Robert Wood Johnson Foundation

"Reasonable" Flexibility: Exploring Models to Help States Resolve Inconsistencies in Income for Medicaid, CHIP and Tax Credit Eligibility

Thursday, June 28, 2012
3:30-4:45pm EDT

State Health Reform Assistance Network
Charting the Road to Coverage

Maximizing Enrollment
Transforming State Health Coverage

200579976

Agenda Overview

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- **Introduction**
  - *Chad E. Shearer,* Deputy Director, State Health Reform Assistance Network
  - *Alice Weiss,* Co-Director, Maximizing Enrollment
- **Reasonable Compatibility Straw Models**
  - *Deborah Bachrach*, Special Counsel, Manatt Health Solutions
  - *Kinda Serafi*, Counsel, Manatt Health Solutions
- **State View on Reasonable Compatibility Planning**
  - *Karen Gibson*, Director of the Health Care Eligibility and Access Division, Minnesota Department of Human Services
- **CMS Perspective**
  - *Anne Marie Costello*, Director, Division of Eligibility, Enrollment and Outreach, Children and Adults Health Program Group, Center for Medicaid and CHIP Services
  - *Ben Walker*, Health Insurance Specialist, Consumer Information and Insurance Oversight

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Reasonable Compatibility Strawmodels

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Overview of Reasonable Compatibility Straw Models

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- Considerations in Defining Reasonable Compatibility
- Medicaid
- CHIP
- Advance Premium Tax Credits (APTC)/Cost Sharing Reductions (CSR)

Income Verification and the Reasonable Compatibility Standard

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- **Regulations.** On March 23, 2012, CMS published final and interim final regulation to guide eligibility determinations including application of the Reasonable Compatibility Standard for Medicaid, CHIP and Advance Premium Tax Credit/Cost Sharing Reductions (Insurance Affordability Programs).

- **Verification.** Eligibility determinations must be based, to the maximum extent possible, on self-attestation of income verified by information obtained from electronic data sources.

- **Reasonable Compatibility.** When information obtained through electronic data sources is reasonably compatible with an individual's attestation of income, the attestation is considered verified and may be relied upon by the Exchange or the Medicaid/CHIP Agency.
  - Attestation and data sources are reasonably compatible if "the difference or discrepancy does not impact the eligibility of the applicant."
  - When attestation and data sources are not reasonably compatible the federal regulations provide processes for resolving discrepancies.

- **Documentation.** When data obtained by a state is reasonably compatible with an applicant's attestation, no additional documentation may be required.

- **Flexibility**. States have flexibility in defining a reasonable compatibility standard for Medicaid, CHIP and APTC/CSR.

Considerations for Constructing a Reasonable Compatibility Standard

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In constructing a Reasonable Compatibility Standard, State decision-makers will want to consider how best to:

- Maximize automation
- Minimize need for paper documentation
- Avoid income-based coverage denial
- Maintain a simple and transparent process for consumers
- Ensure program integrity

Role of Reasonable Compatibility in Verification Process

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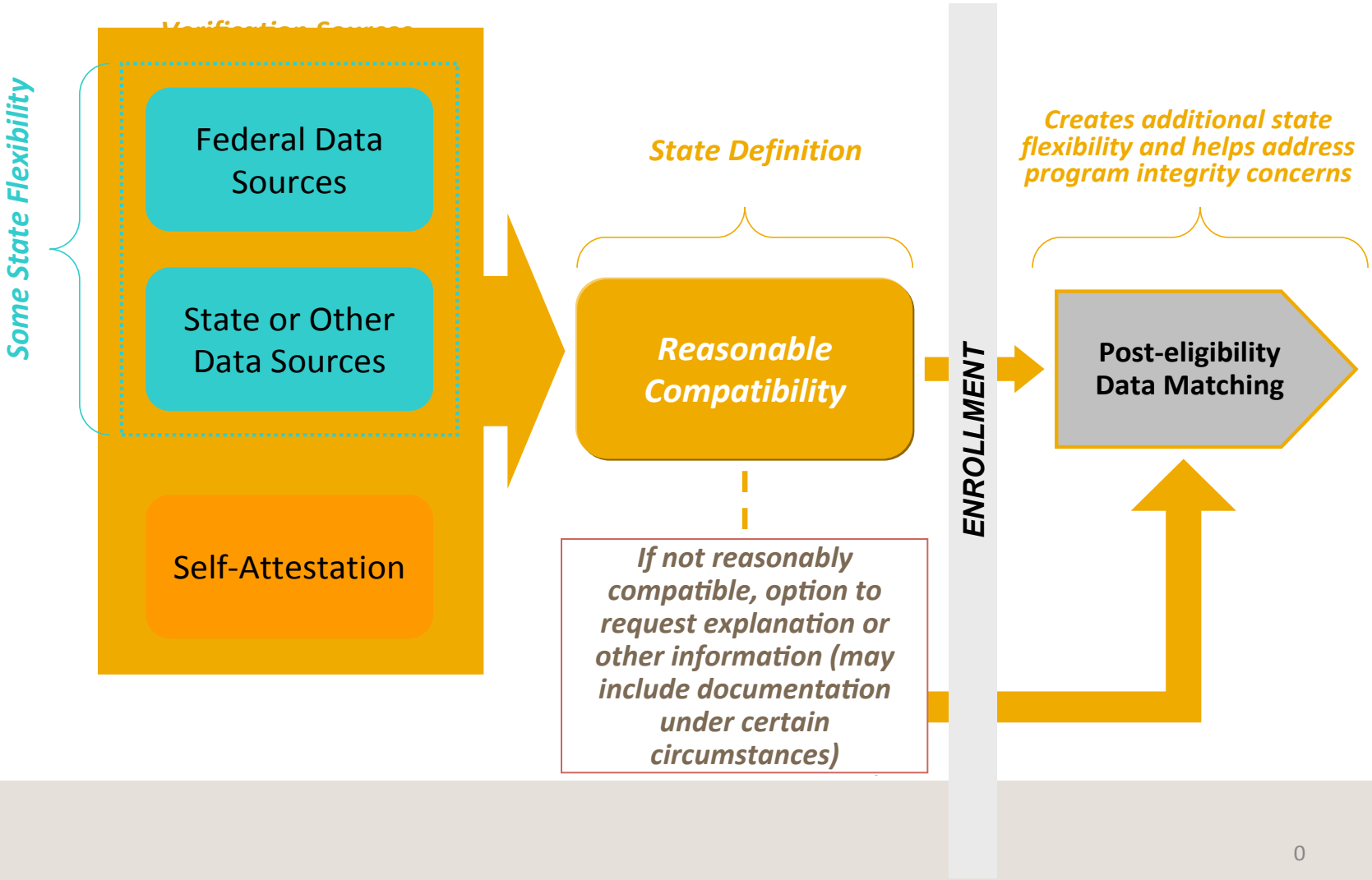

