AFFORDABLE CARE ACT PREMIUM TAX CREDITS: HHS AND IRS LACK PLAN TO RECOVER IMPROPERLY SPENT TAXPAYER DOLLARS

A Majority Staff Report of the
Committee on Homeland Security and Governmental Affairs
United States Senate
Senator Ron Johnson, Chairman

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EXECUTIVE SUMMARY

Under the Affordable Care Act (ACA), only U.S. citizens or individuals who are lawfully present in the United States qualify for coverage, Premium Tax Credits, and Cost Sharing Reduction Subsidies through the federal or state exchanges.[1] The exchange determines whether an individual is eligible for credits and subsidies under the ACA, the Centers for Medicare and Medicaid Services (CMS) within the Department of Health and Human Services (HHS) distributes credits and subsidies to an insurer on the individual's behalf, and the Internal Revenue Service (IRS) is responsible for reconciling the amount of credits and subsidies paid on behalf of the individual with the amount the individual was actually entitled to receive.

In March 2015, Chairman Ron Johnson of the Senate Committee on Homeland Security and Governmental Affairs initiated an inquiry into CMS's eligibility verification process and into the process used to recoup improper payments.[2] The inquiry found that CMS had awarded ACA tax credits on behalf of more than 500,000 individuals who CMS later determined to be ineligible for coverage and tax credits. The inquiry also found that CMS and the IRS lack an effective plan to recoup credits that CMS awarded to ineligible individuals. The majority staff estimates that CMS distributed approximately $750 million in taxpayer funds in the form of tax credits, and anticipates that the IRS is unable to fully recoup the funds. This "pay and chase" model has potentially cost taxpayers approximately $750 million.

Pursuant to the ACA, if CMS cannot verify an individual's citizenship, status as a national, or legal presence, CMS provides temporary coverage to the individual, including credits and subsidies, while it allows the individual to provide documentary evidence of his eligibility. If the individual does not provide sufficient documentary evidence of eligibility, CMS must remove the individual from coverage. Indeed, CMS has announced that it removed more than 500,000 individuals from health insurance coverage because of their failure to document citizenship or legal residency status.

Based on information provided to the Committee and the majority staff's calculations, as of June 2015, the Administration awarded approximately $750 million in tax credits on behalf of individuals who were later determined to be ineligible because they failed to verify their citizenship, status as a national, or legal presence.

[1] The Centers for Medicare and Medicaid Services (CMS), an agency within the Department of Health and Human

[2] The term "improperly awarded" tax credits refers to tax credits that were awarded on behalf of individuals who were later unable to verify their citizenship, status as a national, or legal presence. Although the ACA permits the distribution of coverage and cost assistance before verifying an individual's eligibility, these credits are "improperly awarded" because the individuals were later determined to be ineligible for the coverage and cost assistance that they received.

The IRS and CMS have been unable to implement an effective plan to recoup credits and subsidies improperly awarded on behalf of people who failed to verify their citizenship, status as a national, or legal presence. Additionally, the agencies did not coordinate with each other, as evidenced by confusion between the agencies about which agency would take responsibility for recouping funds. Even though the IRS ultimately assumed responsibility for the recoupment process, it still lacks an effective plan. Instead, the IRS plans to rely on tax forms that do not solicit the information required to identify or recoup improperly awarded credits.

The majority staff's examination has revealed significant shortcomings of the Administration's implementation of the ACA with respect to Advanced Premium Tax Credits. Based upon information provided by CMS and IRS, the majority staff found:

- As of June 2015, the Administration is estimated to have awarded approximately $750 million in Advanced Premium Tax Credits to individuals who were ineligible to receive ACA cost assistance because they failed to provide the requisite documentary evidence of citizenship, status as a national, or legal presence in the United States;

- The IRS and HHS initially failed to coordinate to develop a plan for which agency would assume responsibility for recouping excess and improper ACA cost assistance payments; and

- Following Chairman Johnson's inquiry, the IRS developed a plan to recoup improperly awarded Advanced Premium Tax Credits, but that plan is ineffective and insufficient.

While CMS and the IRS must improve their coordination to ensure the Administration recoups the $750 million improperly awarded, they also must work to prevent future improper spending of this type. Chairman Johnson will continue to conduct oversight to bring transparency to the IRS's and CMS's failures to develop a plan to recover approximately $750 million in taxpayer dollars.

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I. INTRODUCTION

Since March 2015, the Committee on Homeland Security and Governmental Affairs has been examining the Administration's recovery of improperly awarded Advanced Premium Tax Credits and Cost Sharing Reduction Subsidies under the ACA.[3] According to HHS, a substantial number of individuals applied for and received subsidized health insurance coverage, despite the Administration's inability to verify the individuals' citizenship or lawful presence in the United States. The majority staff has found that the Administration lacks an effective plan to oversee the allocation of ACA cost assistance.

