COMPUTER MATCHING AGREEMENT

BETWEEN

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR MEDICARE & MEDICAID SERVICES

AND

THE DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

FOR THE
VERIFICATION OF HOUSEHOLD INCOME AND FAMILY SIZE FOR INSURANCE AFFORDABILITY PROGRAMS AND EXEMPTIONS

CMS Computer Matching Agreement No. 2016-08
HHS Computer Matching Agreement No. 1606
Effective Date: April 2, 2016
Expiration Date: October 2, 2017

I. PURPOSE

This Computer Matching and Privacy Protection Act (CMPPA) Agreement (Agreement) by and between the Centers for Medicare and Medicaid Services (CMS), an Operational Division of the Department of Health and Human Services (HHS), and the Internal Revenue Service (IRS), a Bureau of the Department of the Treasury (Treasury) (CMS and IRS are each a Party, and collectively the Parties), establishes the terms, conditions, safeguards, and procedures governing the disclosures of Return Information by IRS to CMS and by CMS to an Administering Entity through the CMS Data Services Hub (Hub) to support the verification of Household Income and Family Size for an Applicant receiving an Eligibility Determination under the Patient Protection and Affordable Care Act (ACA) (Public Law No. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law No. 111-152) (collectively, the ACA).

The CMPPA requires the Parties participating in a matching program to execute a written agreement specifying the terms and conditions under which the matching will be conducted. CMS has determined that verifications conducted by the Hub and the Federally-facilitated Exchange (FFE) accessing IRS data constitutes a "computer matching program" as defined in the CMPPA. The terms and conditions of this Agreement will be carried out by authorized employees and contractors of CMS and IRS. The Parties acknowledge that CMS will enter into separate computer matching agreements and information exchange agreements, consistent with the terms and conditions set forth in this Agreement, with Administering Entities through which Administering Entities will access IRS data through the Hub to perform Eligibility Determinations.

Return Information will be matched by CMS in its capacity as the FFE or by an Administering Entity for the purpose of determining initial eligibility for enrollment and eligibility Redetermination and Renewal decisions for the following benefits: (1) advance payments of the premium tax credit (APTC) under Sections 1401, 1411 and 1412 of the ACA; (2) a cost-sharing

reduction (CSR) under Section 1402 of the ACA; (3) Medicaid and the Children's Health Insurance Program (CHIP), under titles XIX and XXI of the Social Security Act, pursuant to Section 1413 of the ACA; or (4) a State's Basic Health Program (BHP), if applicable, under Section 1331 of the ACA. Return Information will also be matched for the purposes of making appeal determinations and for determining eligibility for certain certificates of Exemption.

II. LEGAL AUTHORITIES

The following statutes provide legal authority for the disclosures under this Agreement:

1. This Agreement is executed pursuant to the Privacy Act of 1974 (5 U.S.C. § 552a) as amended by the CMPPA of 1988 (Public Law 100-503), the Office of Management and Budget (OMB) Circular A-130, "Management of Federal Information Resources" published at 61 Fed. Reg. 6428-6435 (Feb. 20, 1996), and OMB guidelines pertaining to computer matching published at 54 Fed. Reg. 25818 (June 19, 1989).
2. Section 1414 of the ACA amended 26 U.S.C. § 6103 to add paragraph (l)(21), which authorizes the disclosure of certain items of Return Information as part of the Eligibility Determination process for enrollment in the following Insurance Affordability Programs: the APTC under Sections 1401, 1411 and 1412 of the ACA; CSR under Section 1402 of the ACA; Medicaid and CHIP, under titles XIX and XXI of the Social Security Act, pursuant to Section 1413 of the ACA; or a BHP, if applicable, under Section 1331 of the ACA.
3. Section 1413 of the ACA establishes a system under which individuals may apply for enrollment in, and receive an Eligibility Determination for participation in an Insurance Affordability Program. The program established by the Secretary of HHS under 1413 of the ACA provides for the Secretary of HHS to transmit information through a secure interface to the Secretary of the Treasury from individuals applying for participation using a single streamlined form. Under the authority of Section 1413(a) and based on the authorized uses and disclosures of Return Information, the Secretary of HHS adopted regulations (42 C.F.R. §§ 435.940, 435.945, 435.948, 435.949, 435.952, 435.956 and 45 C.F.R. part 155 subpart D), which address the procedure for verification of Household Income and Family Size based on coordination between HHS and IRS.
4. Sections 1411(c)(3) and (4) and (e) of the ACA require that HHS and IRS must be able to communicate Return Information to support the verification of Household Income and Family Size for an Applicant seeking an Eligibility Determination for APTC and CSR.
5. Section 1411(f)(1) of the ACA also requires the Secretary of HHS, in consultation with the Secretary of the Treasury, the Secretary of Homeland Security, and the Commissioner of Social Security to establish procedures for redetermining eligibility for enrollment in a QHP through an Exchange, APTCs and CSRs on a periodic basis. Periodic renewal of eligibility for Medicaid and CHIP are required by 42 C.F.R. §§ 435.916, 457.343 and 457.960.
6. Under the authority of Sections 1311, 1321, and 1411(a) of the ACA, the Secretary of HHS adopted regulations, 45 C.F.R. §§ 155.330 and 155.335, which further address the requirements for an Exchange to redetermine eligibility for enrollment in a QHP through an Exchange and for APTC and CSRs during the Benefit Year based on certain types of changes in circumstances as well as on an annual basis.

7. Sections 1311(d)(4)(H) and 1411(a)(4) of the ACA specify that the Exchange will determine eligibility for, and issue certificates of Exemption.
8. Section 1943(b) of the Social Security Act (as added by section 2201 of the ACA) requires Medicaid and CHIP agencies to use the same streamlined enrollment system and secure electronic interface established under Section 1413 of the ACA to verify information, including Household Income and Family Size, needed to make an Eligibility Determination and facilitate a streamlined eligibility and enrollment system among all Insurance Affordability Programs.
9. Sections 1411(f)(1) of the ACA also requires the Secretary of HHS, in consultation with the Secretary of the Treasury, the Secretary of Homeland Security, and the Commissioner of Social Security to establish procedures for hearing and deciding appeals of Eligibility Determinations for enrollment in a QHP through an Exchange, APTCs and CSRs, and Exemptions. Appeals of denials of Medicaid and CHIP eligibility are required by, respectively, Section 1902(a)(3) of the Social Security Act and 42 C.F.R. part 431, subpart E and 42 C.F.R. part 457, subpart K.
10. The Privacy Act, 5 U.S.C. § 552a(b)(3), authorizes a Federal agency to disclose information about an individual that is maintained by an agency in an agency system of records, without the prior written consent of the individual, when such disclosure is pursuant to a routine use. The Parties have routine uses in their respective systems of records to address their disclosures under this Agreement.

