

Exemption Applications PRA Summary of Comment and Response

Summary of Comment	Response
One commenter asked that we clarify whether electronic sources would be used for verification, and if so, asked that we add language to explain that applicants do not need to submit documentation until they are notified that electronic verification was unsuccessful.	The final rules in subpart G of 45 CFR part 155 discuss verification procedures for exemptions. Where the applications specify that documentation must be provided initially, this is because electronic verification is not a primary option at this time. HHS remains committed to maximizing the use of electronic verifications for eligibility for exemptions.
Commenters asked that we rename the application for members of Indian tribes and other individuals who are eligible for services through an Indian health care provider.	We are renaming this application, “Application for Exemptions for American Indians and Alaska Natives and Other Individuals Who Are Eligible to Receive Services from an Indian Health Care Provider”.
One commenter asked that we include the eligibility criteria for services through an Indian health care provider.	We will be adding this in instructions that are posted alongside the application at a later date, after we have the opportunity to consult with stakeholders.
Commenters stated that the existence of multiple exemption applications did not minimize paperwork.	We opted to create separate applications because the information needed for each type of exemption is different. A combined application would have been significantly longer and all individuals would have had to skip many sections. Accordingly, we are maintaining the existing approach.
Commenters asked that we remove the optional race and ethnicity questions from the application for members of Federally-recognized tribes and other individuals who are eligible to receive services from an Indian health care provider.	We opted to include these questions initially in order to promote consistency among the exemptions applications and to assist HHS in ensuring that all communities have equal access to the Marketplace. However, given the focus of this particular exemptions application, we have decided to remove these questions.
Commenters asked that we remove questions and language regarding tax households from the application for members of Federally-recognized tribes and other individuals who are eligible to receive services from an Indian health care provider.	Tax household information is needed so IRS can recognize an exemption certificate that is granted by a Marketplace on an individual's tax return. Accordingly, we are retaining these questions.
Commenters asked that the exemption for individuals who are eligible to receive services from an Indian health care provider be available from IRS through the tax filing process, in addition to being available through the Marketplace.	This is outside of the scope of this PRA package. We anticipate that IRS will make information available about the Marketplace process on tax forms and instructions.

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Commenters asked that we allow the Indian Health Service (IHS) to apply on behalf of individuals who are in IHS patient registration records.	As we have previously discussed, we are committed to working with IHS to establish an electronic verification system that can be used for exemptions. However, we do not believe that the authority exists to facilitate having IHS apply on behalf of individuals, particularly without their knowledge or affirmative consent. We are working closely with IHS to help IHS providers quickly issue documentation that can be used by consumers as part of an application for an exemption.
Commenters asked that we revise the application for members of Federally-recognized tribes and other individuals who are eligible to receive services from an Indian health care provider to use the term, “Indian tribe”, instead of “member of a Federally-recognized tribe”.	We note that the language that is used in the statute is, “member of an Indian tribe, as defined in section 45A(c)(6) of the [Internal Revenue] Code”, and that we have previously used “member of a federally-recognized tribe” as a plain-language variation of this definition. With that said, we are modifying the application to use, “member of an Indian tribe”, noting that the change in phrase does not change the eligibility rules for exemptions.
Commenters asked for clarification regarding whether the Marketplace would issue separate exemption certificate numbers for each member of a tax household who was found eligible for an exemption.	The Marketplace will provide a separate exemption certificate number for each individual who is determined eligible for an exemption.
Commenters asked whether an individual could list American Indian or Alaska Native languages in response to the preferred language question, and whether the application could inform individuals that assistance will be provided in tribal languages.	The application is designed to allow an individual to write in any language in response to the preferred language question. However, for the first year of operations, the Federally-facilitated Marketplace will only provide written notices in English, although the notices will include tag lines to enable individuals to obtain assistance via phone in a number of different languages. In addition, Navigators and certified application counselors with different linguistic capabilities will provide assistance with exemptions applications.
Commenters asked that we use the term, “tax penalty”, instead of “shared responsibility payment”.	“Shared responsibility payment” is in line with the language used in section 5000A of the Code. As such, to minimize confusion, we are maintaining this language.
Commenters asked that we clarify the first page of the application	We have modified the application accordingly.

