



Date: December 19, 2016

Subject: Administrative appeal rights under 45 CFR 156.1220(a)(1)(v) for the Cost-sharing Reduction (CSR) Portion of the Advance Payments of the Premium Tax Credit (APTC)

Administrative appeal rights under 45 CFR 156.1220(a) for the cost-sharing reduction (CSR) portion of advance payment for a benefit year are provided upon completion of the annual CSR reconciliation process. 45 CFR 156.1220(a)(1) and (a)(1)(v) provide that an issuer may file a request for reconsideration to contest a processing error by HHS, HHS's incorrect application of the relevant methodology, or HHS's mathematical error only with respect to the amount of a reconciliation payment or charge for cost-sharing reductions **for a benefit year**. The final amount of the CSR portion of advance payments to an issuer is determined when the Center for Medicare & Medicaid Services (CMS) reconciles the total CSR portion of the advance payments against the actual CSR provided in that year. Reconciliation of the CSR portion of advance payments to actual CSRs provided by an issuer for a benefit year **is the final determination of CSR payments for the benefit year**.

For the 2014 and 2015 benefit years, following CSR reconciliation, CMS provided issuers with a report of the final amount of the CSR portion of advance payments on June 30, 2016. After the June 30, 2016 notification, CMS provided a discrepancy reporting window and, pursuant to 45 CFR 156.1220(a), an administrative appeals process. Those processes were concurrent for the 2014 and 2015 benefit years.

For the 2016 benefit year and beyond, these processes are consecutive. As set forth in the HHS Notice of Benefit and Payment Parameters for the 2018 Benefit Year final rule,¹ under §156.430(h)(1) and (h)(2), issuers must report a discrepancy to HHS within 30 calendar days of notification of the amount of reconciliation of the cost-sharing reduction portion of advance payments, and may appeal the amount of reconciliation of the cost-sharing reduction portion of advance payments, within 60 calendar days of the date of the discrepancy resolution decision.

¹ <https://www.federalregister.gov/documents/2016/12/22/2016-30433/patient-protection-and-affordable-care-act-benefit-and-payment-parameters-for-2018-amendments-to>