Medicaid Reasonable Compatibility Straw Model

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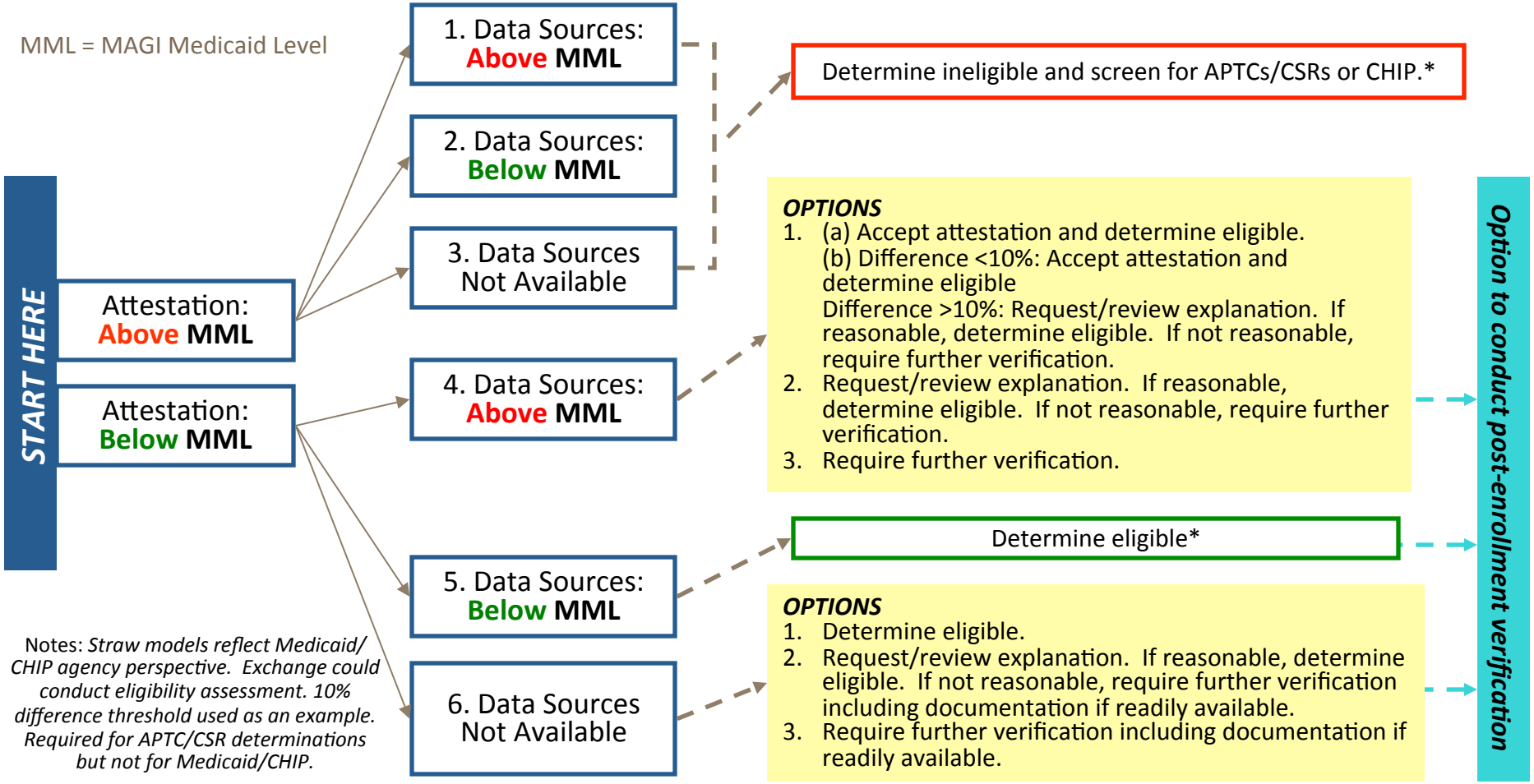

Notes: *Straw models reflect Medicaid/ CHIP agency perspective. Exchange could conduct eligibility assessment. 10% difference threshold used as an example. Required for APTC/CSR determinations but not for Medicaid/CHIP.*

*** Feature of RC straw model required in federal rule.**

Medicaid: Illustrative Example

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Attestation below Medicaid eligibility level

Individual attests to income of $14,000. Data shows income at $17,000.