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for members of Federally-recognized tribes and other individuals who are eligible to receive services from an Indian health care provider to clarify that the application is for two categories of exemptions.	
Commenters asked that we clarify on the first page of the application for members of Federally-recognized tribes and other individuals who are eligible to receive services from an Indian health care provider that applicants must provide documents.	We have modified the application accordingly.
Commenters asked that we allow for online submission of the exemption application.	As discussed in the final exemptions rule, the Federally-facilitated Marketplace is unable to support online submission for the first year of operations. We remain committed to establishing an electronic process in the future.
Commenters asked that we specify that a shareholder certificate or other proof of enrollment in an Alaska Native Claims Settlement Act regional or village corporation would be sufficient to document eligibility for an exemption.	This is currently under review with the HHS Office of General Counsel. When the issue is concluded, we will update instructions and educational materials accordingly.
Commenters asked that we add language to further clarify that if the Marketplace approves an exemption, the Marketplace will issue an exemption certificate number.	We have added language to clarify that after an application is completed, if an individual is determined eligible for an exemption by the Marketplace, the eligibility determination notice will include an exemption certificate number for use during the tax administration process.
Commenters asked that we remove the question regarding an applicant's relationship to the household contact.	We have removed this question from all applications except for the applications for the exemptions for individuals who are unable to afford coverage, since this question is only critical for those exemptions.

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Commenters asked that we remove the question about whether an individual needs an exemption on the application for members of Federally-recognized tribes and other individuals who are eligible to receive services from an Indian health care provider and replace it with a check-box on the signature page. Another commenter asked that we remove this question on the application for individuals who are unable to afford coverage in a state with a state-based Marketplace and the hardship exemption application.	This question is designed to facilitate situations in which a tax filer is not requesting the exemption, but they are requesting it for a tax dependent. If this is not checked, then the person is being provided only to establish the tax relationship, and is instructed that they can skip the remaining questions. If we shift this to the end of the application, it increases the risk that individuals will complete unnecessary questions. Accordingly, we are retaining it.
Commenters asked that we remove the question on the application for members of Federally-recognized tribes and other individuals who are eligible to receive services from an Indian health care provider that asks an applicant who knows that his or her eligibility for services from an Indian health care provider will end to provide the end date.	Without this question, the Marketplace will erroneously provide an exemption for months during which an individual is not eligible for services through an Indian health care provider. The majority of individuals who never lose eligibility can skip this question. Accordingly, we are maintaining it here.
Commenters asked that we remove the language on the signature page for the application for members of Federally-recognized tribes and other individuals who are eligible to receive services from an Indian health care provider that specifies that an applicant must report any changes in the information that is listed on the application, unless specific examples can be provided.	This language is needed in order to ensure that individuals who may only be temporarily eligible to receive services through an Indian Health Care provider understand that they need to notify the Marketplace when their eligibility ends, so as to ensure that they are not in receipt of an exemption when they are ineligible for it. Accordingly, we are maintaining this language.
Commenters asked that we remove the language specifying that applicants could submit an appeal online.	We have removed this reference as the online appeal function will not initially be available.
Commenters asked that we re-label Appendix C as Appendix A.	We have modified the applications accordingly.
Commenters asked that we provide a list of documents that would be sufficient to establish eligibility for services through an Indian health care provider.	We appreciate this suggestion, and are working on a list that we plan to include as part of an instructions package that will accompany the application.
One commenter asked that we specify on the application that individuals must notify the Marketplace of any changes within 30 days.	We have included language regarding the requirement to report changes on all of the applications for which the underlying exemption has a change reporting requirement. Information on change reporting will also be included in eligibility notices for exemptions.