III. DEFINITIONS

1. "ACA" means the Patient Protection and Affordable Care Act of 2010 (Public Law No. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law No. 111-152);
2. "Administering Entity" means a state Medicaid agency, Children's Health Insurance Program (CHIP), a state basic health program (BHP), or an Exchange administering an Insurance Affordability Program;
3. "Applicant" means an individual who is seeking an Eligibility Determination for Insurance Affordability Programs or for an Exemption for him or herself through an application;
4. "APTC" means advance payment of the premium tax credit specified in section 36B of the Internal Revenue Code (as added by Section 1401 of the ACA) which are provided on an advance basis to an eligible individual enrolled in a QHP through an Exchange in accordance with Sections 1401, 1411 and 1412 of the ACA;
5. "Basic Health Program" or BHP means an optional state program established under Section 1331 of the ACA;
6. "Benefit Year" means the calendar year of coverage provided by a QHP offered through an Exchange;
7. "Breach" is defined by OMB Memorandum M-07-16, Safeguarding and Responding to the Breach of Personally Identifiable Information, May 22, 2007 as the compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, loss of control, or any similar term or phrase that refers to situations where persons other than authorized

users and for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic;

8. "CHIP" means the Children's Health Insurance Program, the state program established under Title XXI of the Social Security Act (SSA);
9. "CMS" means the Centers for Medicare & Medicaid Services;
10. "CSR" means cost sharing reductions for an eligible individual enrolled in a silver level plan in an Exchange or for an individual who is an Indian enrolled in a QHP offered in an Exchange;
11. "Eligibility Determination" includes the determination of eligibility by an Administering Entity for an Insurance Affordability Program or certificates of Exemption;
12. "Enrollee" means a qualified individual enrolled in a QHP under title I of the ACA for the enrollment in QHPs offered through an Exchange;
13. "Exchange" means an American Health Benefit Exchange established under Sections 1311(b), 1311(d)(1), or 1321(c)(1) of the ACA, including both State-based Exchanges and FFEs;
14. "Exemption" means an exemption from the individual shared responsibility provisions under 26 U.S.C. 5000A;
15. "Family Size" means Family Size as defined under 26 U.S.C. § 36B(d)(1) and 42 C.F.R. § 435.603(b);
16. "FFE" means Federally-facilitated Exchange, which is an Exchange established by HHS and operated by CMS under Section 1321(c)(1) of the ACA;
17. "HHS" means the Department of Health and Human Services;
18. "Household Income" means Household Income as defined under 26 U.S.C. § 36B(d)(2)(A) in determining eligibility for APTC and CSR and 42 C.F.R. § 435.603(e) for purposes of MAGI conversion within Medicaid;
19. "Hub" or Data Services Hub is the CMS managed service to interface among connecting entities;
20. "Insurance Affordability Programs" means a program that is one of the following: (1) a State Medicaid program under title XIX of the Social Security Act; (2) a State CHIP under title XXI of such Act; (3) a State Basic Health Program established under section 1331 of the ACA; (4) a program that makes coverage in a qualified health plan through the Exchange with advance payments of the premium tax credit; or (5) a program that makes available coverage in a qualified health plan through the Exchange with cost-sharing reductions;
21. "MAGI" means modified adjusted gross income as defined under 26 U.S.C. § 36B(d)(2)(B);
22. "Medicaid" means the state program established under Title XIX of the Social Security Act;
23. "Medicaid/CHIP Beneficiary" means an individual who has been determined eligible and is currently receiving Medicaid or CHIP benefits;
24. "NIST" means the National Institute of Standards and Technology;

25. “PII” means personally identifiable information as defined by OMB M-07-16 (May 22, 2007). (“PII refers to information which can be used to distinguish or trace an individual’s identity, such as their name, social security number, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother’s maiden name, etc.”);
26. “QHP” means a qualified health plan as defined by 45 C.F.R. § 155.20;
27. “Redetermination” means the process by which an Exchange determines eligibility for an Insurance Affordability Program, and/or an Exemption after the initial eligibility determination in one of two circumstances: (1) on an annual basis prior to open enrollment; and/or (2) a change in circumstances occurs, such as when an individual communicates an update to an Exchange that indicates a change to the individual’s Household Income or Family Size, when the Exchange discovers a change in circumstances under 45 C.F.R. § 155.330;
28. “Reference Tax Year” means the first calendar year or, if no Return Information is available for that year, the second calendar year, prior to the Benefit Year;
29. “Relevant Taxpayer” means any individual listed, by name and social security number (“taxpayer identity information”), on the application for an Insurance Affordability Program or for an Exemption whose income may affect the eligibility determination of an individual for an Insurance Affordability Program or an Exemption;
30. “Renewal” means the annual process for a Medicaid/CHIP beneficiary to be considered for continued coverage under a state Medicaid program or CHIP;
31. “Return Information” is as defined under 26 U.S.C. § 6103(b)(2) and has the same meaning as Federal Tax Information (FTI) as used in IRS Publication 1075, Tax Information Security Guidelines for Federal, State and Local Agencies;
32. “Security Incident” means the act of violating an explicit or implied security policy, which includes attempts (either failed or successful) to gain unauthorized access to a system or its data, unwanted disruption or denial of service, the unauthorized use of a system for the processing or storage of data; and changes to system hardware, firmware, or software characteristics without the owner's knowledge, instruction, or consent;
33. “SOR” means “System of Records”, a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;
34. ”SORN” means a “System of Records Notice”, a notice published in the Federal Register of each system of records being maintained by the Department. The publication of the systems notice is required by the Privacy Act of 1974;
35. ““SSR” means “Safeguard Security Report” required by 26 U.S.C. § 6103(p)(4)(E) and filed in accordance with IRS Publication 1075 to detail the safeguards established to maintain the confidentiality of Return Information received from the Hub or in an account transfer;
36. “TIGTA” means Treasury Inspector General for Tax Administration which provides independent oversight of IRS activities and federal tax system.

IV. JUSTIFICATION AND ANTICIPATED RESULTS

A. Justification

The ACA requires the use of a single, streamlined application to apply for eligibility and enrollment in a QHP or an Insurance Affordability Program. An Applicant must be able to file this application online, by telephone, in person or by mail with any of the entities administering these programs. The ability for an Applicant to access the appropriate coverage across multiple programs through a single, streamlined application and coordinated eligibility process means every Applicant will experience a consistent process and receive a consistent Eligibility Determination, without having to submit information to multiple programs, no matter how the application is submitted or which program receives the application data.

The Parties have determined that a computer matching program is the most efficient and expeditious means of obtaining and processing the information needed by CMS to support the verification of Household Income and Family Size for Applicants, Enrollees and Medicaid/CHIP Beneficiaries by Administering Entities.

The ability for these Administering Entities to access and use Return Information provided by IRS through the Hub is a critical component of the streamlined eligibility process because Return Information will be used to determine eligibility for the advance premium tax credit and for cost-sharing reductions as well as to determine eligibility for certain Exemptions. Specifically, this matching program is necessary for an Exchange to verify Household Income and Family Size as a part of the Eligibility Determination procedures described in section 1411(c) of the ACA. Section 1411(c)(4)(A) of the ACA requires that verifications and determinations for Exchange eligibility shall be done through the use of an online system or electronic exchange of information with the Department of the Treasury.

Return Information from the IRS can be useful to verify the financial eligibility of an individual in accordance with Section 1137 of the Social Security Act and 42 C.F.R. § 435.948, which describes the process for verifying Medicaid eligibility. Specifically, this matching program is necessary for a Medicaid or CHIP agency to verify Household Income and Family Size as a part of the Eligibility Determination procedures pursuant to 45 C.F.R. §§ 435.948 and 435.949. Additionally, this matching program can be useful for an Exchange to verify Household Income and Family size as part of the Eligibility determination process for certain certificates of Exemption. Section 1411(b)(5) of the ACA provides that an Applicant who is seeking an Exemption will provide information as part of the eligibility process, and Section 1411(c)(1) of the ACA specifies that the Exchange will verify this information.

B. Anticipated Results

1. CMS anticipates that this data transfer will produce expedited Eligibility Determinations, minimize administrative burdens and achieve efficiencies and administrative cost savings. This collaborative model, which offers service-based access to authoritative data, will lessen financial and administrative burdens on federal and state agencies by eliminating the need for each State to execute several agreements with multiple federal agencies.

2. IRS anticipates no benefit, direct or indirect, from this data match.

C. Cost Benefit Analysis

Section 552a(u)(4) of the Privacy Act provides that a cost-benefit analysis must be completed prior to the approval of this Agreement. In addition to the computer matching program subject to this Agreement, CMS has computer matching agreements with other federal agencies and Administering Entities under which CMS receives data matches through the Hub from multiple source agencies, and CMS and Administering Entities access data matches for the purpose of making Eligibility Determinations related to enrollment in a Qualified Health Plan or Insurance Affordability Program. CMS has conducted one cost-benefit analysis covering these computer matching agreements. This cost-benefit analysis is attached as Attachment A.