OPTIONS:

- Individual **eligible** because State accepted attestation (pursuant to Verification Plan) and will conduct post eligibility verification.
- Find **not Reasonably Compatible (RC)** because difference between attestation and income is > 10%. Request/review explanation. If reasonable, determine eligible. If not reasonable, require further verification.
- Find **not RC.** Request/review explanation. If reasonable, determine eligible. If not reasonable, require further verification.
- Find **not RC.** Request further verification.

KEY:
133% FPL for an individual = $14,400/year

CHIP Reasonable Compatibility Straw Model

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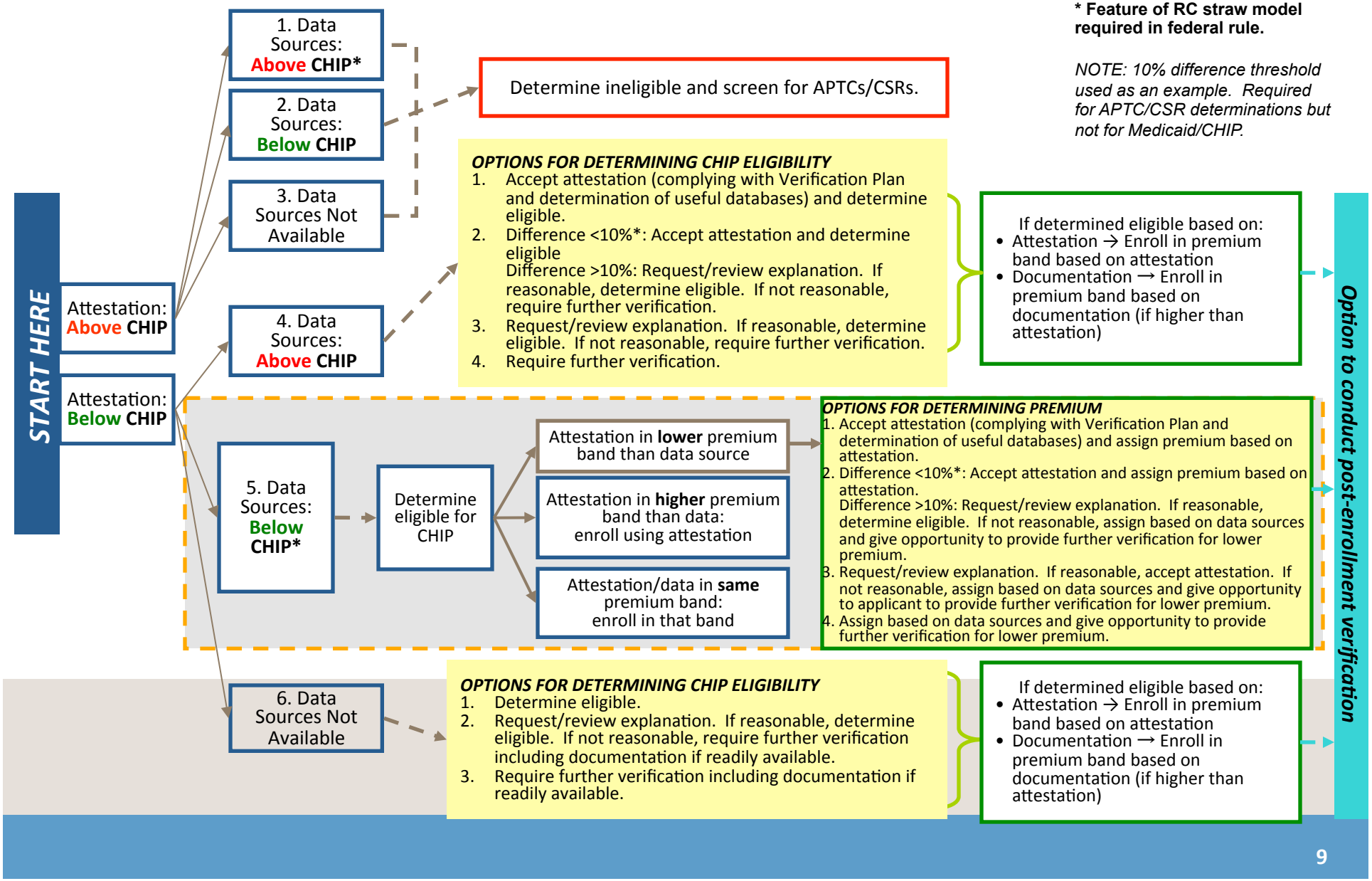

CHIP: Illustrative Examples

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CHIP Premium Assignment

Mom (and child) attests to income of $40,000. Data shows income at $50,000. (Attestation and data both below CHIP, but attestation in lower premium band than data source).

- **OPTION 1:** Find **RC**, **accept attestation** (pursuant to Verification Plan) and assign premium based on attestation. Conduct post eligibility verification.
- **OPTION 2:** Find **not RC** because difference between attestation and data is >10%:
  (i) obtain a reasonable applicant explanation; if reasonable, assign premium based on attestation. If not reasonable, assign premium based on data sources and give opportunity to provide further verification for lower premium.
  or,
  (ii) request documentation. If resolved through documentation, assign premium based on documentation.
- **OPTION 3:** Request/review explanation. If reasonable **determine eligible**. If not reasonable require further verification.
- **OPTION 4:** Require further verification.