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One commenter asked that we establish guidelines for Marketplaces to use to review applications for fraudulent information.	We appreciate this comment. However, this is outside of the scope of this Paperwork Reduction Act package.
One commenter asked that we assure that paper applications would be available for all exemptions.	Per 45 CFR 155.610(d)(3), paper exemption applications will be available for all types of exemptions that are available through the Marketplace.
One commenter asked that we provide clear explanations regarding which exemptions are available through IRS, which are available through the Marketplace, and which are available through both.	We have included this information on each form, and will also look to make it available through educational materials and instructions.
One commenter asked that we specify that an applicant must provide a Social Security number (SSN). The commenter also asked that we maintain and expand the use of language that specifies that it is helpful, but not required, to supply a SSN.	We have expanded the language on each application to clarify that if a person is requesting an exemption for themselves and he or she has a SSN, he or she must provide the SSN.
One commenter asked that we specify that application information will be verified electronically, and that personal information will be protected.	The applications include standard language regarding privacy, consistent with the single, streamlined application for enrollment in a QHP through the Marketplace and insurance affordability programs. We anticipate providing additional information as we expand the use of electronic verification.
One commenter asked that the applications be revised to support individuals with lower levels of literacy.	The Exemption applications follow the literacy level approved and established for the coverage applications – in fact, <i>most</i> of the language in the Exemption applications comes directly from the coverage applications which have been extensively consumer-tested.
One commenter asked that HHS provide states with minimum standards for State-based Marketplaces regarding accepting the exemption application.	We clarify that for 2014; State-based Marketplaces that are opting to have HHS administer the exemption process are not required to accept applications. Rather, they need to provide consumers with information regarding how to submit an application to HHS.

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One commenter asked that we simplify the titles of the applications.	We have reviewed the titles of the applications and will be generally maintaining them, to ensure specificity about which application is for which exemption. We will explore ways to provide clear guidance on this topic through healthcare.gov and other educational materials.
One commenter asked that we create a separate form for consumers who are applying for an exemption because employer coverage is unaffordable.	After considering this comment, we have opted to maintain one application for individuals in FFM states and one application for individuals in SBM states, each of which addresses individuals regardless of whether they have employer-sponsored coverage. We took this direction because we know that there are situations in which an employer offers coverage only to the employee, in which case having separate applications for those with and without an offer of employer-sponsored coverage would result in families needing to submit multiple applications.
One commenter suggested that we add page numbers to the applications and increase font size.	We have added page numbers. Due to space constraints, we were unable to further increase the font size.
One commenter asked that we remove the request for an application filer to initial at the top of each page.	We have removed this in accordance with the comment.
One commenter asked that we specify that an individual is eligible for an exemption even without a Social Security number, and that we use “Tax Identification Number” instead of Social Security number.	The Marketplace does not use any type of taxpayer identification number besides a Social Security number. Accordingly, as we have on the single, streamlined application for enrollment in a QHP and insurance affordability programs, we ask only for a SSN. We do clearly describe that SSN is not required to obtain an exemption, and we are retaining this language.

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<p>One commenter stated that we should not ask for citizenship or immigration status information on exemptions applications. The commenter also asked that we remove the language on the second page of the application for the exemption for individuals who are unable to afford coverage in certain states with a State-based Marketplace advising consumers that they do not need to provide information regarding immigration status for family members who don't need an exemption, the recommendation on the first page of the same application to have document numbers for legal immigrants who are asking for an exemption available as part of the application process, and the language on the last page of the same application specifying that information will be shared with the Department of Homeland Security.</p>	<p>Citizenship and immigration status information is only requested on the application for the exemption for individuals who lack affordable coverage in states in which there is a Federally-facilitated Marketplace, since this is the only exemption where the information is needed. It is needed for this exemption since a component of the exemption is determining the cost of the lowest-cost bronze plan net of advance payments of the premium tax credit, which requires the evaluation of eligibility for enrollment in a qualified health plan, Medicaid, and CHIP. As with all Marketplace processes, citizenship and immigration status information will be safeguarded and only used for the purpose of eligibility.</p> <p>With that said, since the Marketplace does not need immigration status for anyone who is using the application for the exemption for individuals who are unable to afford coverage in certain states with a State-based Marketplace, we have removed all language addressing immigration status from that application.</p>
<p>One commenter asked that we add language indicating that an individual whose application for an exemption is approved should retain the exemption certificate number provided by the Marketplace.</p>	<p>We have added language on the cover page and on the second page consistent with the comment.</p>
<p>One commenter asked that we move language regarding the right to appeal to the first page.</p>	<p>We are retaining appeals language on the signature page, consistent with the single, streamlined application for enrollment in a qualified health plan through the Marketplace and insurance affordability programs.</p>
<p>One commenter asked that we add language on the first page of each application to explain who should use each particular application.</p>	<p>We have included this information in a section on the front page called, "Who can use this application?"</p>

