



Failure to File and Reconcile for Open Enrollment 2018: Overview for Assisters, Agents, & Brokers



November 2017

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- The term “assister” refer to the following types of assisters: Navigators in Federally-facilitated Marketplaces; Non-Navigator assistance personnel in Federally-facilitated Marketplaces, including federal In-Person Assisters (IPAs) and certified application counselors (CACs) in FFM.

Failure to File and Reconcile: Overview

- **RECAP:** As Marketplace regulations in 45 CFR 155.305(f)(4) specify, **an enrollee may not be determined eligible for advance payments of premium tax credit (APTC) if the tax filer for the household did not comply with the requirement to file an income tax return for a year for which APTC was provided and reconcile APTC previously paid on his or her behalf. This situation is called “failure to file and reconcile” or “FTR”**
- Beginning in Open Enrollment for 2016, the Marketplace has taken action to discontinue APTC for consumers whose tax filers received APTC but did not file a tax return for that year.
- For benefit year 2018, the Marketplace will also end APTC for enrollees whose tax filers did file a tax return but did not reconcile APTC (“non-reconcilers”).
- This presentation provides an overview of how assisters can help consumers who are impacted by this requirement in the Federally-facilitated Marketplace and State-based Marketplaces utilizing the federal eligibility and enrollment platform.*

* State-based Marketplaces not using the federal eligibility and enrollment platform may choose to implement different processes.

Refresher: What Does it Mean to “Reconcile APTC”?

- Tax filers who received APTC are required to file an income tax return including IRS Form 8962 to reconcile the APTC paid on their behalf (based on projected household income) with the final premium tax credit the enrollee is eligible for (based on actual household income for the year during which they received APTC).

Form **1095-A** Health Insurance Marketplace Statement

Department of the Treasury Internal Revenue Service

Do not attach to your tax return. Keep for your records. Information about Form 1095-A and its separate instructions is at www.irs.gov/form1095a.

OMB No. 1545-2232

2016

Part I Recipient Information

1 Marketplace identifier

2 Marketplace-assigned policy number

3 Policy issuer's name

4 Recipient's name

5 Recipient's SSN

6 Recipient's date of birth

7 Recipient's spouse's name

8 Recipient's spouse's SSN

9 Recipient's spouse's date of birth

10 Policy start date

11 Policy termination date

12 Street address (including apartment no.)

13 City or town

14 State or province

15 Country and ZIP or foreign postal code

VOID

CORRECTED

Form **8962** Premium Tax Credit (PTC)

OMB No. 1545-0074

2016 Attachment Sequence No. 73

Department of the Treasury Internal Revenue Service

Attach to Form 1040, 1040A, or 1040NR. Information about Form 8962 and its separate instructions is at www.irs.gov/form8962.

Your social security number

You cannot claim the PTC if your filing status is married filing separately unless you qualify for an exception (see instructions). If you qualify, check the box.

Part I Annual and Monthly Contribution Amount

1 Tax family size. Enter the number of exemptions from Form 1040 or Form 1040A, line 6d, or Form 1040NR, line 7d

2a Modified AGI. Enter your modified AGI (see instructions)

2b Enter the total of your dependents' modified AGI (see instructions)

3 Household income. Add the amounts on lines 2a and 2b (see instructions)

4 Federal poverty line. Enter the federal poverty line amount from Table 1-1, 1-2, or 1-3 (see instructions). Check the appropriate box for the federal poverty table used: a Alaska b Hawaii c Other 48 states and DC

5 Household income as a percentage of federal poverty line (see instructions)

6 Did you enter 401% on line 5? (See instructions if you entered less than 100%.)

7 Applicable Figure. Using your line 3 percentage, locate your "applicable figure" on the table in the instructions. a Annual contribution amount. Multiply line 3 by line 7. Round to nearest whole dollar amount. b Monthly contribution amount. Divide line 3a by 12. Round to nearest whole dollar amount.

Part II Premium Tax Credit Claim and Reconciliation of Advance Payment of Premium Tax Credit

9 Are you allocating policy amounts with another taxpayer or do you want to use the alternative calculation for year of marriage (see instructions)?