V. RESPONSIBILITIES OF THE PARTIES

D. CMS Responsibilities

1. Submission of Data (from an Administering Entity)

    a. Prior to submitting a request to IRS, CMS must validate the social security number (SSN) of each Applicant, Medicaid/CHIP Beneficiary, Enrollee, or Relevant Taxpayer with the Social Security Administration (SSA) or through documentation of SSN provided by the Applicant, Medicaid/CHIP Beneficiary, Enrollee, or Relevant Taxpayer. Unvalidated SSNs will not be included in the request to IRS.

    b. To submit a request for Household Income and Family Size to the IRS through the Hub, an Administering Entity must include the Relevant Taxpayer's name, SSN, and the taxpayer relationship (primary, spouse, or dependent) to any Applicant, Enrollee, or Medicaid/CHIP Beneficiaries listed on an application.

    c. As part of the initial application for Insurance Affordability Programs, the Administering Entity will give Applicants, Enrollees and/or Medicaid/CHIP Beneficiaries the option to obtain Return Information as part of the annual Redetermination and Renewal processes, for a period not to exceed 5 years based on a single authorization. Such option will be provided on the single-streamlined application for Eligibility Determinations. Applicants, Enrollees and Medicaid/CHIP Beneficiaries may also discontinue, change, or renew their authorization. Current Medicaid/CHIP Beneficiaries renewing coverage will be provided the option to obtain Return Information as part of the renewal Eligibility Determination. CMS must ensure Administering Entities maintain records that properly account for the option elected by each Applicant, Enrollee or Medicaid/CHIP Beneficiary, and will not obtain Return Information for use in annual Redeterminations for years in which the Applicant, Enrollee or Medicaid/CHIP Beneficiary did not authorize use of Return Information.

    d. For each Enrollee or Medicaid/CHIP Beneficiary, at the time of their annual or periodic eligibility Redetermination or Renewal, the Relevant Taxpayer's name, SSN, and the taxpayer relationship to any Applicants, Enrollees, or Medicaid/CHIP Beneficiaries on the application (primary, spouse, or dependent) must be submitted to IRS through the Hub.

e. Each Administering Entity must be uniquely identified when requesting Return Information so that authorization to receive Return Information is validated by IRS prior to disclosure to CMS. Administering Entities are authorized to receive Return Information via the Hub pursuant to this matching Agreement and through separately executed Computer Matching Agreements with CMS.

f. For each individual who submits an application for certain Exemptions under Section 1311(d)(4)(H) of the ACA to an Administering Entity and for whom the Administering Entity seeks to use Return Information for verification, the Relevant Taxpayer's name, SSN, and the taxpayer relationship to any other individuals seeking an Exemption (primary, spouse, or dependent) must be submitted to IRS through the Hub.

g. CMS must not disclose any Return Information to any Administering Entity that is not approved to receive Return Information as evidenced by a letter of acceptance from the IRS of an approved Safeguard Security Report (SRR) and maintained on the authorized list provided by the IRS.

h. CMS will require, via written agreement that each Administering Entity will:

    i. Not retain any Return Information longer than necessary to conduct the Administering Entities' functions related to Eligibility Determinations or Exemption determinations, appeals, and submission of notices or longer than is otherwise required by applicable law. Each Administering Entity will comply with 26 U.S.C. § 6103(p)(4) and IRS Publication 1075 with respect to all retained Return Information; and

    ii. Comply with Section IX. of this Agreement.

2. CMS Hub

a. The Hub will coordinate the transmission of requests and responses between the Administering Entities and IRS. A request for verification of Household Income or Family Size may be initiated by an Administering Entity sending a request to the Hub.

b. The Hub will transmit to IRS the full name, SSN, and taxpayer relationship (primary, spouse, or dependent), for each Relevant Taxpayer in the Applicant's tax or Medicaid household.

c. The Hub will not permanently maintain/retain any Return Information. Some temporary persistence of the data at the Hub will be necessary. The Hub will comply with 26 U.S.C. § 6103(p)(4) and IRS Publication 1075 with respect to all temporarily maintained/retained Return Information.

d. The Hub will erase the matching file generated through this matching operation as soon as the information has served the matching program's purpose and all legal retention requirements established in conjunction with the National Archives and Records Administration under applicable procedures have been met.

3. Timing and Frequency of Transmission

a. Household Income and Family Size verification for a new application for Insurance Affordability Programs will be performed in accordance with separately executed service level agreements between CMS and IRS.

b. Verifications of Household Income and Family Size for self-reported changes in income during the Benefit Year will occur throughout the year in accordance with separately executed service level agreements between CMS and IRS.
c. Household Income and Family Size verifications for annual Redeterminations for Insurance Affordability Programs will generally occur between August and October in accordance with separately executed service level agreements between CMS and IRS. Annual Renewals for individuals enrolled in Medicaid or CHIP will occur throughout the year in accordance with separately executed service level agreements between CMS and IRS.
d. Household Income and Family Size verifications performed for the purposes of determining eligibility for Medicaid, CHIP, or BHP will be performed throughout the year in accordance with separately executed service level agreements between CMS and IRS.
e. Household Income and Family Size verifications performed for the purposes of determining eligibility for Exemptions will be performed throughout the year in accordance with separately executed service level agreements between CMS and IRS.
f. CMS and IRS will exchange information via the Data Services Hub, and in near real-time during normal service hours in accordance with separately executed service level agreements between CMS and IRS.

4. CMS will transmit the records through the Hub to IRS electronically and encrypted using Transport Layer Security (TLS) communication protocol with mutual authentication.
5. CMS will publish the Federal Register notice required by 5 U.S.C. § 552a(e)(12).

E. IRS Responsibilities

1. Upon receipt of a request from the Hub, in accordance with 26 U.S.C. § 6103(l)(21) and its implementing regulations, IRS will extract certain items of Return Information with respect to each Relevant Taxpayer.
2. For annual Exchange Redeterminations and Medicaid/CHIP Renewals, IRS will extract Return Information as described in Section V.E. See Section V.A.3 for details regarding the timing of this process for Applicants, Enrollees or Medicaid/CHIP Beneficiaries.
3. IRS will transmit the extracted records to the Hub to CMS electronically and encrypted using Transport Layer Security (TLS) communication protocol with mutual authentication.
4. IRS will maintain a list of Administering Entities authorized to receive Return Information. IRS will provide the list of authorized entities to CMS and notify CMS of any additions or deletions from the list.
5. CMS and IRS will exchange information via the Data Services Hub and in real-time during normal service hours in accordance with separately executed service level agreements between CMS and IRS.

F. Systems of Records

1. The CMS Privacy Act SORN that supports this data matching program is the CMS Health Insurance Exchanges System (HIX), CMS System No. 09-70-0560, as amended, published at 78 Fed. Reg. 8538 (Feb. 6, 2013), 78 Fed. Reg. 32256 (May 29, 2013) and 78 Fed. Reg. 63211 (Oct. 23, 2013) located at the Terremark data center in Culpeper, Virginia. Routine Use 3 supports CMS's disclosure to IRS.
2. IRS will extract specified Return Information from the Customer Account Data Engine (CADE) Individual Master File, Privacy Act SOR Treasury/IRS 24.030, published at 77 Fed. Reg. 47948 (August 10, 2012).

G. Number of Records

The following table provides the base estimates for the total number of Household Income and Family Size transactions in FY 2016 and FY 2017, as well as the number of transactions in the estimated highest month within each of those years. These estimates use current business assumptions. These estimates are subject to change as business assumptions or estimates are updated and/or refined.

	FY 2016 Total	FY 2016 Highest Month	FY 2017 Total	FY 2017 Highest Month
Base Estimates	91,682,046	13,462,684	106,133,374	16,419,185

H. Specified Data Elements

When IRS is able to match SSN and name provided from the Hub and Return Information is available, IRS will disclose to CMS through the Hub the following items of Return Information with respect to each Relevant Taxpayer:

1. SSN;
2. Family Size;
3. Filing status;
4. MAGI;
5. Taxable year with respect to which the preceding information relates or, if applicable, the fact that such information is not available; and
6. Any other specified item of Return Information authorized pursuant to 26 U.S.C. § 6103(l)(21) and its implementing regulations.

