



Working With Consumers who have NOT Filed Taxes or Reconciled APTC from Prior Years: Overview of the FTR Recheck Process



February 8, 2019

The information provided in this document 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 that it is based upon. This document 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. This communication was produced and disseminated at U.S. taxpayer expense.

CSG-201902

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- The term “assister” refers to Navigators and certified application counselors (CACs) in Federally-facilitated Marketplaces (FFMs).

Failure to File and Reconcile (FTR)

This presentation provides an overview of:

1. How the Marketplace is verifying that enrollees who attested to having filed their 2017 federal income tax return and reconciled advance payments of the premium tax credit (APTC) actually did so.
2. How the Marketplace is notifying consumers and discontinuing APTC for people who told the Marketplace they filed and/or reconciled prior APTC, but the IRS data shows they have not done so.
3. 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.

Failure to File and Reconcile (FTR)

- **RECAP**: As Marketplace regulations in 45 CFR 155.305(f)(4) specify, an enrollee may not be determined eligible for 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”
- During Open Enrollment for 2016 coverage, the Marketplace began discontinuing APTC for consumers whose tax filers had APTC paid on their behalf but did not file a tax return for that year.
- In 2018, the Marketplace began discontinuing APTC for enrollees whose tax filers did file a tax return but did not reconcile APTC (“non-reconcilers”), in addition to the non-filers.

FTR:

Consumer Experience during Open Enrollment

RECAP: To avoid losing APTC in 2019, one of two things should have happened during Open Enrollment for tax filers who filed their 2017 tax return and reconciled APTC:

- 1. The enrollees returned to the application to let the Marketplace know they filed and reconciled.**
 - After filing their 2017 tax return and reconciling APTC, enrollees that returned to the Marketplace, created a 2019 application and attested on the application that their tax filer had filed a tax return and reconciled APTC for all years when APTC was paid were able to receive APTC for 2019, if otherwise eligible.
- 2. If the enrollees didn't return to the application, the Marketplace re-checked IRS data in December.**
 - In mid-December, the Marketplace rechecked 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 reconciled APTC before Open Enrollment. This was so the Marketplace could re-enroll with APTC any enrollees whose tax returns were not processed before the first IRS data check in September.

FTR Recheck Verifications and Outreach

- Because the Marketplace gave consumers the option to attest to having filed and reconciled during Open Enrollment, it performs a recheck of IRS data to verify that those who attested actually filed and reconciled.
- In February 2019, the Marketplace checked the filing status of consumers:
 - 1) Who are enrolled in a 2019 Marketplace plan with APTC; and
 - 2) For whom IRS data indicated they received APTC in 2017 but had not filed a 2017 tax return and reconciled APTC received in 2017.
- These consumers are labelled the “recheck population”.
- The Marketplace then sent warning notices to the affected households urging them to file and reconcile immediately or risk losing APTC.

FTR Recheck Consumer Notices

- Two warning notices will be mailed in February that encourage consumers in the “recheck” group to make sure their tax filer filed and reconciled for 2017, and if he or she did not, to file and reconcile immediately or their APTC would be discontinued.
 - The first notice will be sent via U.S. mail to tax filers and is called the “direct notice”
 - The second notice will be sent to the household contact for the application and is available electronically in his/her online HealthCare.gov account, it is called the “combined notice”*

*Distribution included a small ad-hoc population to avoid unauthorized disclosure of federal tax information (FTI).

FTR Recheck and Ending APTC

- In the spring of 2019, the Marketplace will check IRS data again to confirm the tax filing status of those consumers who received the FTR warning notices, and if IRS indicates the tax filer has still not filed a 2017 tax return or reconciled 2017 APTC, **the Marketplace will discontinue APTC and income-based CSRs** for the tax household going forward.
 - Consumers will receive a new eligibility determination notice reflecting that they are not eligible for APTC

FTR Recheck Timeline*

- **Late January 2019:** Marketplace rechecks IRS data of consumers who are enrolled in Marketplace coverage for 2019 with APTC and are still flagged by IRS as not having filed and reconciled for 2017
- **Early February 2019:** Marketplace mails direct warning notice to tax filers flagged as FTR by IRS
- **Early February 2019:** Marketplace sends combined warning notice to households flagged as FTR by IRS
- **Spring 2019:** Marketplace performs a final check of IRS data to confirm filing status of the households that received the FTR warning notices and discontinues APTC for households that are still FTR according to IRS data. Households will receive a new eligibility determination notice (EDN) indicating their re-enrollment without APTC.
- **Spring 2019:** FTR consumers will remain in coverage but without APTC and CSRs

*All dates are tentative and subject to change

FTR Checklist for Assistants, Agents, & Brokers



What Assistants, Agents, & Brokers Can Do Now



Make sure enrollees know they will lose APTC in 2019 if their tax filer does not reconcile their past APTC using IRS Form 8962 even if they filed their 2017 taxes.



Encourage enrollees who received APTC in 2017 to file their 2017 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 2017, 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 reporting any errors.

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

What Assistors, 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 2017 APTC.

- Encourage enrollees to check with the tax filer in their household if a 2017 tax return was filed and APTC was reconciled.
- Encourage enrollees 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 call 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.

Resources

- Guidance on Annual Eligibility Redeterminations and Re-enrollments for Marketplace Coverage for 2019: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2019-Enrollment-ARR-Guidance.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>
- IRS Form 8962 and instructions: <https://www.irs.gov/uac/about-form-8962>