KEY:
400% FPL for a family of 2: $58,800
133% FPL for a family of 2: $19,572

Advance Premium Tax Credit (APTC)/Cost Sharing Reductions (CSR) Reasonable Compatibility Straw Model

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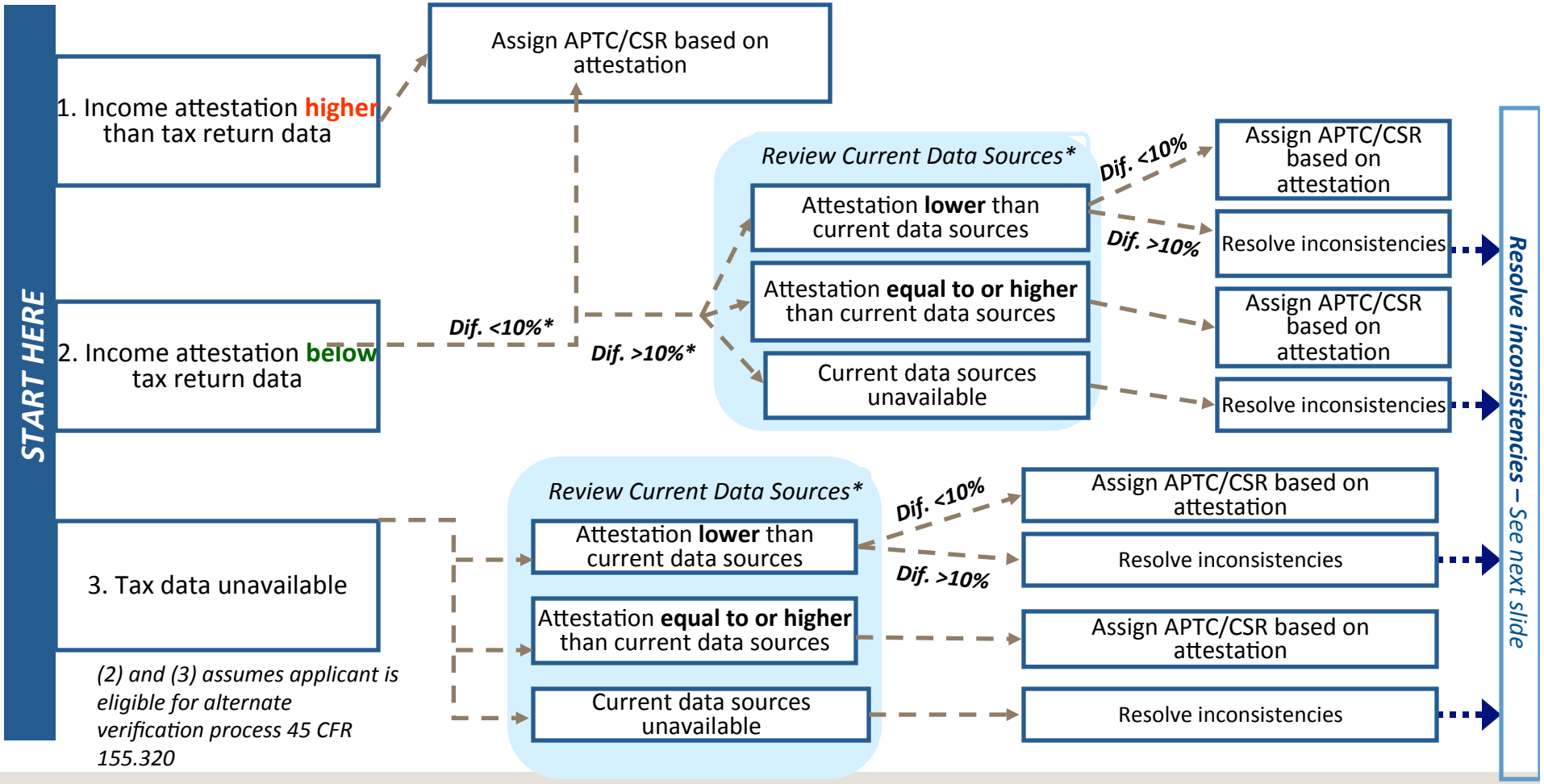

Note: **Tax data and current data sources may be pulled simultaneously.**
***Feature of RC straw model required in federal rule.**