VI. PROCEDURES FOR INDIVIDUAL NOTICE

At the time of the initial application, subsequent renewal(s) of coverage, or when reporting a change of circumstances, individuals will be notified either online, by telephone, in person or by mail in accordance with 45 C.F.R. § 155.405(c), 42 C.F.R. § 435.945(f), or 42 C.F.R. § 435.907 that the eligibility status of each Applicant, Enrollee or Medicaid/CHIP Beneficiary may be verified by matching against IRS records.

VII. VERIFICATION AND OPPORTUNITY TO CONTEST

The Privacy Act requires that each matching agreement specify procedures for verifying information produced in the matching program and an opportunity to contest findings, as required by 5 U.S.C. § 552a(p).

A. APTCs and CSRs

1. The Exchange will verify Return Information provided by the IRS with certain information provided by an Applicant on the application and information used for Redeterminations for an Enrollee with Return Information provided by the IRS to determine reasonable compatibility in accordance with 45 C.F.R. §§ 155.320; 155.330(e); 155.335(f). Pursuant to the verification process in 45 C.F.R. §§ 155.320(c), 155.315(f), 155.330(e) and 155.335(f), the Exchange will provide notice to and an opportunity to resolve the inconsistency for the Applicant or Enrollee if there is an inconsistency between the Applicant/Enrollee's attestation and the Return Information obtained from the IRS through the Hub in connection with Eligibility Determinations and Redeterminations for APTCs and CSRs. See also § 1411(e)(3)-(4) of the ACA.
2. In addition, the Exchange will provide notice of appeals procedures with a notice of Eligibility Determination and Redetermination pursuant to 45 C.F.R. §§ 155.230 and 155.355. An Applicant or Enrollee will be provided the opportunity to appeal denials of eligibility for APTCs and CSRs pursuant to § 1411(f)(1) of the ACA. Return Information may be disclosed to an Applicant or Enrollee only upon proper authorization of each Relevant Taxpayer for whom Return Information was disclosed.

B. Exemptions

The Exchange may verify certain information provided by an Applicant for an Exemption with Return Information provided by the IRS to determine reasonable compatibility in accordance with 45 C.F.R. §§ 155.615(f) and (g) and 155.620(c). Pursuant to the verification process in 45 C.F.R. §§ 155.615(f) and (g) and 155.620(c), the Exchange will provide notice to and an opportunity to resolve the inconsistency for the Applicant if there is an inconsistency between the Applicant's attestation and the Return Information obtained from the IRS through the Hub in connection with Eligibility Determinations for Exemptions. *See also* § 1411(e)(3)-(4) of the ACA. In addition, the Exchange will provide Applicants with notice of appeals procedures with a notice of Eligibility Determination pursuant to 45 C.F.R. §§ 155.230 and 155.635. An Applicant will be provided the opportunity to appeal denials of eligibility for an Exemption pursuant to § 1411(f)(1) of the ACA. Return Information may be disclosed to an Applicant only upon proper authorization of each Relevant Taxpayer for whom Return Information was disclosed.

C. Medicaid and CHIP

A State Medicaid or CHIP program must determine or renew eligibility based on information provided in accordance with 42 CFR §§ 435.916 and 457.380. An Applicant, or Medicaid/CHIP Beneficiary seeking to contest any information used for verification of an application or Renewal determination that results in an adverse Eligibility Determination may file an appeal with the agency that issued the Eligibility Determination. Return

Information may be disclosed to an Applicant or Medicaid/CHIP Beneficiary only upon proper authorization of each Relevant Taxpayer for whom Return Information was disclosed.

D. BHP

CMS will ensure that an Applicant for a BHP is provided with notice and an opportunity to resolve an inconsistency between an Applicant's attestation and Return Information provided by the IRS through the Hub before an Eligibility Determination is made. In addition, CMS will ensure that an Applicant for a BHP is provided notice and an opportunity to appeal a denial of eligibility for a BHP. Return Information may be disclosed to an Applicant only upon proper authorization of each Relevant Taxpayer for whom Return Information was disclosed.

E. Individuals may use tax administration procedures established by the IRS to correct or amend tax records on file with the IRS. Information provided to an Administering Entity to resolve an inconsistency as described in this Section VIII will be used only for an Eligibility Determination, Redetermination or Renewal and will not be used to amend or change the Return Information held by the IRS.

VIII. PROCEDURES FOR RETENTION AND TIMELY DESTRUCTION OF IDENTIFIABLE RECORDS

A. CMS FFE and the Hub will:

1. Maintain all Return Information received from IRS in accordance with applicable law, including 26 U.S.C. § 6103(p)(4) and IRS Publication 1075, which are available at http://www.irs.gov.The Hub will not permanently maintain Return Information;
2. Not create a separate file or SOR consisting of information concerning only those individuals who are involved in this specific matching program, except as is necessary to control or verify the information for purposes of this program; and
3. Erase the matching file generated through this matching operation as soon as the information has served the matching program's purpose and all legal retention requirements, including those established in conjunction with the National Archives and Records Administration under applicable procedures have been met.

B. IRS will retain CMS request data until successful completion of the match. CMS request data are not used by IRS for any purpose other than this matching program. Accordingly, IRS will protect CMS information in the same manner as information subject to the Privacy Act of 1974.

IX. SAFEGUARD REQUIREMENTS AND PROCEDURES

A. CMS will maintain all return information sourced from the IRS in accordance with IRC section 6103(p)(4) and comply with the safeguards requirements set forth in Publication 1075, *Tax Information Security Guidelines for Federal, State and Local Agencies,* which is the IRS published guidance for security guidelines and other safeguards for protecting return information pursuant to 26 CFR 301.6103(p)(4)-1. IRS safeguarding requirements require CMS, the Hub, and the FFE, as well as all Administering Entities to which CMS

provides return information to:

1. Establish a central point of control for all requests for and receipt of return information, and maintain a log to account for all subsequent disseminations and products made with/from that information, and movement of the information until destroyed, in accordance with Publication 1075, section 3.0.
2. Establish procedures for secure storage of return information consistently maintaining two barriers of protection to prevent unauthorized access to the information, including when in transit, in accordance with Publication 1075, section 4.0.
3. Consistently label return information obtained under this agreement to make it clearly identifiable and to restrict access by unauthorized individuals. Any duplication or transcription of return information creates new records which must also be properly accounted for and safeguarded. Return information should not be commingled with other records unless the entire file is safeguarded in the same manner as required for return information and the return information within is clearly labeled in accordance with Publication 1075, section 5.0.
4. Restrict access to return information solely to officers, employees and contractors of CMS whose duties require access for the purposes of carrying out this agreement. Prior to access, CMS must evaluate which employees require such access. Authorized individuals may only access return information to the extent necessary to perform services related to this agreement, in accordance with Publication 1075, section 5.0.
5. Prior to initial access to FTI and annually thereafter, CMS will ensure that employees, officers, and contractors that will have access to return information receive awareness training regarding the confidentiality restrictions applicable to return information and certify acknowledgement in writing that they are informed of the criminal penalties and civil liability provided by IRC sections 7213, 7213A, and 7431 for any willful disclosure or inspection of return information not authorized by the IRC, in accordance with Publication 1075, section 6.0.
6. Prior to initial receipt of return information, CMS and each Administering Entity must have an IRS approved SSR. CMS and each Administering Entity must annually thereafter submit an SSR to the Office of Safeguards by the submission deadline specified in Publication 1075, Section 7.0. CMS and each Administering Entity's Head of Agency must certify the SSR fully describes the procedures established for ensuring the confidentiality of return information, addresses all Outstanding Actions identified by the Office of Safeguards from a prior year's SSR submission; accurately and completely reflects the current physical and logical environment for the receipt, storage, processing and transmission of FTI; accurately reflects the security controls in place to protect the FTI in accordance with Publication 1075 and the commitment to assist the Office of Safeguards in the joint effort of protecting the confidentiality of FTI; report all data incidents involving return information to the Office of Safeguards and TIGTA timely and to cooperate with TIGTA and Office of Safeguards investigators, providing data and access as needed to determine the facts and circumstances of the incident; support the Office of Safeguards' on-site review to assess compliance with Publication 1075 requirements by means of manual and

automated compliance and vulnerability assessment testing, including coordination with information technology (IT) divisions to secure pre-approval, if needed, for automated system scanning and to support timely mitigation of identified risk to return information in a Corrective Action Plan (CAP) for as long as return information is received or retained. SSRs will be transmitted in electronic format and on the template provided by Office of Safeguards using an IRS-approved encryption method in accordance with Publication 1075, Section 7.0.