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One commenter asked that we clarify on each application that taxpayers with income below the filing threshold are already exempt, and as such, do not need to apply separately for an exemption.	We are adding clarifying language on each application.
One commenter asked that we specify that one application can be used to request an exemption for everyone in a tax household.	We have added this language.
One commenter supported the existing language regarding keeping personal information secure and asked that we add information regarding the specific agencies with which the Marketplace would share information for verification purposes.	We are retaining this statement. We strive to maximize secure electronic verification, and may enhance capabilities in this area during the year. The most updated information on data matching can be found within the privacy statement and system of records notice.
One commenter asked that we reverse the order of the race and ethnicity questions; that we add “South America” and “Central America” under “Hispanic/Latino”; and that we add separate check-boxes for “South Asian” and “Southeast Asian” and remove “Asian Indian” and “Other Asian”.	We are retaining this section as provided for public comment. We are maintaining the order of the questions to ensure operational consistency with the single, streamlined application for enrollment in a qualified health plan through the Marketplace and insurance affordability programs, and we are maintaining the proposed categories as they follow recommendations from the HHS Office of Minority Health in accordance with section 4302 of the Affordable Care Act.
One commenter asked that we change appeals language on the signature page of the application to say, “If you don’t agree with the decision” instead of “If you don’t agree with what you qualify for”.	We agree that the proposed language was unclear, and have modified it to read, “If you don’t agree with the results of your application”.
One commenter asked that we define “affordability” on the applicable exemption applications, and that we add examples to illustrate when various coverage would be affordable or unaffordable.	We will consider adding this as part of educational materials and instructions.
One commenter asked that we add language to the applications for exemptions for individuals who are unable to afford coverage explaining that the applications are for individuals who did not have minimum essential coverage for the past tax year.	These applications are intended to be filed prospectively, so we are maintaining the language as proposed.

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<p>One commenter asked that we add language to the applications for exemptions for individuals who are unable to afford coverage specifying that there are also hardship exemptions available. The commenter also asked that we add language to the hardship exemption application to provide examples of who should not use the hardship exemption application.</p>	<p>We anticipate providing information regarding the range of available exemptions on healthcare.gov.</p>
<p>One commenter asked that we remove the section of the application for individuals who are unable to afford coverage in certain states with a State-based Marketplace that asks consumers to provide information regarding the lowest-cost bronze plan net of advance payments of the premium tax credit, and instead gather this information directly from the State-based Marketplace. The commenter also asked that we provide a single application for the exemption for individuals who lack affordable coverage instead of having one for individuals in certain states with state-based Marketplaces and another for individuals in states with a Federally-facilitated Marketplace.</p>	<p>The Federally-facilitated Marketplace does not have access to person-specific information regarding eligibility for advance payments of the premium tax credit in a State-based Marketplace, due to states having their own rating information and state-specific eligibility rules for Medicaid and CHIP. Accordingly, we anticipate working with State-based Marketplaces to provide assistance to consumers in obtaining this information. The fact that the Federally-facilitated Marketplace does not have access to this information is why it is necessary to have separate applications for individuals in states with a State-based Marketplace and individuals in states with a Federally-facilitated Marketplace; if we were to use a single application, individuals in states with a State-based Marketplace would need to skip over the significant number of questions that are needed to determine the cost of the lowest-cost bronze plan for individuals in states with a Federally-facilitated Marketplace. Accordingly, in order to limit burden on individuals, we are maintaining separate applications.</p>
<p>One commenter asked that we delete references to, “the exemptions process” on the first page of applications.</p>	<p>We have removed this language.</p>
<p>One commenter asked that we modify the information on the first page regarding next steps to specify that a decision will be rendered within 1-2 weeks and that the individual can immediately appeal the decision if he or she so desires.</p>	<p>We believe that the language on the first page is adequate, and that the information regarding appeals is covered on the signature page, which is where it is more relevant. We are also concerned about adding redundant information to the front page, since this might require reducing the overall font size. Accordingly, we are maintaining the language as is.</p>

