



The Enrollment Coalition

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Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, D.C. 20201

RE: CMS-9884-P, Patient Protection and Affordable Care Act; Marketplace Integrity and Affordability Proposed Rule

The Enrollment Coalition appreciates the opportunity to comment on the Marketplace Integrity and Affordability Proposed Rule (CMS-9884-P). The Enrollment Coalition is a group of organizations, including consumer advocates, patient advocates, health plans, health care providers, employers, and technology and data organizations. Our mission is to help the eligible uninsured – people already eligible for coverage – get enrolled and stay enrolled. Our members are listed on our [website](#).

Background

People who are not enrolled in health insurance have less access to primary care and are less likely to have a regular source of care, which in turn impacts their likelihood of early detection and effective management of chronic illness. Additionally, uninsurance can have significant economic impacts on individuals, businesses, and the health care system as a whole, as “workers who are uninsured throughout the course of a year have a greater likelihood of missing work.”¹ Despite these challenges stemming from a lack of insurance, millions of Americans remain uninsured. The majority of these uninsured individuals are eligible for, but not currently enrolled, in a health plan. According to the Congressional Budget Office and Joint Committee on Taxation’s enrollment projections, “among the 25.1 million people uninsured in 2022, 15.3 million are eligible for subsidized coverage.”²

Nearly 60 percent of uninsured individuals are eligible for programs like Medicaid, or financial assistance through Premium Tax Credits (PTCs), but experience gaps in coverage due to lack of knowledge regarding administrative requirements or the necessity of renewals. In 2022, 22.2 percent of uninsured adults said signing up for health coverage was too difficult.³ Other CBO reports have found that 61-67 percent of uninsured individual were eligible for subsidized coverage, with 36 percent of individuals being eligible for Medicaid, CHIP, or Marketplace coverage and roughly the same percentage – about a third of the overall persistently uninsured – were eligible for private coverage through an employer as well.⁴

¹ https://www.kff.org/wp-content/uploads/sites/2/2010/06/reformhealthcare_ib1.pdf

² <https://www.cbo.gov/publication/58263>

³ <https://www.kff.org/uninsured/issue-brief/key-facts-about-the-uninsured-population/>

⁴ <https://www.cbo.gov/publication/56658>

The Enrollment Coalition believes that a top policy priority for the coming years should be making sure that those eligible for health care coverage are enrolled and retained appropriately. Enrolling people in coverage they are eligible for can improve health outcomes as well as lower health care premiums for everyone.

The Enrollment Coalition's comments on the specific proposed policies in the Marketplace Integrity and Affordability Proposed Rule are below:

Agents and Brokers Oversight

CMS proposes to adopt in regulation a “preponderance of the evidence” standard of proof with respect to issues of fact for HHS to assess whether an agent, broker, or web-broker’s Marketplace Agreements should be terminated due to noncompliance. In the proposed rule, CMS notes it intends to provide greater specificity regarding impermissible conduct in Exchange agreements for PY 2026.

The Enrollment Coalition believes there is a key role for agents and brokers in advancing the shared goal of enrolling people in – or maintaining their enrollment in – health coverage for which they are eligible. The Enrollment Coalition is also very concerned about the reports of unauthorized and fraudulent activity by agents and brokers. We support greater protection for consumers and transparency for the agents and brokers who serve them, and thus encourage transparency in enrollment processes to ensure consumers are afforded appropriate plan selections. While it is important that actions taken do not establish additional hurdles for consumers to enroll in a plan, it is critical to protect consumers from fraudulent activity. This is particularly important as consumers may be unaware of tax liability or unexpected out of pocket expenses due to changes in plan provider networks. In addition, fraudulent activity harms not only consumers but also legitimate agents and brokers, whose valid enrollments may be misattributed or claimed by unscrupulous agents and brokers.

