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CMS-9949-CN

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**45 CFR Parts 144, 146, 147, 148, 153, 154, 155, 156, and 158**

CMS-9949-CN

RIN 0938-AS02

**Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond; Correction**

**AGENCY:** Department of Health and Human Services.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects technical and typographical errors that appeared in the final rule, published in the **Federal Register** on May 27, 2014, entitled “Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond.”

**DATES:** These corrections are effective on July 28, 2014.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

**I. Background**

In FR Doc. 2014-11657 of May 27, 2014, (79 FR 30240) there were technical and typographical errors that are identified and corrected in the “Correction of Errors” section below. The provisions in this correcting document are effective as if they had been included in the document published on May 27, 2014. Accordingly, the corrections are effective on July 28, 2014.

## **II. Summary of Errors**

### **A. Error in the Preamble**

On page 30323, in the preamble discussion of changes to §155.420, the text incorrectly states that the regulation “Adds that consumers may report a move in advance of the date of the move.” We are removing this statement because it is inconsistent with the regulations text at §155.420.

### **B. Errors in the Regulations Text**

On page 30340, at §147.106(f)(2), we inadvertently direct issuers in the small group market to provide written notice of renewal to each plan sponsor or individual, as applicable. We are correcting this typographical error by removing the words “or individual, as applicable,” to be consistent with preamble text (which explicitly states that the renewal notice, unlike the discontinuation notice, is not required to be provided to participants, beneficiaries, or enrollees) and to accurately communicate this standard.

On page 30341, at §148.122(g)(3)(v), we state that “The product provides the same covered benefits, except for any changes in benefits that cumulatively impact rate for any plan within the product within an allowable variation of +/- 2 percentage points (not including changes pursuant to applicable Federal or State requirements).” We inadvertently omitted the article “the” before the word “rate” and are adding it to be grammatically correct.

On page 30344, in the amendatory instructions for number 26 (making amendments to §155.210), we added paragraphs (e)(6) and (7); however, we inadvertently did not include instructions that would preserve the list structure of the paragraphs under §155.210(e). We are correcting this oversight. Specifically, we are removing the “and” at the end of (e)(4) and changing the period at the end of (e)(5) to a semicolon.

On page 30344, at §155.210(d)(6), and on page 30346, at §155.225(g)(4), we state that gifts, gift cards, or cash “may exceed nominal value for the purpose of providing reimbursement for legitimate expenses incurred by a consumer in effort to receive Exchange application assistance[.]” We are correcting this typographical error to state “in an effort” to be grammatically correct.

On page 30344, at §155.210(d)(8), we made a typographical error and excluded a semicolon from the sentence which ends with “including calling a consumer or.” We are adding a semicolon between the words “consumer” and “or” to be grammatically correct and to clarify that the list in §155.210(d) does not end at paragraph (d)(8), but rather extends through paragraph (d)(9).

On page 30344, at §155.210(e)(2), and on page 30345, at §155.225(c)(1), we inadvertently left out a colon after the word “includes” and are adding it to make clear that what follows is a list, consistent with the preamble discussion of the provisions at page 30276.

On page 30344, at §155.210(e)(6)(iii), we inadvertently ended this paragraph with a period. We are replacing the period with “; and” to be grammatically correct and to clarify that the list in §155.210(e) does not end at paragraph (e)(6)(iii), but rather extends through paragraph (e)(7).

On page 30345, at §155.225(d)(8)(iv), we incorrectly referred to the certified application counselor program as the “certified application program”. We are correcting this inadvertent error.

On page 30346, at §155.225(g)(4), we inadvertently ended this paragraph with a period. We are replacing the period with a semicolon to be grammatically correct and to clarify that the list in §155.225(g) does not end at paragraph (g)(4), but rather extends through paragraph (g)(6).

On page 30348, at §155.420(b)(2)(iv), we establish coverage effective dates for plan selections made during a special enrollment period. The regulations text states that the coverage effective date will either be “in accordance with paragraph (b)(1) of the section or on the first day of the month following plan selection in accordance with paragraph (b)(2) of the section, at the option of the Exchange.” Since the provision is codified in paragraph (b)(2), the phrase “in accordance with paragraph (b)(2) of this section” is not necessary and is removed. Additionally, the amendatory instruction incorrectly refers to revising paragraphs “(b)(2)(i) through (b)(2)(iii),” which does not account for the addition of paragraph (b)(2)(iv). Therefore, we are also correcting the amendatory instructions to specify that we are revising “paragraph (b)(2)” not “(b)(2)(i) through (iii).”

