insurance assistance programs require that the formulary for the plan being purchased be comparable to the ADAP formulary and require that payment of premiums and cost sharing obligations is cost-effective for the ADAP as compared to paying for full-pay drug coverage.

<sup>10</sup> Though the ACA prohibits plans from charging higher premiums based on health status or gender, plans are permitted to vary premiums based on age, geography, or whether or not a person uses tobacco products. See Kaiser Family Foundation [Health Reform Subsidy Calculator](#) to see other variations.

<sup>11</sup> For instance, Michael could use his tax credit to purchase a more generous (and thus more expensive) plan, and Michael’s expected contribution to his premiums would be higher (4 percent of his income plus the difference between the premium for the second lowest cost silver plan option and the premium for the plan Michael chooses). Or Michael could purchase a less generous (and thus less expensive) plan, and Michael’s contribution could be much lower or even zero. This means that the amount left over that Michael would be expected to pay will vary depending on the plan he actually enrolls in.

<sup>12</sup> As with tax credits, cost-sharing subsidies are also available for legal immigrants with incomes *below* 100 percent of the FPL and not eligible for Medicaid.