7. CMS will ensure that return information is properly destroyed or returned to the IRS when no longer needed in accordance with Publication 1075, section 8.0.
8. CMS will conduct periodic internal inspections of facilities where return information is maintained to ensure IRS safeguarding requirements are met and will permit the IRS access to such facilities as needed to review the extent to which CMS is complying with the IRC section 6103(p)(4) requirements of this section.

B. CMS and each Administering Entity must ensure information systems processing return information are compliant with Section 3544(a)(1)(A)(ii) of the Federal Information Security Management Act of 2002 (FISMA). CMS and each Administering Entity will maintain an SSR which fully describes the systems and security controls established at the moderate impact level in accordance with National Institute of Standards and Technology (NIST) standards and guidance. Required security controls for systems that receive, process, store and transmit federal tax returns and return information are provided in Publication 1075, section 9.0.

C. CMS and each Administering Entity agrees to report suspected unauthorized inspection or disclosure of return information within 24 hours of discovery to the appropriate Agent-in-Charge, Treasury Inspector General for Tax Administration (TIGTA), and to the IRS Office of Safeguards in accordance with as specified in Publication 1075, section 10.0.

D. CMS must ensure that contracts with contractors and subcontractors performing work involving return information under this agreement contain specific language requiring compliance with IRC section 6103(p)(4) and Publication 1075 safeguard requirements and enforces CMS' right to, and permits IRS access to, contractor and subcontractor facilities to conduct periodic internal inspections where return information is maintained to ensure IRS safeguarding requirements are met.

E. CMS officers, employees and contractors who inspect or disclose return information obtained pursuant to this agreement in a manner or for a purpose not so authorized by IRC are subject to the criminal sanction provisions of IRC sections 7213 and 7213A, and 18 U.S.C. section 1030(a)(2), as may be applicable. In addition, CMS could be required to defend a civil damages action under IRC section 7431.

F. IRS will conduct periodic safeguard reviews of CMS to assess whether security and confidentiality of return information is maintained consistent with the safeguarding protocols described in Publication 1075, CMS' SSR and in accordance with the terms of this agreement. Periodic safeguard reviews will involve the inspection of CMS facilities and contractor facilities where return information is maintained; the manual and

automated compliance and vulnerability assessment testing, including automated system scanning of technical controls for computer systems storing, processing or transmitting return information; review of CMS recordkeeping and policies and interviews of CMS employees and contractor employees as needed, to verify the use of return information and assess the adequacy of procedures established to protect return information.

G. CMS recognizes and treats all Safeguards documents and related communications as IRS official agency records; that they are property of the IRS; that IRS records are subject to disclosure restrictions under federal law and IRS rules and regulations and may not be released publicly under state Sunshine or Information Sharing/Open Records provisions and that any requestor seeking access to IRS records should be referred to the federal Freedom of Information Act (FOIA) statute. If CMS determines that it is appropriate to share Safeguard Documents and related communications with another governmental function/branch for the purposes of operational accountability or to further facilitate protection of FTI that the recipient governmental function/branch must be made aware, in unambiguous terms, that Safeguard Documents and related communications are property of the IRS; that they constitute IRS official agency records; that any request for the release of IRS records is subject to disclosure restrictions under federal law and IRS rules and regulations and that any requestor seeking access to IRS records should be referred to the federal Freedom of Information Act (FOIA) statute. Federal agencies in receipt of FOIA requests for safeguards documents must forward them to IRS for reply.

X. RECORDS USAGE, DUPLICATION, AND DISCLOSURE RESTRICTIONS

CMS and IRS will comply with the following limitations on use, duplication, and disclosure of the electronic files, and data provided by each Party under this Agreement:

A. CMS and IRS will use and disclose the data only for the purposes described in this Agreement or required by Federal law.

B. CMS and IRS will not use the data to extract information concerning individuals therein for any purpose not specified by this Agreement or permissible under applicable Federal law.

C. The matching data exchanged under this Agreement remain the property of each Party and will be destroyed after match activity involving the data has been completed or after relevant retention periods have expired under applicable law as described under this matching program.

D. CMS FFE will restrict access to the data matched to authorized officers, employees, contractors who require access to Return Information under this Agreement. CMS FFE will disclose Return Information only as authorized under 26 U.S.C. § 6103 to Applicants, Enrollees or Medicaid/CHIP Beneficiaries and their properly Authorized Representatives to support eligibility determinations.

E. Any individual who knowingly and willfully uses or discloses information obtained pursuant to this Agreement in a manner or for a purpose not authorized by 45 C.F.R. § 155.260 and Section 1411(g) of the ACA are potentially subject to the civil penalty provisions of Section 1411(h)(2) of the ACA, which carries a fine of not more than $25,000 per person or entity, per use or disclosure.

XI. ACCURACY ASSESSMENTS

A. CMS will validate all SSNs and names provided by an Administering Entity via the Hub against the records at the Social Security Administration or through documentation of SSN provided by the Applicant prior to initiating a request to IRS for the verification of Household Income and Family Size.

B. IRS provides Return Information from filed returns. The accuracy of such Return Information is dependent on the information included on the return.

XII. ACCESS BY THE GOVERNMENT ACCOUNTABILITY OFFICE

The Government Accountability Office may have access to IRS and CMS records, to the extent authorized by 26 U.S.C. § 6103 and 5 U.S.C. § 552a(o)(1)(K), for purposes of monitoring and verifying compliance with this Agreement.

XIII. REIMBURSEMENT

CMS will not reimburse IRS for any costs associated with this Agreement. If, at a future date, both parties agree that CMS will reimburse IRS for any activities described herein, a separate Interagency Agreement will be executed to address relevant costs.

XIV. DURATION, MODIFICATION, AND TERMINATION

A. This Agreement is expected to cover matching activities for the eighteen (18) month period beginning on April 2, 2016. However, the match may not begin prior to the expiration of (1) the thirty (30) day public comment period following CMS's publication of notice of this matching program in the Federal Register, (2) the thirty (30) day Congressional review period provided for in the Privacy Act (5 U.S.C. § 552a (o)(2)), or (3) the forty (40) day OMB review period provided for in Circular A-130, whichever is later. Such date will be the effective date of this Agreement.

B. Ninety (90) days prior to the expiration of this Agreement, the agencies may request a twelve (12) month extension in accordance with the Privacy Act (5 U.S.C. § 552a(o)(2)(D)). If either Party Agency does not want to extend this Agreement, it should notify the other at least ninety (90) days prior to the expiration of this Agreement. This Agreement may be modified at any time by a written modification to this Agreement that satisfies both agencies and is approved by the Data Integrity Board of each Party Agency.

