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October 31, 2011

Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

**Re: Notice of Proposed Rulemaking on Health Insurance Premium Tax Credit
(REG-131491-10)**

Dear Commissioner Shulman:

On behalf of our physician and medical student members, the American Medical Association (AMA) appreciates the opportunity to provide comments regarding the Internal Revenue Service's (IRS) Notice of Proposed Rulemaking (Proposed Rule) relating to the health insurance premium tax credit enacted by the Patient Protection and Affordable Care Act (ACA). The Proposed Rule provides guidance to individuals who enroll in qualified health plans (QHPs) through Affordable Insurance Exchanges (Exchanges) and claim the premium tax credit, and to Exchanges that make QHPs available to individuals and employers.

The framework for implementing tax credits as set forth in the Proposed Rule is generally consistent with AMA policy, which supports a system of income-related, refundable, advanceable tax credits toward the purchase of health insurance of an individual's choice. The provision of tax credits should also be contingent on the purchase of health insurance, as is provided in the Proposed Rule. However, the success of the Exchanges created under the ACA depends to a large extent on whether individuals will be able to afford the insurance plans made available through the Exchanges. Thus, the tax credits must be adequate to cover a substantial portion of the premiums for individuals who qualify for the credits, the size of tax credits should vary with family size, and tax credits for families should be contingent on each member of the family having insurance.

We are concerned that the Proposed Rule could disadvantage families, and result in many children and other family members being considered ineligible to purchase subsidized coverage through the Exchange because of how the IRS has proposed to define "minimum essential coverage" in Section 1.36B-2(c)(3)(v). A key factor in eligibility for Exchange subsidies is whether an individual or family has access to affordable health coverage. Those

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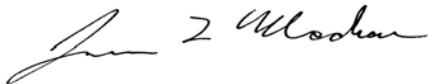
who have access to affordable coverage elsewhere generally do not qualify for subsidized Exchange coverage. For an individual employee, employer-sponsored insurance (ESI) coverage is considered affordable if the employee's share of the premium would consume less than 9.5 percent of family income.

The Proposed Rule uses the same test (e.g., the cost of employee-only coverage) to determine whether a family is considered to have access to affordable ESI. Thus, coverage would be considered affordable for a family if the cost of employee-only (e.g., self-only) coverage is less than 9.5 percent of family income, regardless of the cost of a family policy. Using an employee-only affordability test for dependents, however, would not actually consider the cost of coverage for dependents, which could in many cases far exceed 9.5 percent of the family's income. No member of the family would be eligible for premium tax credits or cost-sharing subsidies when one member has an affordable offer of employee-only coverage. This would result in fewer children and other family members having access to affordable, subsidized Exchange coverage, and would seem to violate the intent of the ACA to provide access to affordable health insurance coverage to the millions of Americans who currently lack such coverage.

Under this proposal, families could be in the position of having to purchase very expensive unsubsidized employer-based family coverage or face a penalty under the individual responsibility requirement for failing to have coverage. The Administration itself seems to recognize this, as it suggests in the preamble to the Proposed Rule that future regulations will propose that a family-based affordability test, not an employee-only test, be used in determining whether an individual will face lack of coverage penalties. We urge the IRS to change its proposed definition of "minimum essential coverage" and instead use a family-based affordability test that includes the cost of dependent coverage for determining whether a family has access to affordable ESI.

Thank you for considering our comments. We look forward to working with you and the Administration to implement a successful, fair system of tax credits that will enable uninsured individuals and families to purchase affordable health insurance coverage.

Sincerely,

A handwritten signature in cursive script, appearing to read "James L. Madara".

James L. Madara, MD