10 See the instructions to determine if you can use line 11 or must complete lines 12 through 23.

Annual Calculation	(a) Annual enrollment premiums (Form(s) 1095-A, line 33A)	(b) Annual applicable SLCSP premium (Form(s) 1095-A, line 33B)	(c) Annual contribution amount (line 8)	(d) Annual maximum premium assistance (amount from line 8, if zero or less, enter -0-)	(e) Annual premium tax credit allowed (smaller of (d) or (e))	(f) Annual advance payment of PTC (Form 1095-A, line 33C)
11 Annual Totals						
Monthly Calculation	(a) Monthly enrollment premiums (Form(s) 1095-A, lines 21-32, column A)	(b) Monthly applicable SLCSP premium (Form 1095-A, lines 21-32, column B)	(c) Monthly contribution amount (amount from line 8) or alternative mortgage monthly calculation	(d) Monthly maximum premium assistance (amount from line 8, if zero or less, enter -0-)	(e) Monthly premium tax credit allowed (smaller of (d) or (e))	(f) Monthly advance payment of PTC (Form(s) 1095-A, lines 21-32, column C)
12 January						
13 February						
14 March						
15 April						
16 May						
17 June						
18 July						
19 August						
20 September						
21 October						
22 November						
23 December						
24 Total premium tax credit. Enter the amount from line 11(e) or add lines 12(e) through 23(e) and enter the total here						
25 Advance payment of PTC. Enter the amount from line 11(f) or add lines 12(f) through 23(f) and enter the total here						
26 Net premium tax credit. If line 24 is greater than line 25, subtract line 25 from line 24. If line 24 equals line 25, enter zero. Stop here. If line 25 is greater than line 24, leave this line blank and continue to line 27						

Failure to File and Reconcile: IRS and Tax Filing Information

The Marketplace relies on IRS for information on whether a tax filer has filed a tax return for 2016 and reconciled associated APTC

- Marketplaces may use this information from IRS for a tax filer in any of the following situations:
 - New applications for 2018
 - Updated applications for 2018
 - Auto re-enrolled applications for 2018
- Prior to Open Enrollment, when the Marketplace requests updated income information from IRS for 2018 coverage, **the Marketplace will receive a notification from IRS if a tax filer who applied APTC failed to file a tax return or reconcile APTC for 2016.**
- It takes IRS 3 to 10 weeks to process a tax return, depending on how it is filed (paper vs. electronic) and IRS updates the information shared with the Marketplace as to whether a tax filer has filed and reconciled past APTC on a weekly basis.

Refresher: Open Enrollment and Annual Redetermination

Marketplaces must redetermine a consumer's eligibility for Marketplace coverage and financial assistance on an annual basis

- Consumers are encouraged to return to the Marketplace during Open Enrollment to update their application and receive an updated eligibility determination.
- Consumers who do not come back to the Marketplace and select a plan during Open Enrollment are automatically re-enrolled into the same, or if unavailable, a similar qualified health plan (QHP).
- For consumers who are auto re-enrolled, the amount of financial assistance they are eligible for will be calculated using the most recent income information available to the Marketplace.

2018 Failure to File and Reconcile

For annual eligibility redeterminations for benefit year 2018, the Marketplace will begin newly **discontinuing APTC for enrollees whose tax filers did file a tax return but did not reconcile the APTC using IRS Form 8962 (non-reconcilers).**

Knowledge Check

For annual eligibility redeterminations for benefit year 2018, the Marketplace will begin newly **discontinuing APTC for enrollees whose tax filers ___ file a tax return but _____ reconcile the APTC using IRS Form 8962 (non-reconcilers).**

Knowledge Check Answer

For annual eligibility redeterminations for benefit year 2018, the Marketplace will begin newly **discontinuing APTC for enrollees whose tax filers did file a tax return but did not reconcile the APTC using IRS Form 8962 (non-reconcilers).**

Failure to File and Reconcile: Consumer Notices

Notices will be sent to consumers in advance of Open Enrollment warning them about the possible impact on their 2018 coverage of not filing a 2016* tax return and reconciling associated APTC.

IRS letters:

- In past years, IRS mailed reminder letters to consumers who had received APTC, but had not yet filed a tax return. Reminders were also sent to consumers who filed an extension to encourage them to file ASAP.
- Beginning in September 2017, IRS sent notices to tax filers who had not filed and received APTC for the first time in 2016.

Marketplace Open Enrollment Notices:

- Enrollees who received APTC in 2016 and whose 2016 tax return was not filed and processed by the time the Marketplace requests data from IRS will receive a Marketplace Open Enrollment Notice (MOEN) with language explaining their risk for losing APTC in 2018.
- In order to comply with federal tax information privacy protections, the notice will also be sent to enrollees who are at risk for losing APTC due to other reasons, as follows:
 1. Not authorizing the Marketplace to request updated tax information;
 2. Having household income too high to receive APTC according to updated tax information; or
 3. Failure to file a tax return and reconcile APTC

*IRS always sends the most recent income or FTR data; therefore, it may send the Marketplace a 2015 FTR indicator if an enrollee had no requirement to file/reconcile in 2016.