APTC/CSR Straw Model: Process for Resolving Inconsistencies*

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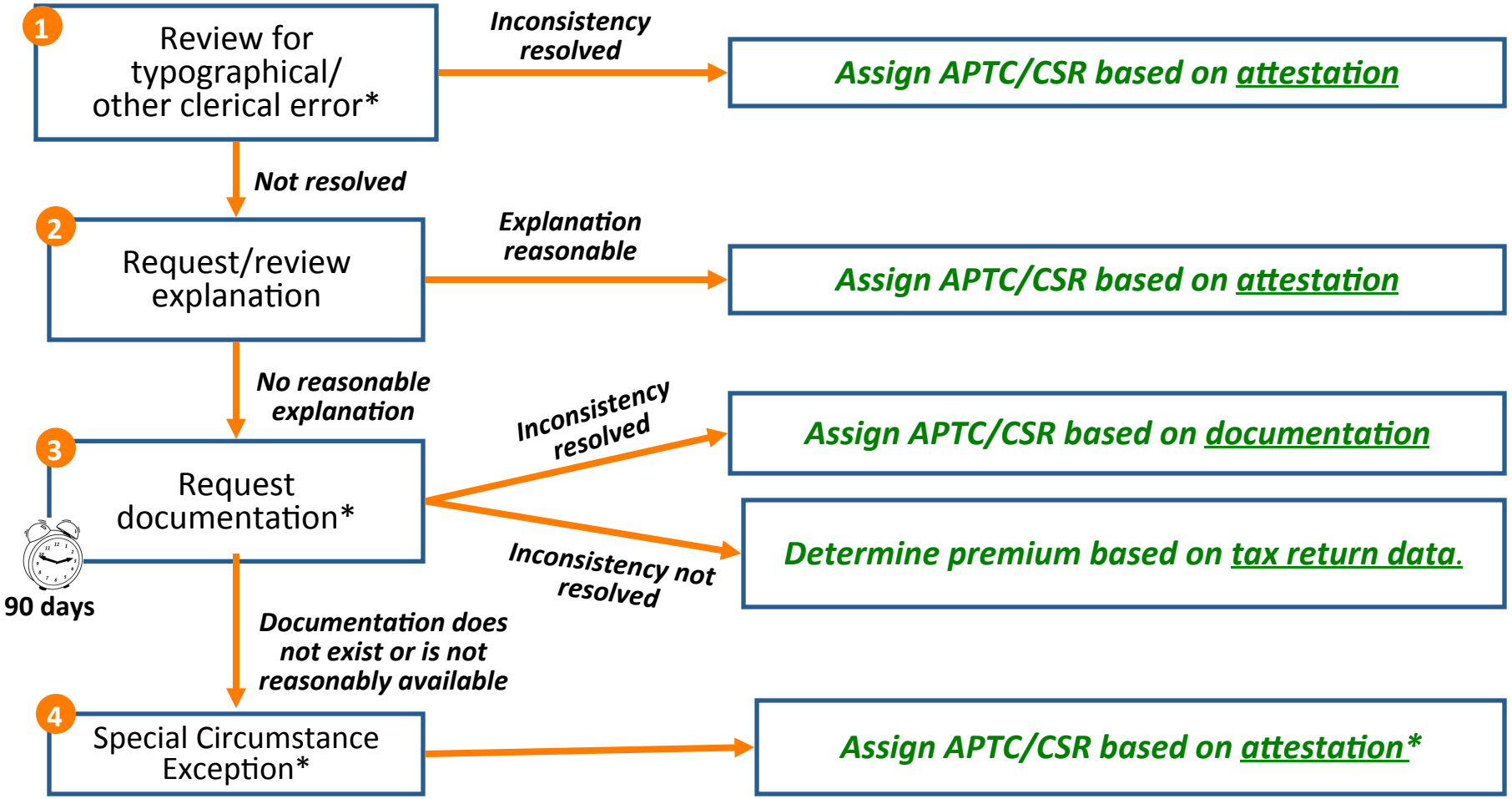

* Feature of RC straw model required in federal rule.

APTC/CSR: Illustrative Examples

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Review of tax data and current data sources

e) Individual attests to income of $25,000. Tax return data match says their income is $30,000. Current data sources say their income is $17,000.

Find **RC** and assign APTC/CSR based on $25,000 because attestation > current data.

f) Individual attests to income of $25,000. Tax return data match says their income is $30,000. Current data sources say their income is $28,000.

Find **not RC** because difference between attestation and current data >10%. Resolve errors; review explanation; require documentation if needed.

APTC/CSR Assignment: Financial Implications

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Accurate determination of MAGI has significant financial implications. The following examples depict the differences in potential financial liability:

- **Assignment of APTC/CSR based on** $25,000/yr **(224% FPL)**
  - Premium Amount for which Individual is Responsible: **$1,785/yr** (7.14% of income)
  - Cost Sharing Obligations (co-payments, deductible, co-insurance): Up to **$2,975/yr** (73% AV for 2nd Lowest Silver Plan)

- **Assignment of APTC/CSR based on** $30,000/yr **(269% FPL)**
  - Premium Amount for which Individual is Responsible: **$2,580/yr** (8.60% of income)
  - Cost Sharing Obligations (co-payments, deductible, co-insurance): Up to **$2,975/yr** (70% AV for 2nd Lowest Silver Plan)

Note: Once APTC is assigned, the individual can opt for a lower tax credit subsidy amount to minimize the risk of repayment through year-end reconciliation process.

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Minnesota: Reasonable Compatibility Planning and Challenges

Minnesota Department of Human Services

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Minnesota: Current Income Verification

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- Client is generally responsible for providing verification of income.

- County and state processing entities have access to different and limited sources of electronic data.

Minnesota: RC Planning

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- Identify and fill gaps in electronic data sources.
- Develop online verification portal and consolidate electronic data sources.
- Engage State Compliance Office and Office of Inspector General staff.
- Review current "inconsistent information" policy.
- Assess risks related to self-attestation.
- Develop policy and verification plan.

Minnesota: RC Challenges

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- Balancing client access with timely and accurate determinations and administrative costs.

- Exploring flexibilities to align Medicaid/CHIP and APTC verification processes and RC standards.

- Re-training workers and changing their mindset.

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CMS Perspective

Anne Marie Costello
CMCS

Ben Walker
CCIIO

Comments & Questions?

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NATIONAL ACADEMY for STATE HEALTH POLICY

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Support for this project was provided by a grant from the Robert Wood Johnson Foundation

Appendix:
Federal Requirements & Illustrative Examples

Federal Verification Requirements and Reasonable Compatibility Standard

- **Attestation.** The Medicaid/CHIP agency may accept attestation of information needed to determine the eligibility of an individual for Medicaid/CHIP without requiring further information.

- **Attestation and Data Comparison.** Household income information obtained through an electronic data match is reasonably compatible with income information provided by or on behalf of an individual if both are either above or both are at or below the applicable income standard.

- **Non-MAGI.** Reasonable compatibility standards apply to both non-MAGI and MAGI individuals.

Medicaid Eligibility Final Rule 42 CFR §435.952 and preamble, March 2012.

