

# Impacts of *City of Columbus v. Kennedy* on Open Enrollment (OE) 2026

*As of September 19, 2025*

*The information provided in this presentation is intended only to be a general informal summary of technical legal standards. It is not intended to take the place of the statutes, regulations, or formal policy guidance upon which it is based. This presentation summarizes current policy and operations as of the date it was presented. We encourage readers to refer to the applicable statutes, regulations, and other interpretive materials for complete and current information.*



# Background: *City of Columbus v. Kennedy*



Pursuant to an order of the federal district court for the District of Maryland in *City of Columbus v. Kennedy*, No. 25-cv-2114-BAH (D. Md.), the implementation of certain provisions of the recently promulgated [Marketplace Integrity and Affordability Final Rule](#), 90 Fed. Reg. 27,074 (June 25, 2025), have been [stayed](#) while the litigation remains pending.



# Provisions of Marketplace Integrity and Affordability Rule In Effect For Open Enrollment (OE) 2026

*Confirmed as of Sept. 19*



**Open Enrollment (OE) for Plan Year (PY) 2026 will run from November 1, 2025, through January 15, 2026. (§ 155.410)<sup>1</sup>**

## **In effect as of August 25, 2025**

- Reinstatement of Previous Interpretation of “Lawfully Present” Definition to Exclude Deferred Action for Childhood Arrivals (DACA) (§ 155.20)<sup>1</sup>
- Establishing Evidentiary Standards for Termination of an Agent's, Broker's, or Web-broker's Exchange Agreements for Cause (§ 155.220(g)(2))
- Removal of Automatic 60-Day Extension to Resolve Income Inconsistency (§ 155.315)
- Elimination of Gross Premium Percentage-based and Fixed-dollar Premium Payment Thresholds [Premium Payment Threshold] (§ 155.400(g))<sup>2</sup>
- Removal of Monthly Special Enrollment Period (SEP) for Advance Premium Tax Credit (APTC) - Eligible Qualified Individuals with a Household Income at or Below 150 Percent of the Federal Poverty Level (§ 155.420)<sup>1</sup>
- Failure-to-File and Reconcile (FTR) Two-Year Policy (§155.305(f)(4))

## **In effect as of PY 2026**

- Repeal of “Bronze to Silver crosswalk policy” [Annual Eligibility Redetermination (Automatic Re-enrollment Hierarchy)] (§ 155.335(j))
- Prohibition on Coverage of Specified Sex-Trait Modification Procedures as an EHB (§§ 156.115(d) and 156.400)
- Updates to Premium Adjustment Percentage Index (PAPI) Methodology (§ 156.130(e))

*For more information on these provisions, see “2025 Marketplace Integrity and Affordability Final Rule,” June 30, [https://regtap.cms.gov/reg\\_library\\_openfile.php?id=5943&type=I](https://regtap.cms.gov/reg_library_openfile.php?id=5943&type=I).*

*1. Please see “2025 Program Integrity Rule Overview, Part I,” August 25, [https://regtap.cms.gov/reg\\_library\\_openfile.php?id=6009&type=I](https://regtap.cms.gov/reg_library_openfile.php?id=6009&type=I) for more information on these provisions.*

*2. Note, Issuers may continue offering the longstanding option of a premium payment threshold based on a net percent of premium owed.*

# Provisions of Marketplace Integrity and Affordability Rule Not In Effect for OE 2026 Due to *Columbus v. Kennedy*

Confirmed as of Sept. 19



Provision	Impact for Open Enrollment (OE) 2026
\$5 Premium for Auto Re-enrollees Who Would Have Had \$0 Premium (§ 155.335(a), (n))	Qualifying consumers will continue to be automatically re-enrolled with no premium responsibility following application of Advance Payments of the Premium Tax Credit (APTC).
Satisfaction of Debt for Past-due Premiums [Coverage Denials for Failure to Pay Premiums for Prior Coverage] (§ 147.104(i))	Issuers are prohibited from conditioning the issuance of new health insurance coverage on payment of unpaid past-due premiums from prior coverage.
One-Year Failure to File Taxes and Reconcile APTC Process (§ 155.305(f)(4))	Marketplaces will continue the two-year Failure to File and Reconcile (FTR) policy that was in place prior to the Marketplace Integrity and Affordability Final Rule. Marketplaces should only remove APTC for households after two consecutive years in FTR status.
Federal Exchanges Conducting Eligibility Verification for SEPs beyond Loss of Minimum Essential Coverage (MEC) and for 75 Percent of New Enrollments through SEPs (§ 155.420(g))	The Federally-facilitated Marketplace will continue to verify Loss of MEC Special Enrollment Periods (SEPs) but will not implement verification for additional SEPs.

Sources: “City of Columbus v. Kennedy, No. 25-cv-2114,” <https://www.cms.gov/files/document/info-re-city-columbus.pdf>.



# Provisions of Marketplace Integrity and Affordability Rule Not In Effect for OE 2026 Due to *Columbus v. Kennedy* (continued)



Confirmed as of Sept. 19

Provision	Impact for Open Enrollment (OE) 2026
Income Verification When Internal Revenue Service (IRS) Indicates Income Less Than 100 Percent Federal Poverty Level (§ 155.320(c)(3)(iii))	Income data matching inconsistencies (DMIs) will not be opened for applicants when IRS indicates income less than 100% FPL and the applicant attested that their annual household income was over 100% FPL.
Income Verification When Tax Data is Unavailable (§ 155.320(c)(5))	Income DMIs will not be opened for applicants when the Marketplace attempts to verify an applicant's attested projected annual household income with the IRS, but the IRS returns no tax data.
Actuarial Value (AV)/Expanded De Minimis Ranges (§§ 156.140, 156.200, 156.400)	Use of the expanded AV ranges is not permitted, and Marketplace issuers may need to submit new rates, forms, and related plan data for QHP certification to comply with the court's order. On September 5, CMS released <a href="#">updated instructions</a> and an updated Actuarial Value <a href="#">Calculator</a> and <a href="#">Methodology</a> .

Sources: “City of Columbus v. Kennedy, No. 25-cv-2114,” <https://www.cms.gov/files/document/info-re-city-columbus.pdf>.