San Diego Regional Chamber

**SEPTEMBER 2015**

**POLICY BRIEF**

# FEDERAL REMEDY FOR THE IRS "FAMILY GLITCH" DEFINITION UNDER THE ACA

## POSITION

**The Chamber's Board of Directors voted to SUPPORT modification of the IRS definition of health coverage affordability for employees in small businesses on September 24, 2015.**

***STATUS*: *If approved, the Chamber will explore a legislative vehicle to address the family glitch.***

## SUMMARY

Under an IRS ruling, if the employee share of the premium cost for employee-only coverage is considered affordable based on the Affordable Care Act (ACA) definition, the coverage for any family member is then considered affordable. Per the ACA, "affordability" is defined as an employee's share of the premium for employee-only coverage being less than 9.56% of family income.

However, the affordability rule is defined with relation to individual coverage instead of family coverage. Consequently, anyone offered affordable employer based coverage is not eligible for subsidized coverage via Covered California or other federal exchange, resulting in many family members of an employee being barred from affordable coverage.

This contradiction in policy is referred as the "family glitch."

## Overview:

Under the ACA, eligibility for subsidized care is not determined solely on the basis of income and also considers the person's access to "affordable" coverage through their employer.

The IRS has defined affordable with relation to individual coverage, instead of family coverage. Consequently, many families are blocked from affordable coverage because the individual threshold is used to determine affordability.

As a result, this glitch under the Affordable Care Act impacts an estimated 4 million people in the United States and costs substantial amounts of money from employees with dependents who require care.

## ANALYSIS

It is important to note that eligibility for subsidized care is not determined solely on the basis of income. It also includes whether or not the individual and/or family has access to "affordable" employer-sponsored insurance. Since affordability is determined using the cost of individual plans versus family plans, the threshold for 9.5% of household income is set falsely low and prices out many employees with dependents while simultaneously barring them from assistance to lower their costs for marketplace coverage.

According to previous studies, the average worker contribution for self-only, employer-sponsored coverage amounted to $999 annually, but the average contribution for family coverage was $4,655 annually in 2013. Using these numbers, we see that for a household income of $33,000, the individual plan cost of $999 falls well below the 9.5% threshold (at just over 3%), even though coverage for a family of four with that income would have spent over 14% on insurance.

The family glitch disproportionately excludes lower and middle income families from being able to access affordable coverage through its skewed definition of “affordable.” In its current interpretation, the IRS ignores the cost of a family plan, which is often much more expensive than self-only coverage. Consequently, families are put in difficult positions when trying to access coverage for their loved ones and employers who are in good faith providing employer-sponsored coverage are not fully enjoying the benefits of what would be a fully-covered workforce.

Although there have been legislative attempts in the past to address this issue, there has been little movement promising that the glitch will be addressed. Fortunately, issues for coverage for children that were anticipated with the expiration of the Children’s Health Improvement Program (CHIP) were sidestepped when Congress adopted a two year extension of CHIP funding earlier this year. However, it is estimated that the family glitch currently effects as many as 4 million people throughout the country and there does not seem to be any promising legislation this session to fix it.

A possible approach to fixing the family glitch may lie in the states that are awarded Medicaid 1115 waivers, paired with State Innovation Waivers per the Affordable Care Act (ACA) that would combine the employer dollars for coverage with state dollars under a new, hybrid Health Insurance Premium Payment (HIPP) program (of which California does have). However, that proposal remains conceptual at best as the future of California’s 1115 waiver remains uncertain.