Paper Documentation Requirements

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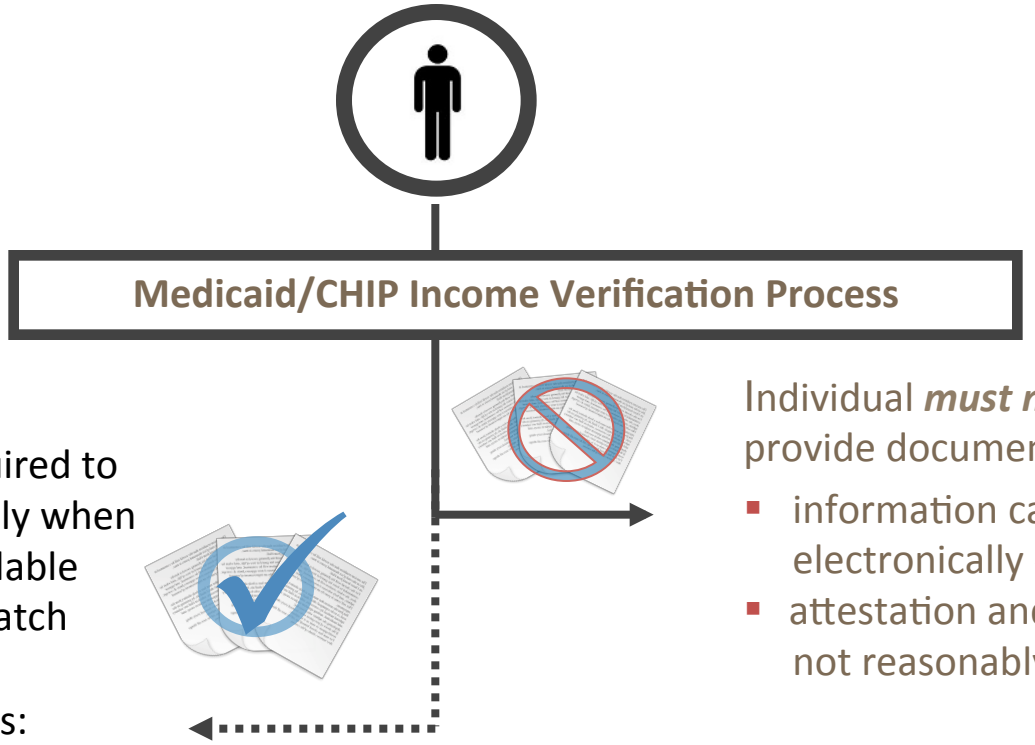

An individual may be required to submit documentation only when electronic data is not available and establishing a data match would not be effective, considering factors such as:

Individual ***must not*** be required to provide documentation unless:

- information can not be obtained electronically or
- attestation and data sources are not reasonably compatible.

a. **Impact on program integrity (potential for ineligible individuals to be approved as well as for eligible individuals to be denied coverage)**

b. **Administrative costs associated with establishing and using the data match vs. administrative costs associated with relying on paper documentation**

Medicaid Eligibility Final Rule 42 CFR §435.952(c), March 2012.

Federal Requirements: Verification Plan

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- The State Medicaid/CHIP agency must develop a Verification Plan describing the Agency's:
  - verification policies and procedures;
  - standards for determining the usefulness of data (e.g., when the State will use IRS data and/or current data sources); and
  - circumstances under which it will consider information provided by an applicant to be reasonably compatible with information obtained through an electronic data match, i.e., State's RC Standard.

- The policies described in the State's Verification Plan will serve as the basis for payment error rate measurement (PERM) audits.

- Upon request, Verification Plans must be available to Secretary of HHS.

Medicaid Eligibility Final Rule 42 CFR §435.945 and preamble, March 2012.

Federal APTC/CSR Verification Requirements and RC Standard

- Reasonable compatibility for Advance Premium Tax Credits (APTC)/Cost Sharing Reductions (CSR), regulations track, in many but not all respects, the Medicaid reasonable compatibility requirements.

- When determining eligibility for Qualified Health Plans (QHPs) and Insurance Affordability Programs, the Exchange must:
  - consider information obtained through electronic sources, other information provided by the applicant, or other information in Exchange records to be reasonably compatible with an individual's attestation if "the difference or discrepancy does not impact the eligibility of the applicant, including the amount of advance payments of the premium tax credit or category of cost sharing reductions."

Exchange Eligibility Final Rule 45 CFR §155.300, March 2012.

Federal Verification Requirements for APTC/CSRs

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- The Exchange must first verify an individual's attestation of income using IRS data.

- The Exchange may verify an individual's attestation of income using current data sources when:
  - tax return data is unavailable, or the applicant attests that there is a change of circumstances or a change is reasonably expected to occur.

Exchange Eligibility Final Rule 45 C.F.R. § 155.320, March 2012.

Income Verification Processes and Reasonable Compatibility Standard: Applicant's with *Increases* in Household Income

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- If the applicant attests that his/her annual income has increased or is reasonably expected to increase as compared to available tax data:
  - the Exchange must accept the attestation without further verification unless such attestation is not "reasonably compatible" with other information available to the Exchange.

Exchange Eligibility Final Rule 45 CFR § 155.300, March 2012.

Income Verification Process and Reasonable Compatibility Standard: Applicants with *Decreases* in Income or No Tax Data Available

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- If the applicant attests that his/her annual income has decreased or is reasonably expected to decrease as compared to the available tax data or there is no available tax data to verify applicant income, he or she may be eligible for an "alternate verification process."