The Enrollment Coalition supports CMS’s proposal to adopt a “preponderance of the evidence” standard of proof with respect to issues of fact for HHS to assess whether an agent, broker, or web-broker’s Marketplace Agreements should be terminated due to noncompliance. The Enrollment Coalition also supports CMS’s proposal to provide greater specificity regarding impermissible conduct in Exchange agreements for PY 2026. Agents and brokers should always act in the best interest of the consumer and this information from CMS is critical for agents and brokers to understand and avoid impermissible activities. The Enrollment Coalition encourages CMS to work with agents, brokers, consumers, and other stakeholders in developing further guidance to ensure the guidance does not limit appropriate activities that support enrollment in ACA coverage.

Open Enrollment Period

CMS proposes to shorten the open enrollment period (OEP) for all individual market coverage to run from November 1 through December 15 preceding the coverage year, beginning with benefit years starting January 2026. CMS requests comment on whether to delay the effective date for the new OEP timeline to until the OEP preceding the 2027 plan year (PY).

The Enrollment Coalition supports the existing length of the open enrollment period and recommends CMS delay the effective date on this proposed policy until the OEP preceding PY2027 to ensure consumers and stakeholders are aware of and prepared for the shortened OEP. Additionally, if CMS shortens the open enrollment to end on December 15 before the coverage year begins, the Enrollment Coalition strongly encourages CMS to implement comprehensive outreach strategies to inform consumers of the new deadline for enrolling in coverage. CMS can also support enrollment during enrollment periods by extending customer service hours during the enrollment period, collaborating with community organizations, and leveraging digital platforms to enhance awareness and accessibility of ACA marketplaces. Ensuring that consumers are well-informed about the enrollment process and deadlines is essential to prevent coverage gaps and promote continuous health coverage. The Enrollment Coalition also encourages CMS to allow State-based Marketplaces (SBMs) to retain flexibility to set their own open enrollment dates as SBMs have had different experiences with enrollment and program integrity.

Special Enrollment Periods

CMS proposes to remove the monthly special enrollment period (SEP) for individuals with projected household incomes at or below 150 percent of the federal poverty level (FPL).

If CMS removes the monthly SEP for individuals with projected household incomes at or below 150 percent of FPL, we strongly urge CMS to support increased awareness of other SEPs, including SEPs for life changes and loss of other insurance coverage. These SEPs remain critical to allowing individuals and families to obtain or maintain coverage throughout the plan year.

Income Reporting and Verification

CMS proposes that Marketplaces flag income discrepancies when tax filers report income between 100–400 percent of the FPL, but IRS and official data sources show income below 100 percent FPL.

CMS also proposes changes to remove the requirement that Marketplaces accept an applicant's or enrollee's self-attestation of projected annual household income when the Marketplace requests tax return data from the IRS to verify attested projected annual household income but the IRS confirms there is no such tax return data available. Instead, Exchanges would be required to verify income using other trusted data sources or the alternative verification process.

Additionally, CMS proposes to remove the automatic 60-day extension of the statutorily required 90-day period for resolving income inconsistencies.

The Enrollment Coalition encourages CMS and states to utilize existing data sources that can improve the efficiency and accuracy in the enrollment process. States are currently required to use data sources to verify financial information to the extent they determine them useful. Many states verify wages, net earnings from self-employment, unearned income, and resources using information from data sources such as the State Wage Information Collection Agency (SWICA), the Social Security Administration (SSA), state agencies administering state unemployment

compensation, and human services programs.⁵ The Enrollment Coalition is supportive of utilizing additional existing data sources that can be improved and linked to enrollment in order to validate data accuracy.