XV. PERSONS TO CONTACT

A. The IRS contacts are:

1. Project Coordinator

Klaudia K. Villegas
Reimbursable Program Analyst
Internal Revenue Service
Governmental Liaison, Disclosure and Safeguards
Office of Data Services
Mail Stop 1020
300 North Los Angeles Street
Los Angeles, CA 90012-3308
Telephone: (213) 576-4223/Fax: (855) 207-0455
Email: Klaudia.K.Villegas@irs.gov

2. Safeguards and Recordkeeping Procedures

Gregory T. Ricketts
Associate Director
Office of Governmental Liaison, Disclosure and Safeguards
Office of Safeguards
5333 Getwell Road
Memphis, TN 38118
Telephone: (901) 546-3078
Email: Gregory.T.Ricketts@irs.gov

3. Program Information

Johnny Witt
Deputy Director
Affordable Care Act Implementation Office
1111 Constitution Ave., NW
Washington, DC 20224
Telephone: (202) 927-0252
Fax: (202) 317-3764
E-Mail: Johnny.Witt@irs.gov

4. Systems Operations

Joel Mittler
Director, ACA Core Systems, Affordable Care PMO
450 Golden Gate Ave
San Francisco, CA 94102
Telephone: (202) 480-6369
E-Mail: Joel.Mittler@irs.gov

B. The CMS contacts are:

1. Program Issues:

Elizabeth Kane
Acting Director, Verifications Policy & Operations Division
Eligibility and Enrollment Policy and Operations Group
Center for Consumer Information and Insurance Oversight
Centers for Medicare & Medicaid Services
7501 Wisconsin Avenue
Bethesda, MD 20814
Telephone: (301) 492-4418/ Fax: (443) 380-5531
E-Mail: Elizabeth.Kane@cms.hhs.gov

2. Medicaid/CHIP Issues:

Jessica Kahn
Director
Data and Systems Group
Center for Medicaid and CHIP Services
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Mail Stop: S2-22-16
Location: S2-23-06
Baltimore, MD 21244-1850
Telephone: (410) 786-9361
Email: jessica.kahn@cms.hhs.gov

3. Systems Operations:

Darrin V. Lyles
Information Security Officer, RPDG
CMS\OIS\RPDG
Consumer Information and Insurance Systems Group
7500 Security Boulevard
Baltimore, MD 21244
Phone: 410-786-4744
Phone: 443-979-3169 (Mobile)
E-mail: Darrin.Lyles@cms.hhs.gov

4. Privacy and Agreement Issues:

Celeste Dade-Vinson
Division of Security, Privacy Policy & Governance
Information Security & Privacy Group
Office of Enterprise Information
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Mail Stop: N1-24-08
Location: N1-24-07
Baltimore, MD 21244-1849

Telephone: 410-786-0854
Fax: 410-786-5636
E-mail: Celeste.Dade-Vinson@cms.hhs.gov

5. Privacy Incident Reporting:

LaTasha Grier
Division of Cyber Threat and Security Operations
Information Security & Privacy Group
Office of Enterprise Information
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Mail Stop: S2-26-17
Location: N1-25-24
Baltimore, MD 21244-1849
Telephone: 410-786-3328
Fax: 410-786-5636
E-mail: Latasha.Grier@cms.hhs.gov

6. Security Issues:

Tae H. Rim
Information Technology Specialist
Enterprise Infrastructure & Operations Group
Office of Technology Solutions
7500 Security Boulevard
Baltimore, MD 21244-1859
Phone: (410) 786-3911
Phone: (443) 847-0342 (Mobile)
E-mail: Tae.Rim@cms.hhs.gov

XVI. LIMITATIONS

The terms of this Agreement are not intended to alter, amend, or rescind any other current agreement or provision of federal law now in effect. Any provision of this Agreement that conflicts with federal law is invalid.

XVII. LIABILITY

A. Each Party shall be liable for acts and omissions of its own employees.

B. Neither Party shall be liable for any injury to the other Party's personnel or damage to the other Party's property, unless such injury or damage is compensable under the Federal Tort Claims Act (28 U.S.C. § 1346(b)), or pursuant to other federal statutory authority.

C. Neither Party shall be responsible for any financial loss incurred by the other, whether caused directly or indirectly through the use of any data furnished pursuant to this Agreement.

XVIII. CONTINGENCY CLAUSE

This Agreement is contingent on CMS meeting the federal safeguard requirements specified in section VII of this Agreement. Matches with CMS under this Agreement will be suspended or discontinued immediately if, at any time, IRS determines that CMS or its contractor has failed to meet the federal safeguard requirements or any Privacy Act requirements. See the regulations at 26 C.F.R. § 301.6103(p)(7)-1 regarding procedures for administrative review of such a determination.

XIX. REPORT TO CONGRESS

When both the HHS Data Integrity Board and the Treasury Data Integrity Board have approved this Agreement, CMS will submit a report of the matching program to Congress and OMB for review, and will provide a copy of such notification to IRS.

XX. APPROVALS

A. Centers for Medicare & Medicaid Services Program Official

The authorized program official, whose signature appears below, accepts and expressly agrees to the terms and conditions expressed herein, confirms that no verbal agreements of any kind shall be binding or recognized, and hereby commits the organization to the terms of this Agreement.

Approved By (Signature of Authorized CMS Program Official)

____

Karen Shields **Date:_______________**
Deputy Center and Operations Director
Center for Consumer Information and Insurance Oversight
Centers for Medicare & Medicaid Services

B. Centers for Medicare & Medicaid Services Program Official

The authorized program official, whose signature appears below, accepts and expressly agrees to the terms and conditions expressed herein, confirms that no verbal agreements of any kind shall be binding or recognized, and hereby commits the organization to the terms of this Agreement.

Approved By (Signature of Authorized CMS Program Official)

____

Timothy Hill **Date:_______________**
Deputy Director
Information Security and Privacy Group
Centers for Medicaid and CHIP Services
Centers for Medicare & Medicaid Services

C. Centers for Medicare & Medicaid Services Approving Official

The authorized approving official, whose signature appears below, accepts and expressly agrees to the terms and conditions expressed herein, confirms that no verbal agreements of any kind shall be binding or recognized, and hereby commits the organization to the terms of this Agreement.

Approved By (Signature of Authorized CMS Approving Official)

____

Emery Csulak **Date:_______________**
Senior Official for Privacy
Information Security and Privacy Group
Office of Enterprise Information
Centers for Medicare & Medicaid Services

D. Department of Health and Human Services Data Integrity Board Official

The authorized Data Integrity Board (DIB) official, whose signature appears below, accepts and expressly agrees to the terms and conditions expressed herein, confirms that no verbal agreements of any kind shall be binding or recognized, and hereby commits the organization to the terms of this Agreement.

Approved By (Signature of Authorized HHS DIB Official)

____

Colleen Barros **Date:_______________**
Acting Chairperson
HHS Data Integrity Board

E. Internal Revenue Service Approving Official

The authorized approving official, whose signature appears below, accepts and expressly agrees to the terms and conditions expressed herein, confirms that no verbal agreements of any kind shall be binding or recognized, and hereby commits the organization to the terms of this Agreement.

Approved By (Signature of Authorized IRS Approving Official)

____
Joyce Peneau **Date:_______________**
Acting Director
Office of Privacy, Governmental Liaison and Disclosure
Internal Revenue Service

F. Department of the Treasury Data Integrity Board Official

The authorized approving official, whose signature appears below, accepts and expressly agrees to the terms and conditions expressed herein, confirms that no verbal agreements of any kind shall be binding or recognized, and hereby commits the organization to the terms of this Agreement.

