

# EXPERT UPDATE



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## **CMS Explains Same-Sex Marriage Rules for Healthcare Exchange Program**

The Centers for Medicare and Medicaid Services (CMS) have issued guidance pertaining to the recognition of same-sex marriages. This guidance specifically addresses the eligibility for advance payment of premium tax credits and cost-sharing reduction for coverage purchased through the new healthcare Exchanges. After the *Windsor* decision was issued by the U.S. Supreme Court, the IRS released guidance recognizing same-sex marriages for federal tax purposes. This guidance states that the IRS now recognizes same-sex marriages that are valid within a state or country, even if the partners currently reside in a state that does not recognize same-sex marriage at this time. CMS will now require the Health Insurance Marketplaces to evaluate marital status based on the law of the state or country where the marriage was performed, even if they are currently domiciled in a state that does not recognize these unions.

In a separate statement, CMS also explains how the *Windsor* decision will affect eligibility for Medicaid and the Children's Health Insurance Program (CHIP). For salary based eligibility requirements under CHIP and Medicaid, CMS will permit states to use their own rules to determine whether the same-sex partners are lawfully married. Additionally, regulators admit that there are disparities between the marriage recognition rules for premium tax credit, Medicaid, and CHIP and further guidance is expected.

### *Resources*

[www.irs.gov/pub/irs-drop/rr-13-17.pdf](http://www.irs.gov/pub/irs-drop/rr-13-17.pdf)

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