Specifically, CMS could utilize and support states in utilizing the National Directory of New Hires (NDHN) for Advanced Premium Tax Credit (APTC) eligibility determinations. The NDHN database includes information on newly hired and rehired employees, quarterly wage reports of existing employees, and Unemployment Insurance applications and claims. Created in 1996, this database is used by several “programs and agencies to verify program eligibility, prevent or end improper payments, collect overpayments, or ensure that program benefits are correct.”⁶ According to the Congressional Research Service (CRS), “many programs that have piloted or fully implemented the use of NDHN data to prevent improper payments have reported significant savings as a result.”⁷ Multiple budget requests in 2017 and 2020 also proposed that CMS use the NDHN to support program integrity and “assist with income and employer verification and improve the ACA advance premium tax credit payment accuracy to reduce improper payments.”⁸

It is also important to note that under the current system, Advance Premium Tax Credit (APTC) eligibility determination relies on projected income, which can be difficult as individuals and families have to reasonably guess their future income. Projecting future income can be particularly difficult for workers engaging in the gig economy, part-time work, and seasonal labor, which are prone to income fluctuations. For example, one recent study found that nearly half of all low-income, working-age adults experience, each year, at least one month’s spike in income that exceeds average monthly income by 25 percent or more. According to another study,⁹ the average low and moderate-income household experiences an average of 2.6 months per year in which income exceeds the family’s annual income by 25 percent or more. Workers should not be penalized for reasonably anticipating a pay raise, additional hours at work, an increase in self-employment income, or finding a new job.

The Coalition also encourages the Trump Administration to work with Congress to utilize prior year income information, which can be verified through tax information and other sources, to establish eligibility for premium tax credits. Using prior-year income for premium tax credit eligibility would make the eligibility determination process auditable and more accurate.

Re-Enrollments

CMS proposes to modify the annual eligibility redetermination process by requiring Marketplaces to ensure that consumers who are automatically re-enrolled without affirming or updating their eligibility information on or before the last day to select a plan, and who would have been automatically re-enrolled in a QHP with a fully subsidized premium after the application of APTC, to

⁵ <https://aspe.hhs.gov/sites/default/files/documents/d1c68327569498e86e98764e536b74f4/ex-parte-renewal-data-point.pdf>

⁶ <https://crsreports.congress.gov/product/pdf/RS/RS22889>

⁷ <https://crsreports.congress.gov/product/pdf/RS/RS22889>

⁸ https://www.acf.hhs.gov/sites/default/files/documents/olab/final_cj_2017_print.pdf

⁹ <https://www.usfinancialdiaries.org/paper-1/>

instead be automatically re-enrolled with a \$5 monthly premium. Once consumers confirm their eligibility for APTC, the \$5 monthly bill could be eliminated. CMS proposes this provision be effective beginning in PY 2027.

Instead of this proposal, the Enrollment Coalition encourages CMS to utilize existing data sources to verify continued eligibility, which would address concerns related to program integrity, including unauthorized enrollments. As previously mentioned, CMS and states can verify eligibility information using data sources such as the State Wage Information Collection Agency (SWICA), the Social Security Administration (SSA), state agencies administering state unemployment compensation, and human services programs.¹⁰ CMS could utilize and support states in utilizing the National Directory of New Hires (NDHN) for Advanced Premium Tax Credit (APTC) eligibility determinations. Created in 1996, this database is used by several “programs and agencies to verify program eligibility, prevent or end improper payments, collect overpayments, or ensure that program benefits are correct.”¹¹ According to the Congressional Research Service (CRS), “many programs that have piloted or fully implemented the use of NDNH data to prevent improper payments have reported significant savings as a result.”¹² Using these sources to verify eligibility information measures would support program integrity without creating barriers to enrollment for eligible individuals and families. For this reason, the Enrollment Coalition supports efforts to improve eligibility verifications following enrollment, rather than proposals to non-renew coverage or financial assistance.

Thank you for your consideration of these comments.

Sincerely,
The Enrollment Coalition

¹⁰ <https://aspe.hhs.gov/sites/default/files/documents/d1c68327569498e86e98764e536b74f4/ex-parte-renewal-data-point.pdf>

¹¹ <https://crsreports.congress.gov/product/pdf/RS/RS22889>

¹² <https://crsreports.congress.gov/product/pdf/RS/RS22889>