Approved By (Signature of Authorized Treasury Approving Official)

____

Helen Goff Foster **Date:_______________**
Chairperson, Treasury Data Integrity Board
Deputy Assistant Secretary for Privacy, Transparency, and Records

Attachment A

Cost-Benefit Analysis: Eligibility Verifications with Federal Agencies

I. BACKGROUND

Statutory Requirements

This cost-benefit analysis covers computer matching programs used by CMS to provide "eligibility verification" hub services required to implement provisions of the Patient Protection and Affordable Care Act (ACA) related to verifying individuals' eligibility for enrollment in qualified health plans (QHPs) with or without advance payments of the premium tax credit or cost-sharing reductions; in Medicaid; in CHIP; or in Basic Health Plans. Section 1411(a) of ACA requires the Secretary of the Department of Health and Human Services (HHS) to establish a program to determine eligibility for enrollment in coverage under a qualified health plan through an Exchange or certain state health subsidy programs[1], and for certifications of exemption from the individual responsibility requirement or the penalty imposed by section 5000A of the Internal Revenue Code. Section 1411(c) requires the verification of certain identifying information against the records maintained the Social Security Administration, the Department of Homeland Security, and the U.S. Department of the Treasury. Section 1411(d) directs HHS to establish a system for the verification of other information necessary to make an eligibility determination. Section 1413 requires HHS to establish a streamlined enrollment system and secure electronic interface to verify data and determine eligibility for state health subsidy programs. Section 2201 requires that Medicaid and CHIP agencies utilize this streamlined enrollment system.

Design of Computer Matching Program

To implement these provisions regarding verifying consumer information related to eligibility determinations, CMS selected a computer matching program design that minimizes burdens for all parties and better ensures the integrity and security of the data. Specifically, CMS enters into separate CMAs with each of the following federal agencies: Social Security Administration (SSA), Department of Homeland Security (DHS), Internal Revenue Service (IRS), Veteran's Health Administration (VHA), the Department of Defense (DoD), the Office of Personnel Management (OPM) and the Peace Corps (each a trusted data source or TDS). These CMAs address with specificity the data provided by each federal agency to CMS for use by CMS and state-based entities administering state health subsidy programs (Administering Entities) in performing eligibility determinations. CMS receives data covered under these CMAs through the CMS Data Services Hub (Hub), which provides a single data exchange for Federal and State-based agencies administering state health subsidy programs to interface with Federal agency partners. Administering Entities can request data matches through this Hub pursuant to a separate CMA entered into between each state and the District of Columbia and CMS. CMS uses the

[1] State health subsidy programs means the program for the enrollment in qualified health plans offered through an Exchange, including the premium tax credits and cost-sharing reductions; a state Medicaid program; a state children's health insurance program (CHIP); and a state program under section 1331 establishing qualified basic health plans.

same CMA for each state, with the CMA specifying the allowed uses of data elements shared through the Hub, depending on which state health subsidy program the state administers (e.g., the CMA only authorizes a state to use certain data to perform verifications related to Basic Health Programs if the state administers a basic health program). This CMA also provides for Medicaid and CHIP programs to provide data to CMS for use in eligibility determinations.

This design achieves efficiencies by allowing Administering Entities to access data matches from federal Trusted Data Sources without each Administering Entity having to execute separate CMAs with each Trusted Data Source. Furthermore, the use of the Hub to perform data matches under the program ensures adherence to Federal and industry standards for security, data transport, and data safeguards as well as CMS policy for Exchanges, and makes it unnecessary for each state to develop and support separate verification processes through which they can receive, store, and secure the data provided by the source federal agencies. Additionally, this design ensures that all parties are using the same data to perform eligibility determinations, which better ensures data integrity.

Methodology of Cost-Benefit Analysis

Although the cost-benefit analysis of this computer matching program design is based on limited data and includes estimates that have not been confirmed by studies, it addresses all four key elements identified in GAO/PEMD-87-2 (i.e., Personnel Costs; Computer Costs; Avoidance of Future Improper Payments; and Recovery of Improper Payments and Debts). The analysis includes estimates of CMS's labor and system costs as both the recipient agency in relation to the aforementioned trusted data sources and recipient and source agency in relation to state-based administering entities; costs incurred by TDSs; and costs to Administering Entities (Medicaid/CHIP agencies, Marketplaces and agencies administering the Basic Health Program) to support the hub services. It also includes qualitative benefits to the parties, including clients and the public at large. Where data are unavailable to produce informed estimates, the analysis also describes types of costs and benefits that are not quantifiable at this time. At this time, the only quantified benefits are cost savings achieved by using the existing matching program instead of a manual process for eligibility verifications.

The timeframe for the analysis is fiscal year 2015 – which programmatically aligns with eligibility and enrollment activities during Open Enrollment 2015 through just before 2016 Open Enrollment. CMS anticipates that operational experience beyond 2015 will provide additional data from which other quantifiable benefits could be estimated for future cost-benefit analyses of this computer matching program.

The methodology used compares the costs and benefits of performing eligibility verifications manually, without computer matching (i.e., without the single, streamlined computer system mandated by the ACA, which depends on use of computer matching), versus electronically, with computer matching. The hypothetical manual process is one in which no electronic data would be used for verification and consumers would be required to submit paper documentation to verify data as specified in the ACA. Because CMS has no choice but to use computer matching to comply with the ACA mandate to provide a single, streamlined computerized eligibility verification process, this cost-benefit analysis also describes savings realized by the choice of design used to effect the computer matching programs. However, we do not have data to quantify these savings at this time.

The methodology for specific estimates is described in the following section.

II. COSTS

<u>*Key Element 1: Personnel Costs*</u>

For Agencies –

Note: CMS serves as a both a recipient agency (with respect to TDS and certain Medicaid/CHIP programs) and a source agency (with respect to Administering Entities). Many of CMS's costs cannot be cleanly attributed to its role as either a source or a recipient agency. Therefore we have listed all of CMS's personnel costs together in a separate category. In addition, certain Medicaid and CHIP agencies play a dual role, as a source and recipient agency. We have grouped their costs in the recipient agency category.

- *Source Agency*: We estimate that personnel costs for source agencies total approximately $21.7 million. CMS does not collect information from each source agency about their personnel costs, therefore this estimate is built off personnel cost assumptions based on hub service context, TDS partnership history and known ongoing work. We believe a decentralized computer matching program would require source agencies to designate additional personnel to accommodate the burden of supporting separate computer matching programs with each state.
- *Recipient Agencies:* We estimate that the personnel costs associated with the computer matching program to recipient agencies (including State-based Marketplaces, Medicaid/CHIP agencies and Basic Health Programs) is $215 million. We do not require recipient agencies to submit personnel costs to CMS. This estimate is based on assumptions from CMS operational engagement with these agencies. In contrast, a manual process would require additional personnel to manually review and verify consumer information. We estimate that a manual process would require just over one billion dollars in personnel costs to recipient agencies. This estimate is based off the cost of the current cost of manually verifying consumer information today for Marketplaces and the Basic Health Program. The Medicaid/CHIP cost is mitigated by the assumption that without the current Hub Medicaid/CHIP would use the decentralized data connections they had pre-ACA with TDSs. Overall however, a decentralized computer matching program would likely require recipient agencies to spend more on personnel costs than the existing matching program, but less than a manual process. We have not quantified the associated costs.
- *CMS:* We quantified two categories of personnel costs for CMS: (1) personnel costs associated with verification services generally and providing support to the TDSs; and (2) personnel costs associated with providing state-based Administering Entities with technical assistance. Note, that these estimates focus on the operational, technical and policy support to the eligibility verification services; they do not include all personnel costs associated with the computer matching program. For example, we have not included an estimate of costs associated with preparing the computer matching agreements. We estimate that the computer matching program includes personnel costs for category (1) of approximately $1.5 million, and for category (2) of approximately $400,000. This estimate is based on current staffing from policy, operational and technical support teams and their contractors directly supporting the eligibility verification services, the source agencies and the recipient agencies. We believe a manual system would increase the personnel costs in category (1), but decrease the

personnel costs devoted to state technical assistance, for a net increase in personnel costs of approximately $200,000. We believe a decentralized computer matching program would similarly decrease the personnel costs related to state technical assistance to CMS (while significantly increasing these costs for source and recipient agencies), but would not result in significant savings in category (1), as CMS would continue to require roughly the same personnel to support the verifications services for the FFM, and would continue to provide similar support to TDSs.