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One commenter asked why the application for the exemption for individuals who are unable to afford coverage in certain states with a State-based Marketplace includes language advising consumers to obtain the policy numbers of any job-related health insurance.	This was included erroneously. As such, we have removed it.
One commenter asked that we add a worksheet to the applications for the exemptions for individuals who are unable to afford coverage to assist with calculating annual income, and why the applications collect annual income on a person-by-person basis.	The approach to obtaining income information is identical to what is used in the paper version of the single, streamlined application for enrollment in a qualified health plan through the Marketplace and insurance affordability programs, and was developed and tested with consumers. This process is what resulted in a person-by-person income approach, which avoids some of the inaccuracy that is possible when asking for a lump sum of income across multiple family members and jobs. Accordingly, we will retain it for use in the exemptions process. As we gain experience from both the coverage and exemptions processes, we will look at ways to increase the usability of the income questions on both types of applications.
One commenter asked that we add explicit language regarding the requirement to report changes within 30 days to the applications for the exemptions for individuals who are unable to afford coverage.	As specified in 45 CFR 155.620(a) and (b), there is no change reporting requirement for these exemptions. The eligibility standards described in 45 CFR 155.605(g)(2)(vi) specify that these exemptions are provided for all remaining months in a coverage year, notwithstanding any change in an individual's circumstances. Accordingly, we are not adding this language.
One commenter asked why information provided by an individual as part of an application for the exemptions for individuals who are unable to afford coverage would be shared with a consumer reporting agency, objected to this data sharing, and stated that if the data sharing was necessary, then the consumer should explicitly consent to it.	The Federally-facilitated Marketplace uses a consumer reporting agency as part of the income verification process, in accordance with 45 CFR 155.615(f)(2)(i). As specified, the income verification process is the same as is used for eligibility for advance payments of the premium tax credit and cost-sharing reductions. Using information from the consumer reporting agency reduces the number of individuals who need to submit documentation to support their attested income, and does not affect an individual's credit rating.

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One commenter asked that the information in the application regarding the appeals process be provided in a frequently-asked-questions document.	We appreciate the comment, and intend to incorporate appeals information along with other relevant information in supporting materials on healthcare.gov .
One commenter asked that we remove the request for an individual's employer identification number (EIN), which is included in the applications for the exemptions for individuals who are unable to afford coverage. The commenter also asked that we revise the questions regarding the minimum value and cost of employer-sponsored coverage, that we revise the question regarding expected changes in an employer's offerings and that we rename the employer coverage tool.	EIN is used by the Marketplace to verify access to employer-sponsored coverage. Consistent with the electronic application for enrollment in a qualified health plan through the Marketplace and insurance affordability programs, we have added language to the applications that clearly notes that EIN is optional. The questions regarding minimum value, the cost of employer-sponsored coverage, and changes in employer offerings are based on what is used in the single, streamlined application for enrollment in a qualified health plan through the Marketplace and insurance affordability programs, and as such, we will be maintaining them for consistency. This is also the case for the name of the employer coverage tool. As with all of our applications, as we gain experience with the process, we will make appropriate modifications to enhance the consumer experience.
One commenter asked whether an employer could be an authorized representative for an individual who is seeking an exemption.	Nothing precludes an employer from serving as an authorized representative, provided that the standards specified in 45 CFR 155.225 are met.

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One commenter asked that we remove the questions regarding foster care and incarceration from the application for the exemption for individuals who lack affordable coverage in states in which there is a Federally-facilitated Marketplace.	The foster care question is included for use in determining whether an individual who is applying for this exemption is eligible for advance payments of the premium tax credit, which is necessary to calculate the cost of the lowest-cost bronze plan. If an individual is eligible for Medicaid, including as a result of former status as a foster child, he or she will be ineligible for advance payments of the premium tax credit, which will affect the cost of the lowest-cost bronze plan. Similarly, the question regarding incarceration is needed to determine whether an applicant is eligible for enrollment in a qualified health plan. Accordingly, we are maintaining these questions. We have, however, updated the incarceration question to be consistent with the single, streamlined application for enrollment in a qualified health plan and insurance affordability programs.
One commenter asked that we clarify at the top of the application whether a consumer should use a hardship exemption form instead of an affordability exemption form.	We are making changes to make the hardship criteria more prominent. By making the hardship criteria more prominent, we believe that individuals will be clearer on which form to use. In addition, we anticipate providing educational information on healthcare.gov .
One commenter asked that we add language to the hardship application to specify that applicants have three years to request a hardship exemption.	We agree that this is useful information, and intend to incorporate it in frequently-asked-questions or other guidance that is provided along with these applications.
One commenter asked that we eliminate the reference to catastrophic coverage in the hardship exemption application.	We are maintaining this information in order to fully inform applicants of their potential eligibility for catastrophic plans after receiving a hardship exemption through the Marketplace.
One commenter asked that we add language to the first page of all applications to explain that if the Marketplace needs more information, it will notify the applicant.	We have added this language to the applications.