On page 30350, at §155.725(c), we describe the annual employer election periods in SHOP. We are correcting the incorrect placement of a comma in §155.725(c)(1) to read, “Notwithstanding any other paragraph in this section, for coverage beginning in 2015 in a Federally-facilitated SHOP, a qualified employer’s annual election period may begin no sooner than November 15, 2014.” This was a typographical error.

### **III. Waiver of Proposed Rulemaking**

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect, in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)), and section 553(d) of the APA ordinarily requires a 30-day delay in the effective date of final rules after the date of their publication in the **Federal Register**. These requirements may be waived if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the

public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

This correcting document merely corrects technical and typographical errors in the “Exchange and Insurance Market Standards for 2015 and Beyond” final rule that was published on May 27, 2014 and becomes effective on July 28, 2014, except for amendments to 45 CFR 155.705, which became effective on May 27, 2014. The changes are not substantive. Therefore, we believe that undertaking further notice and comment procedures to incorporate these corrections and delaying the effective date of these changes is unnecessary. In addition, we believe it is important for the public to have the correct information as soon as possible, and believe it is contrary to the public interest to delay the dissemination of it. For the reasons stated above, we find there is good cause to waive notice and comment procedures and the 30-day delay in the effective date for this correcting document.

#### **IV. Correction of Errors**

In FR Doc. 2014-11657 of May 27, 2014, (79 FR 30240), make the following corrections:

##### A. Correction of Errors in Preamble

1. On page 30323, third column, in the section titled “Changes to §155.420,” in the third bullet, remove the phrase “Adds that consumers may report a move in advance of the date of the move.”

## B. Correction of Errors in the Regulations Text

### **§147.106 [Corrected]**

1. On page 30340, first column, in §147.106(f)(2), in lines 7 and 8, remove the words “or individual, as applicable.”.

### **§148.122 [Corrected]**

2. On page 30341, first column, in §148.122(g)(3)(v), in line 3, add the word “the” before the word “rate”.

### **§155.210 [Corrected]**

3. On page 30344,

a. In the first column, in the amendatory instruction 26,

1. After instruction 26.e., a new instruction “f” is added to read as follows: “In paragraph (e)(4) by removing the word “and” after the semicolon.”

2. A new instruction “g” is added to read as follows: “In paragraph (e)(5) by removing the period at the end of the paragraph and adding a semicolon in its place.”

b. In the second column,

1. In §155.210(d)(6), in line 11, the word “an” is added between the words “in” and “effort”.

2. In §155.210(d)(8), in the last line, a semicolon is added between the words “consumer” and “or”.

3. In §155.210(e)(2), in line 3, a colon is added between the words “includes” and “providing”.

c. In the third column, in §155.210(e)(6)(iii), in line 4, the period at the end of the sentence is removed and “; and” is added in its place.

**§155.225 [Corrected]**

4. On page 30345,
  - a. In the second column, in §155.225(c)(1), in line 5, a colon is added between the words “includes” and “providing”.
  - b. In the third column, in §155.225(d)(8)(iv), in the last line, the word “counselor” is added between the words “application” and “program”.
5. On page 30346, in the first column, in §155.225(g)(4), in line 11, the word “an” is added between the words “in” and “effort” and in the last line, the period is removed and a semicolon is added in its place.

**§155.420 [Corrected]**

6. On page 30348, in the second column, in §155.420(b)(2)(iv), in lines 14 and 15, the words “in accordance with paragraph (b)(2) of this section” are removed.

**§155.725 [Corrected]**

7. On page 30350, in the first column, in §155.725 (c)(1), in lines 3 and 4, remove the comma after the number “2015” and add a comma between the words “Federally-facilitated SHOP” and “a qualified”.

Dated: July 17, 2014.

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C'Reda Weeden,  
Executive Secretary to the Department,  
Department of Health and Human Services.

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