Additionally, certain personnel costs incurred by source agencies are transferred to CMS. We estimate these computer costs at $2.1 million. These costs were not included in the personnel costs estimated for source agencies above.

- *Justice Agencies:* Because, as described in section III, data from this computer matching program is not used to recover improper payments, we are aware of no personnel costs to justice agencies associated with this computer matching program.

For Clients: When a data match through the eligibility hub services identifies a data inconsistency, clients (consumers) are given an opportunity to produce documentation showing they are eligible for the applicable program. We believe that the centralized, electronic/real-time computer matching program produces more accurate verifications than either a manual system or a decentralized computer matching program, minimizing the amount of time clients must spend responding to inaccurate verifications. We have quantified that cost at $408 million, using the estimated time to gather and mail documents and the standard hourly wage to quantify an average client's time. In addition to saving clients time, we believe the more efficient centralized computer matching program design will reduce the frustration experienced by clients in trying to verify their data.

For Third Parties: No data was developed regarding costs to third parties however we would expect that overall the increased accuracy of data matches that is achieved through this computer matching agreement results in lower personnel costs to third parties, for example Navigators that assist consumers with an applicant, than either a manual process or a decentralized computer matching program.

For the General Public: We are not aware of personnel costs to the general public associated with the matching program.

<u>*Key Element 2: Agencies' Computer Costs*</u>

Note: CMS serves as both a recipient agency (with respect to each TDS and certain Medicaid/CHIP programs) and a source agency (with respect to Administering Entities). Many of CMS's costs cannot be cleanly attributed to its role as either a source or a recipient agency. Therefore we have listed all of CMS's computer costs separately. In addition, certain Medicaid and CHIP agencies play a dual role, as a source and recipient agency. We have grouped their costs in the recipient agency category.

- *Source Agencies (with exception of CMS and Medicaid/CHIP agencies):* We estimate the computer costs associated with the computer matching program to be $7.0 million for source agencies. We did not quantify the computer costs to source agencies if the computer matching program relied on a decentralized design through which each Administering Entity established separate connections with the source agency or used existing connections. However, we anticipate that the centralized design of the computer

matching program achieves economies of scale that result in significant savings to the source agencies.

- *Recipient Agencies (with exception of CMS):* We estimate that the computer (system) associated with the computer matching program to recipient agencies (including State-based Marketplaces, Medicaid/CHIP agencies and Basic Health Programs) is $647 million, versus $431 million with a manual verification process. We do not require recipient agencies to submit system costs to CMS. This estimate is based on assumptions from CMS operational engagement with these agencies. While a manual process to review and verify consumer information has most of its cost from personnel, systems would likely still exist to maintain consumer information such as a consumer account system in addition to system connections that would triggered manually, for example accessing the DHS/SAVE system through the manual user interface.
- *CMS:* We estimate the computer (system) costs of maintaining the Data Services Hub that facilitates the computer matching program is $136.8 million. In contrast, we estimate the computer costs associated with a manual verification process would be $1.8 billion. This estimate is based on the average cost to process a paper or manual verification today ($17 per verification) multiplied by the number of eligibility verifications performed on an application times the number of applicants. The number of eligibility verifications depends upon applicants who were not seeking financial assistance (9%) verses those applicants who were seeking financial assistance. We also added an assumption that there would be a 10% reduction of applicants seeking financial assistance with the added burden of a manual verification process.

  We note that under this manual process many of the costs would be transferred from CMS to states. If instead of the current streamlined and centralized computer matching program, CMS required each Administering Entity to establish its own secure connection with TDSs to receive data (or use an existing connection), CMS would still need to establish a secure connection with each TDS for its own use in performing eligibility determinations for the FFM. While the costs of maintaining the Hub would likely be lessened due to the absence of data match requests for Administering Entities, there are economies of scale achieved by allowing the Administering Entities to use the Hub.

  Additionally, certain computer costs incurred by the source agencies are transferred to CMS. We estimate these computer costs at $6.8 million. These costs were not included in the computer costs estimated for source agencies above.
- *Justice Agencies:* We are not aware of any computer costs incurred by justice agencies in connection with this matching program.

III. BENEFITS

Key Element 3: Avoidance of Future Improper Payments

To Agencies –

- *Source agencies:* Source agencies do not receive benefits related to the avoidance of future improper payments, with the exception of CMS, which receives these benefits in its role as a recipient agency (i.e., as the operator of the FFM). These benefits to CMS are described in the recipient agencies section below.

- *Recipient agencies:* We believe that our electronic verification sources are a more accurate and efficient means of verifying a consumer's information compared to both the manual review of consumer-provided documentation and the use of multiple decentralized computer matching programs between each Administering Entity and each TDS. The real-time data matches allowed by the computer matching program increase the efficiency with which we verify a consumer's information, allowing for increased avoidance of improper payments for the FFM, state-based Marketplaces, Medicaid, CHIP, and Basic Health Programs. For example, real-time capabilities mean the front-end application can be dynamic to the consumer responses as well as the data received real-time to correct data and/or reduce the need for manual follow-up. Specific examples of this efficiency could include a prompt to an applicant to check their social security number if it doesn't match the first time, allowing a consumer to correct 'fat finger' mistakes in seconds rather than go through a lengthy manual process, or requesting specific documentation number follow up information about a consumer who has attested to being a lawful immigrant in a specific category. By increasing the accuracy of our verifications, we (1) avoid improper payments being made to individuals who are ineligible; and (2) reduce the additional time spent by staff at the aforementioned agencies in addressing incorrectly identified data inconsistencies. Finally, we believe this computer matching program deters fraud and abuse on applications for state health subsidy programs, future avoiding future improper payments. We do not currently have reliable data to quantify these avoided improper payments. As the program matures, we anticipate having data that likely could be used to calculate an approximate calculation of the increased accuracy of online verifications. The Office of Financial Management-led improper payment rate methodology for the Marketplace may be one source of this valuable information.

  We are exploring the possibility of leveraging the computer matching program for use in eligibility determinations for other public benefit programs. If we were to expand the program, we anticipate even more benefits for consumers and the agencies that support such consumer programs.
- *Justice Agencies:* We assume that by enabling the FFM and Administering Entities to identify individuals who are ineligible for enrollment in Medicaid, CHIP and Basic Health Programs, or receipt of APTC or CSRs earlier than if a paper-based system was used, the matching program reduces the number and amount of cases referred to the Departments of Justice. At this time we do not have enough information to quantify these benefits.
- *To the General Public:* We believe that the use of a centralized, streamlined, electronic computer matching program increases the general public's confidence in state health subsidy programs, given a manual process would be laughable given present-day electronic capabilities and the pervasiveness of electronic, real-time processes.

To Clients: Data from the computer matching program are used to determine the amount of APTC for which an individual is eligible. Consumers who receive APTC must file an income tax return to reconcile the amount of APTC (based on projected household income) with the final premium tax credit for which the individual is eligible (based on actual household income). Some consumers, particularly those with liquidity constraints, may have trouble repaying

improperly paid APTC. The benefit of avoiding improper payments of APTC to these consumers is not quantifiable.

Additional benefits from the matching program to clients are also not quantifiable. By building public confidence in the state health subsidy programs, the computer matching program decreases the stigma of participating in a state health subsidy program.

Key Element 4: Recovery of Improper Payments and Debts

Data from the matching program is not currently used to identify and recover improper payments. Annual reconciliation and recovery of improper payments is ultimately performed by the IRS through a process that is also independent from CMS's eligibility activities, including this computer matching agreement. Because data matches under this computer matching program are not used for recovery of improper payments, there are no benefits to estimate in this category. While annual and monthly reporting by Marketplaces to the IRS and consumers is a way of Marketplaces providing data to support IRS's reconciliation, annual and monthly reporting is not an activity covered in the IRS-CMS CMA and therefore is outside the scope of this study. As these uses are not allowed under the CMAs being entered into at this time, there are currently no benefits to quantify in this category for agencies, clients or the general public.