Failure to File and Reconcile: NEW Consumer Notices

In mid-November 2017, the Marketplace mailed a print notice to tax filers who have not filed a 2016 tax return, have not reconciled associated APTC, and are currently enrolled in the Marketplace with APTC.

This notice:

- Warns tax filers that they are at risk for losing APTC for 2018 coverage
- Urges tax filers to file and reconcile APTC for 2016 immediately, and encourage them update their application to attest they have filed.
- Informs tax filers that they will have the opportunity to file an appeal with the Marketplace if their APTC is removed and they disagree with the removal.

Health Insurance Marketplace	
[First Name Last Name of Tax Filer] [Address] [City, State Zip]	[Date of notice]
2017 Application ID: [Application ID]	
ACT NOW: YOU'RE AT RISK OF LOSING FINANCIAL ASSISTANCE STARTING JANUARY 1, 2018.	
IRS records show that you haven't filed a 2016 tax return with a Form 8962 to reconcile advance payments of the premium tax credit. If you want to continue to receive financial assistance to help pay for Marketplace health coverage in 2018, you must file and reconcile as soon as possible.	
Dear Taxpayer:	
<u>Why we're sending you this letter</u>	
In 2016, advance payments of the premium tax credit were made to your (or someone in your tax household's) health insurance company to reduce your health insurance premium costs. This financial assistance is also being paid for your 2017 coverage.	
You're required to file a federal tax return along with Form 8962, <i>Premium Tax Credit (PTC)</i> , to reconcile these advance payments of the premium tax credit. If you don't file and reconcile, you and anyone in your tax household who wants to enroll in health coverage through the Marketplace won't be eligible for financial assistance for 2018 coverage, including advance payments of the premium tax credit and any cost-sharing reductions.	

Failure to File and Reconcile: Attestation Question

To account for delays in IRS data available to the Marketplace, a question displays on the application to allow enrollees to attest, under penalty of perjury, that their tax filer did file a tax return and reconcile past APTC for all years for which APTC was paid on their behalf.

- After filing and reconciling past APTC, attesting on the application to having done so will allow the enrollee to maintain eligibility for APTC (if otherwise eligible) even if IRS' data has not yet been updated.

Did Patrick, reconcile premium tax credits on your tax return for any past years? *optional*

Check the box below if **all** of these apply to you:

- You got premium tax credits to help pay for Marketplace coverage.
- The tax filer(s) on your application filed a federal income tax return for the same year you used tax credits. For example, in 2015 you got help paying for coverage, then and you also filed a tax return for that same year.
- The tax filer(s) submitted [IRS Form 8962](#) with the tax return.

Yes, prior premium tax credits were reconciled for past years.

Important: If you've gotten help paying for coverage in the past, but haven't filed taxes and reconciled your premium tax credits for those years, you won't be eligible for help paying for coverage until you do this.

[Learn more about reconciling tax credits.](#)

2018 Open Enrollment November 1st – December 15th



Failure to File and Reconcile: Consumer Experience during Open Enrollment

During Open Enrollment, after tax filers have filed their 2016 tax return and reconciled APTC, enrollees can avoid losing APTC in 2018 in two ways:

1) Return to the application to let the Marketplace know they filed and reconciled

- As discussed, after filing their 2016 tax return and reconciling APTC, enrollees can return to the Marketplace, create a 2018 application and attest on the application that their tax filer has filed a tax return and reconciled APTC for all years when APTC was paid. Enrollees should continue through to confirm enrollment after submitting the application. This will ensure the enrollee is eligible to receive APTC for 2018, if otherwise eligible.

2) If they do not return to the application, the Marketplace will re-check IRS data in December

- In mid-December, the Marketplace will recheck IRS data for all enrollees who did not return to the Marketplace and were initially flagged by IRS as not having filed a tax return or having reconciling APTC before Open Enrollment. This is so the Marketplace can re-enroll with APTC any enrollees whose tax returns were not processed before the first IRS data check in September.

APTC-eligible consumers will be auto re-enrolled in coverage for January 2018 with APTC, if otherwise eligible, if they either attested to their tax filer having filed and reconciled OR the December re-check of IRS data indicated their tax filer had filed and reconciled.