- To qualify for an "alternate verification process," an applicant must meet one of the following conditions :
  - the IRS does not have tax data for the applicant that is at least as recent as the calendar year two years prior to the calendar year in which APTCs/CSRs would be effective;
  - the applicant attests that the family size or family members have changed;
  - the applicant attests to a change in circumstances has occurred or is reasonably expected to occur;
  - the applicant attests that his/her tax filing status has changed or is reasonably expected to change to that the tax filer's annual income has or is expected to decrease; or
  - an applicant in the tax filer's family has applied for unemployment benefits.

Exchange Eligibility Final Rule 45 CFR § 155.320, March 2012.

10% Reasonable Compatibility Standard for APTC/CSRs

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When an Exchange is verifying income using alternative verification processes, it must apply a 10% reasonable compatibility standard.

- Applicants with Income Decreases of ≤10% As Compared to Tax Data. If the difference between an individual's attestation of annual income and the IRS data obtained is no more than 10%, the Exchange must accept the applicant's attestation.

- Income Decreases of >10% As Compared to Tax Data or No Tax Data is Available. If the difference between an individual's attestation of annual income and the IRS data obtained is greater than 10% or no tax data is available, an Exchange must attempt to verify household income using alternate data sources, i.e., current income sources.

Exchange Eligibility Final Rule 45 CFR § 155.320, March 2012.

Reconciling Inconsistencies When Not Reasonably Compatible

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If an applicant's attestation is found not reasonably compatible, Exchanges must reconcile the inconsistencies by:

- Identifying and addressing the cause of the inconsistency (e.g. typographical or other clerical errors) by contacting the application filer;
- Providing the applicant 90 days to submit "satisfactory documentation" to reconcile the inconsistency. An applicant must be able to submit such documentation online, in person or by mail (not by telephone). Exchanges may extend the 90 day period if the applicant demonstrates a good faith effort to provide documentation. During the period when the Exchange is resolving the inconsistency, it must ensure that an APTC/CSR is provided on behalf of the applicant if the tax filer attests that they understand that such advance payments are subject to reconciliation.
- If, after the 90 days, Exchanges remain unable to verify the attestation, the applicant's eligibility must be determined based on the information in the data sources, unless the applicant qualifies for the special circumstances exception.

Exchange Eligibility Final Rule 45 CFR § 155.315(f), March 2012.

Special Circumstances When No Documentation is Available

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- Exchanges must provide an exception "on a case by case basis, whereby it will accept the applicant's attestation as to the information which cannot otherwise be verified along with an explanation of circumstances as to why the applicant does not have documentation."

- The Preamble suggests that this exception might be used for individuals who are homeless, victims of domestic violence or natural disasters or sporadic workers.

Exchange Eligibility Final Rule 45 CFR § 155.315(g), March 2012.

Medicaid: Illustrative Examples

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Attestation above Medicaid eligibility level

a) Individual attests to income at $17,000. Data shows income is $17,000.

Find **ineligible** for Medicaid because both attestation and data are above Medicaid level.

b) Individual attests to income at $17,000. Data shows income at $14,400.

Find **ineligible** for Medicaid because attestation is above Medicaid level.

c) Individual attests to income at $17,000. No data available.

Find **ineligible** for Medicaid because attestation is above Medicaid level.

KEY:
133% FPL for an individual= $14,400/year

Medicaid: Illustrative Examples

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Attestation below Medicaid eligibility level

d) Individual attests to income of $14,000. Data shows income at $17,000.

OPTIONS:

- Individual **eligible** because State accepted attestation (pursuant to Verification Plan) and will conduct post eligibility verification.
- Find **not RC** because difference between attestation and income is ≥ 10%. Request/ review explanation. If reasonable, determine eligible. If not reasonable, require further verification.
- Find **not RC.** Request/review explanation. If reasonable, determine eligible. If not reasonable, require further verification.
- Find **not RC.** Request further verification.

KEY:
133% FPL for an individual = $14,400/year

Medicaid: Illustrative Examples

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Attestation below Medicaid eligibility level

e) Individual attests to income of $14,000. Data shows income at $14,200.

Find **eligible** for Medicaid because both attestation and data are below Medicaid level.

f) Individual attests to income of $14,300. Data shows income at $14,500.

OPTIONS:

- Individual **eligible** because State accepted attestation (pursuant to Verification Plan) and will conduct post eligibility verification.
- Individual **eligible** because difference between attestation and income is ≤10%.
- Find **not RC**. Request/review explanation. If reasonable, determine eligible. If not reasonable, require further verification.
- Find **not RC**. Request further verification.

KEY:
133% FPL for an individual = $14,400/year

Medicaid: Illustrative Examples

Robert Wood Johnson Foundation

Attestation below Medicaid eligibility level

g) Individual attests to income of $14,000. No data sources are available.

OPTIONS:

- Individual **eligible** because State accepted attestation and will conduct post eligibility verification.
- Request/review explanation. If reasonable, determine **eligible**. If not reasonable, require further verification including documentation if readily available.
- Additional verification including documentation will be required.

KEY:
133% FPL for an individual = $14,400/year

CHIP: Illustrative Examples

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Attestation above CHIP eligibility levels

a) Mom (and child) attests to income of $62,000. Data sources show income at $65,000. (Both attestation and data are above CHIP levels).

Find **RC** and child **not eligible** for CHIP because both attestation and data are above CHIP levels

b) Mom (and child) attest to income of $62,000. Data sources show income at $50,000. (Attestation above CHIP, data sources below CHIP).

