Assister and Advocate Alert: Healthcare.gov Is Incorrectly Counting Social Security Income for Tax Dependents

CMS has confirmed that Healthcare.gov is counting Social Security income received by children and other tax dependents in computing household income even when the income should not be counted. Under federal rules, the income of children and others claimed as tax dependents only counts if the dependent is ***required*** to a file tax return. Right now, the income is being counted even if the tax dependent doesn't have a filing requirement.

What does this mean for consumers? Eligibility determinations for individuals in households where the Social Security income was incorrectly included will be based on a higher total MAGI-based household income than it should be. This means one or more individuals in the household could be denied Medicaid or CHIP even though they are eligible. It also means that some individuals determined eligible for financial assistance to purchase a marketplace plan are receiving a lower amount of advance payments of the premium tax credit than they are entitled to receive. They also may be enrolled in health plans with higher cost-sharing than they would be if their income had been correctly counted. While consumers will receive a refund when they file their tax returns if they received less advance payments than they should have received, they will not get a refund of any cost-sharing charges they should not have had to pay.

Moreover, some consumers may decide to forego coverage if it is unaffordable for them. The error could also mean that some people who would fall into the coverage gap in non-expansion states are receiving financial assistance, because counting their dependents' Social Security income drives their income above the poverty line. Keep in mind that these consumers will ***not*** be penalized by having to repay their premium tax credits but could lose coverage at renewal if their income remains below the poverty line.

When does Social Security income count for children and other tax dependents? For tax dependents, Social Security income only counts toward the total household income if the dependent is required to file a federal income tax return. For example, a dependent's survivor benefits or SSDI only counts if the child is required to file taxes even if the payment is made to the parent or guardian on the child's behalf. In 2014, the tax-filing threshold for children is $6,200 in earned income or $1,000 in unearned income, and $3,950 for other tax dependents. These rules apply to MAGI-based Medicaid, CHIP, and eligibility for premium tax credits.

Is Social Security income counted as unearned income when figuring out who is required to file taxes? In most cases, Social Security income is not counted when determining if the child or tax dependent is ***required*** to file taxes. Under IRS rules, only taxable Social Security is used to determine if an individual meets the tax-filing threshold. For a single individual, Social Security income is taxable only if half of the Social Security income plus other income exceeds $25,000. Therefore, if a child or tax dependent's only income is Social Security benefits, it is unlikely that the individual would be required to file a federal income tax return, and the Social Security benefits will not be included in the total household income.

Are there any exceptions to this rule? Yes, there is an exception that applies only to Medicaid and CHIP eligibility for tax dependents who are claimed by someone other than a parent or a spouse (e.g., a child who is claimed by a grandmother, or a mother who is claimed by her son or daughter). In these cases, the individual's eligibility for Medicaid or CHIP will be based on rules for individuals who do not file taxes and all of the individual's income, including all Social Security benefits, will count toward his eligibility regardless of whether he meets the tax-filing threshold.

Is SSI considered Social Security income? No, Supplemental Security Income is not a Social Security benefit; it is a supplemental income program designed to help the elderly, the blind, or people with disabilities who have little or no income. SSI never counts as income for anyone for Medicaid, CHIP, or Marketplace coverage. Social Security income consists of disability payments (SSDI), survivor benefits, and retirement benefits paid to individuals or their dependents from the Social Security Trust Fund.

What should consumers do? Individuals who are receiving the wrong amount of financial assistance should appeal the eligibility decision through the Marketplace. Consumers who were denied Medicaid erroneously have several choices according to CMS: "they can request a full Medicaid determination (on the eligibility results page or in My Account), submit an appeal to the FFM, or apply directly at the state Medicaid/CHIP agency." However, if there are known problems in your state system, it may be better to appeal the decision through the Marketplace (assuming the family applied through healthcare.gov). Since CMS has confirmed this error, the appeal should overturn the Medicaid denial. That should make it easier for the consumer to seek a correct determination from the state. If you know that a consumer received the wrong amount of advance payments in 2014 because of this error you may want to make sure they know they should get a refund when they file their tax returns.

How long has this been a problem and when will it be fixed? We don't really know the answer to either of those questions. We do know that CMS is currently working on a fix.