What if APTC ends because the tax filer didn't file and reconcile in time?

Enrollees whose APTC is discontinued beginning January 1, 2018, due to failure to file and reconcile can still take action to restore their APTC.

- **After the tax filer files and reconciles**, as long as the enrollee remains enrolled in their Marketplace plan, an enrollee may return to the Marketplace application, report a life change, attest to filing and reconciling, receive a new eligibility determination, select a plan, and receive APTC prospectively.
 - After Open Enrollment, enrollees cannot change plans unless they qualify for a special enrollment period; however, they can regain APTC eligibility following the 15th of the month coverage effective date rules

What if APTC ends because the tax filer didn't file and reconcile in time?

An enrollee may also appeal his or her eligibility determination notice stating that the enrollee is not eligible for financial assistance. The enrollee can elect to continue receiving the financial assistance he or she was receiving before the revised eligibility determination notice. If the appeals entity determines the Marketplace incorrectly terminated financial assistance for failure to file and reconcile (that is, if the tax filer had not failed to file and reconcile), then the appeals entity will reverse the Marketplace's revised eligibility determination notice and the enrollee will continue to be eligible for financial assistance (if otherwise eligible).

FTR Checklist for Assistors, Agents, & Brokers



What Assistors, Agents, & Brokers Can Do Now



Make sure enrollees know the process has changed for 2018. Enrollees will lose APTC in 2018 if their tax filer does not reconcile their past APTC using IRS Form 8962 even if they filed their 2016 taxes.



Encourage enrollees who received APTC in 2016 to file their 2016 federal income taxes and reconcile their APTC **as soon as possible**, even if they missed the filing deadline or they are within their filing extension deadline.

- Remind enrollees that even if they usually don't have to file an income tax return, if they received APTC in 2016 their tax filer needs to file a tax return.
- Consumers can file an amended return, so they may want to file now to ensure they continue to receive APTC, even if they think they may need to make changes in the future.



Help enrollees who haven't filed their taxes yet understand what steps to take, including helping them access their Forms 1095-A and report any errors.

- Enrollees can log in to their respective Marketplace accounts to view or download their Form 1095-A.

What Assisters, Agents, & Brokers Can Do Now (cont'd)



How to help enrollees who are unsure whether they are at risk for losing APTC because their tax filer did not file a tax return and reconcile their 2016 APTC.

- Encourage enrollees to check with the tax filer in their household if a 2016 tax return was filed and APTC was reconciled.
- Encourage the enrollee to have the household tax filer use Interactive Tax Assistant at [http://www.irs.gov/uac/Interactive-Tax-Assistant-\(ITA\)-1](http://www.irs.gov/uac/Interactive-Tax-Assistant-(ITA)-1) or contact the IRS call center at: 1-866-682-7451, ext. 569
- Note that in order to protect federal tax information, the Marketplace Call Center will not be able to tell consumers whether they are at risk for losing APTC because they failed to file and reconcile.



Encourage all enrollees to return to the Marketplace during Open Enrollment

- Providing updated household information, obtaining an updated eligibility determination, and browsing available plans may help enrollees find the best options for their families.
- Enrollees who have filed their 2016 tax returns can attest to having done so and keep their APTC for 2018, if otherwise eligible.

Open Enrollment 2018: Key Dates

- **September 2017:** Marketplace runs offline income verification (OIV) process and will receive data on consumers who have the Failure to File and Reconcile (FTR) indicator
- **October 2017:** Marketplace will begin sending Marketplace Open Enrollment Notices (MOENs) to all consumers currently enrolled in 2017 coverage
- **November 1, 2017:** 2018 Open Enrollment begins
- **Mid-November 2017:** Marketplace mails print notices to non-filers and non-reconcilers
- **Mid-December 2017:** Second check of IRS data before auto re-enrollment to determine whether consumers have filed and reconciled for 2016
- **December 15, 2017:** 2018 Open Enrollment closes

Resources

- Guidance on Annual Eligibility Redeterminations and Re-enrollments for Marketplace Coverage for 2018: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Guidance-Redetermination-Exchange-2018.pdf>
- Premium Tax Credit: Claiming the Credit and Reconciling Advance Credit Payments (IRS): <https://www.irs.gov/affordable-care-act/individuals-and-families/premium-tax-credit-claiming-the-credit-and-reconciling-advance-credit-payments>
- Where to find IRS Form 8962 link and instructions: <https://www.irs.gov/uac/about-form-8962>