Find **RC** and child **not eligible** for CHIP because attestation above CHIP levels

KEY:
400% FPL for a family of 2: $58,800
133% FPL for a family of 2: $19,572

CHIP: Illustrative Examples

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Attestation below CHIP eligibility levels

c) Mom (and child) attest to income at $58,000. Data shows income at $60,000. (Attestation below CHIP, data sources above CHIP).

- **OPTION 1: Accept attestation** (pursuant to Verification Plan) and assign premium based on attestation. Conduct post eligibility verification.
- **OPTION 2: Find RC and assign premium based on attestation** because difference between and data is <10%.
- **OPTION 3:** Request/review explanation. If reasonable **determine eligible**. If not reasonable require further verification.
- **OPTION 4:** Require further verification.

KEY:
400% FPL for a family of 2: $58,800
133% FPL for a family of 2: $19,572

CHIP: Illustrative Examples

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Attestation below CHIP eligibility levels

d) Mom (and child) attest to income of $50,000. Data shows income at $62,000. (Attestation below CHIP, data sources above CHIP).

- **OPTION 1**: **Accept attestation** (pursuant to Verification Plan), and assign premium based on attestation. Conduct post eligibility verification.
- **OPTION 2**: Find **not RC** because the difference between the attestation and the data >10%: (i) obtain a reasonable applicant explanation; or, (ii) request documentation.
  - If resolved through explanation, assign premium based on attestation.
  - If resolved through documentation, assign premium based on documentation.
- **OPTION 3:** Request/review explanation. If reasonable **determine eligible**. If not reasonable require further verification.
- **OPTION 4:** Require further verification.

KEY:
400% FPL for a family of 2: $58,800
133% FPL for a family of 2: $19,572

CHIP: Illustrative Examples

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CHIP Premium Assignment

e) Mom (and child) attests to income of $40,000. Data shows income at $50,000. (Attestation and data both below CHIP, but attestation in lower premium band than data source).

- **OPTION 1:** Find **RC**, **accept attestation** (pursuant to Verification Plan) and assign premium based on attestation. Conduct post eligibility verification.
- **OPTION 2:** Find **not RC** because difference between attestation and data is >10%: (i) obtain a reasonable applicant explanation; or, (ii) request documentation:
  - If resolved through explanation, assign premium based on attestation.
  - If resolved through documentation, assign premium based on documentation.
- **OPTION 3:** Request/review explanation. If reasonable **determine eligible**. If not reasonable require further verification.
- **OPTION 4:** Require further verification.

KEY:
400% FPL for a family of 2: $58,800
133% FPL for a family of 2: $19,572

CHIP: Illustrative Examples

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CHIP Premium Assignment

f) Mom (and child) attests to income of $50,000. Data shows income at $45,000. (Both attestation and data are below CHIP levels, but in different premium bands.)

Assign premium based on attestation because attestation is higher than data sources.

g) Mom and child attests to income of $54,000. Data shows income of $51,000. (Both attestation and data are below CHIP, and are in the same premium band).

Assign premium based on attestation because in same premium band.

KEY:
400% FPL for a family of 2: $58,800
133% FPL for a family of 2: $19,572

CHIP: Illustrative Examples

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Attestation below CHIP eligibility levels and no data sources available

h) Mom and child attests to income of $25,000. No data sources available.

- **OPTION 1: Accept attestation**, and assign premium based on attestation. Conduct post eligibility verification.
- **OPTION 2:** Obtain reasonable applicant explanation or request documentation.
  - If resolved through explanation, assign premium based on attestation.
  - If resolved through documentation, assign premium based on documentation.
- **OPTION 3:** Require further verification including documentation if readily available.

KEY:
400% FPL for a family of 2: $58,800
133% FPL for a family of 2: $19,572

APTC/CSR: Illustrative Examples

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Review of tax data

a) Individual attests to income of $25,000. Tax return data shows income at $20,000.

Find **RC** and assign APTC/CSR based on $25,000 because attestation > tax data.

b) Individual attests to income of $25,000. Tax return data shows income at $26,000.

Find **RC** and assign APTC/CSR based on $25,000 because difference between attestation and tax data <10%.

APTC/CSR: Illustrative Examples

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Review of tax data and current data sources

c) Individual attests to income of $25,000. Tax return data shows income at $30,000. Current data sources show income at $25,000.

Find **RC** and assign APTC/CSR based on $25,000 because current data equal to attestation.

d) Individual attests to income of $25,000. Tax return data shows income at $30,000. Current data sources show income at $26,000.

Find **RC** and assign APTC/CSR based on $25,000 difference between attestation and current data <10%.

APTC/CSR: Illustrative Examples

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Review of tax data and current data sources

e) Individual attests to income of $25,000. Tax return data match says their income is $30,000. Current data sources say their income is $17,000.

Find **RC** and assign APTC/CSR based on $25,000 because attestation > current data.

f) Individual attests to income of $25,000. Tax return data match says their income is $30,000. Current data sources say their income is $28,000.

Find **not RC** because difference between attestation and current data >10%. Resolve errors; review explanation; require documentation if needed.

APTC/CSR: Illustrative Examples

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Review of current data sources (tax return data unavailable)

g) Individual attests to income of $25,000. Tax return data unavailable. Current data sources show income of $26,000.

→ Find **RC** and assign APTC/CSR based on $25,000 because difference between attestation and current data <10%.

h) Individual attests to income of $25,000. Tax return data unavailable. Current data sources show income of $20,000.

→ Find **RC** and assign APTC/CSR based on $25,000 because attestation > current data.

i) Individual attests to income of $25,000. Tax return data unavailable. Current data sources show income of $30,000.

→ Find **not RC** because difference between attestation and current data >10%. Resolve errors; review explanation; require documentation if needed.