

July 2, 2013

VIA ELECTRONIC SUBMISSION

CC:PA:LPD:PR (REG-125398-12)

Steven T. Miller
Commissioner
Internal Revenue Service, room 5203
PO Box 7604
Ben Franklin Station
Washington, DC 20044

Attention: REG-125398-12; Minimum Value of Eligible Employer-Sponsored Plans and Other Rules Regarding the Health Insurance Premium Tax Credit

Dear Commissioner Miller:

ACCSES appreciates the opportunity to provide comments on the proposed regulation entitled *Minimum Value of Eligible Employer-Sponsored Plans*. ACCSES represents more than 1,200 disability service providers across the country. Our members work to promote and enhance community-based solutions that maximize employment, health and living opportunities for people with disabilities. ACCSES collaborates with government and other stakeholders to assure that services recognize and support the full potential of each person with a disability to enjoy a meaningful life.

ACCSES members are nonprofit social service providers who provide services to hundreds of thousands of individuals with disabilities throughout the United States. These services are funded with Medicaid, state programs, and charitable contributions. Many individuals with disabilities depend upon ACCSES members and similar organizations to provide highly specialized and critical services to help them remain independent and healthy at home and in their community.

ACCSES strongly supports the Affordable Care Act's aim to expand health insurance coverage to the uninsured and underinsured. We are concerned, however, that some aspects of the employer shared responsibility provisions could have the unintended consequence of forcing social service providers to reduce or cancel programs for people with disabilities.

ACCSES respectfully asks the Internal Revenue Services, as well as the Department of Health and Human Services and the Department of Labor, to consider the potential impact of these provisions on nonprofit social service providers and their members. In terms of minimum value (MV), we are concerned that new standards could make group plans unaffordable for social service providers.

We are encouraged that in the proposed rule, the safe harbor plan designs consider typical high deductible health plans as providing minimum value. We strongly support standards which allow for the continuation of typical high deductible employer-sponsored plans. In addition, we request IRS consider allowing a de minimis exception for MV for non-profit social service providers.

Although outside the scope of this proposed rule, we remain concerned with how fines are calculated, particularly the impact on social services providers and their employees when their state forgoes the Medicaid expansion.¹

ACCSES requests the IRS take into account the potential hardship of the following policies to nonprofit social service providers:

- Calculating all full time employees of nonprofit social service providers into the fine assessment for not providing coverage, even if the employee receives Medicaid (Section 4980H(a) *Assessable Payment Amount*). Our program funding is focused on the people we serve: individuals with complex disabilities. We suggest it would be more sustainable and realistic for social service providers to meet the shared responsibility obligations if the fines were assessed based on all full time employees not offered insurance *who are ineligible for Medicaid*; and
- Treating the fines the same regardless of whether the state expands Medicaid: Given the Supreme Court ruling that the ACA's Medicaid eligibility expansion is voluntary, we also ask the IRS to give special consideration to social service providers who reside in states who forgo the Medicaid expansion. Social service agencies in those states will shoulder a greater coverage burden than providers in states that expand, and clearly this was not the intention of the law.

Thank you for consideration of our comments.

Sincerely,



Terry R. Farmer
CEO
ACCSES

¹ National Federation of Independent Business v. Sebelius, 567 U.S. ____ (2012), available at <http://www.supremecourt.gov/opinions/11pdf/11-393c3a2.pdf>.