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One commenter asked that we delete the question from the hardship exemption application that asks whether an applicant is still experiencing the hardship, as well as the request for documentation.	We have clarified that the question regarding whether the hardship is still in effect is only needed if the applicant does not provide an end date. This information is needed to define the duration of the exemption. The request for documentation is needed to ensure that the consumer submits the documentation described in table A in support of his or her application.
One commenter asked that we change the column width in table A of the hardship exemption application, move the appendix to be the second page of the application, and add #13 for “Other”.	We are modifying the column width of the table and moving it to be the second page, in accordance with the comment. Consistent with guidance, we are adding one category to the hardship application, for an individual who received a notice saying that his or existing health insurance is being cancelled, and who considers available plans unaffordable. We have also modified the table to include “Other” as an option.
One commenter asked that we explain the procedure for individuals who are applying for a hardship exemption and do not have required documentation.	We expect to disseminate these procedures through supplementary guidance and through contact with the call center. Accordingly, we have added language to the hardship exemption application that instructs applicants who cannot obtain the specified documentation to call the call center.
One commenter asked that we specify that an applicant can document a fire, flood, or other natural or human-caused disaster that caused substantial damage to his or her property via a news report.	We have added this to the hardship exemption application.
One commenter asked that we develop an electronic method to obtain proof of a Medicaid or CHIP denial from the applicable state agency for the purpose of administering the hardship exemption related to children for whom an adult who is not claiming the child as a tax dependent is legally required to provide health insurance, instead of requesting proof of the denial from an applicant.	We support the commenter’s recommendation for electronic verification. Unfortunately, there is currently no electronic method through which HHS can obtain information regarding denials that are not associated with an application submitted to the FFM. We will consider this in the future.

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One commenter asked that we not request documentation to substantiate an application for a hardship exemption based on a denial of eligibility for Medicaid because the applicant's state did not expand Medicaid.	Without proof of denial based on non-expansion, HHS will be unable to assess whether the individual actually applied for Medicaid, and whether or not he or she met the financial or non-financial eligibility criteria for Medicaid, since HHS is not conducting an eligibility determination as part of the hardship exemption process. We note that the Federally-facilitated Marketplace already provides this exemption in an automated fashion as part of the eligibility process for insurance affordability programs for individuals who submit an application to the FFM.
Commenters asked that we eliminate language on the first page of the application for the exemption for members of recognized religious sects and divisions that paraphrases the language of the Internal Revenue Code regarding conscientious opposition to acceptance of the benefits of private or public insurance, including Medicare or Social Security.	We have modified the language to more closely track the legislative language and ensure that the range of individuals who are eligible for this exemption is clear.
One commenter asked that we include a list of the religious sects and divisions whose members qualify for the exemption for members of recognized religious sects and divisions.	The list of approved religious sects is maintained by the Social Security Administration, and as such HHS does not have the authority to provide it to the public on its own.
One commenter asked why an applicant for the exemption for members of recognized religious sects and divisions would be asked when they became a member of a sect and when membership ended.	In accordance with 45 CFR subpart G, this exemption is generally provided on an ongoing basis, with the exception being any time period during which the individual was not a member of a recognized religious sect or division. These questions are designed to allow those individuals who gained or ended membership to provide that information, so that the Marketplace will provide the exemption certificate for only the actual time period of membership. Further, an applicant who has always been a member and plans to always be a member can skip these questions.

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Summary of Comment	Response
One commenter asked that we add language to the application for the exemption for members of recognized religious sects and divisions to indicate that the approved list of organizations is maintained by the Social Security Administration.	We have added this language.
One commenter asked that we use a more common name for IRS Form 4029 on the application for the exemption for members of recognized religious sects and divisions.	The application includes the common name, “Application for Exemption from Social Security and Medicare Taxes and Waiver of Benefits” on the front page, which we believe is sufficient.

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