The Government Accountability Office (GAO) tested the accuracy of verification on the exchanges during the first open enrollment period, from October 2013 to March 2014.[4] GAO submitted 12 applications using fictitious identities, over the phone and online.[5] Eleven of the 12 applications received subsidized coverage from exchanges and obtained a total of about $30,000 in Advanced Premium Tax Credits.[6] For 7 of the 11 successful applicants, GAO did not submit all required verification documentation, but the exchanges nonetheless provided subsidized coverage.[7] The exchanges automatically reenrolled all 11 fictitious enrollees for 2015 coverage.[8] Eventually, the exchanges terminated coverage for 6 of the enrollees based on failure to provide documentation of eligibility.[9] However, for 5 of the 6 terminations, GAO obtained coverage reinstatement and increases in Advanced Premium Tax Credit amounts.[10]

Chairman Johnson's examination raises serious concerns about the oversight of ACA cost assistance payments. The majority staff estimates that, as of June 2015, approximately $750 million in taxpayer funds have been awarded as tax credits on behalf of individuals who failed to verify their citizenship, status as a national, or legal presence. Chairman Johnson has sought information from HHS and the IRS about how the Administration will recoup wrongfully awarded subsidies. Based on the information that HHS and the IRS provided, the majority staff

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[3] Appendix A, Ex. 1, Letter from Hon. Ron Johnson, Chairman, HSGAC, to Hon. Sylvia Burwell, Sec'y, HHS (Mar. 17, 2015).
[4] U.S. Gov't Accountability Office, GAO-14-705T, Preliminary Results of Undercover Testing of Enrollment Controls for Health Care Coverage and Consumer Subsidies Provided Under the Act (2014) [hereinafter GAO Report, GAO-14-705T (2014)]; U.S. Gov't Accountability Office, GAO-15-702T, Patient Protection and Affordable Care Act: Observations on 18 Undercover Tests of Enrollment Controls for Health-Care Coverage and Consumer Subsidies Provided under the Act (2015) [hereinafter GAO Report, GAO-15-702T (2015)].
[5] GAO Report, GAO-14-705T (2014), *supra* note 4.
[6] *Id.*; GAO Report, GAO-15-702T (2015), *supra* note 4.
[7] GAO Report, GAO-15-702T (2015), *supra* note 4.
[8] *Id.*
[9] GAO reported that the exchanges, when notifying the fictitious enrollees of their coverage termination, referenced new applications filed by the fictitious enrollees that GAO had not actually filed. *Id.*
[10] *Id.*

is concerned that neither HHS nor the IRS has an effective plan to recoup these improperly awarded tax credits.

II. COST ASSISTANCE UNDER THE ACA: AN OVERVIEW OF ADVANCED PREMIUM TAX CREDITS AND COST SHARING REDUCTION SUBSIDIES

The ACA offers cost assistance to qualified enrollees who purchase insurance through the Health Insurance Marketplaces (marketplaces or exchanges)—either through Federally-Funded Marketplaces (FFMs) or State-Based Marketplaces (SBMs). Cost assistance is available in the form of Premium Tax Credits, Cost Sharing Reduction Subsidies, Medicaid, and the Children's Health Insurance Program.[11] Premium Tax Credits and Cost Sharing Reduction Subsidies are based on income and are paid directly to an enrollee's insurer.[12] Premium Tax Credits decrease the individual's monthly premium and are available to individuals whose income is between 100% and 400% of the Federal Poverty Level.[13] Cost Sharing Reduction Subsidies reduce an individual's out-of-pocket expenses for deductibles, coinsurance, and copayments, and are available to individuals whose income is between 100% and 250% of the Federal Poverty Level.[14] To take advantage of the Premium Tax Credit or the Cost Sharing Reduction Subsidy, an individual must report his income to the exchange in which he enrolls.[15]

A. <u>Determination of Eligibility</u>

To qualify for coverage and cost assistance, an individual must be "a citizen or national of the Unites States or an alien lawfully present in the United States."[16] The exchanges are responsible for determining eligibility by submitting an applicant's identifying information to HHS, which submits the information to the Social Security Administration (SSA) and/or the Department of Homeland Security (DHS) for verification.[17] If an exchange is unable to verify an applicant's "citizenship, status as a national, or lawful presence" through SSA or DHS, the exchange must nevertheless provide coverage, while allowing the applicant 95 days to present satisfactory documentary evidence of his eligibility.[18] If an individual fails to provide sufficient

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[11] *ObamaCare Subsidies*, OBAMACARE FACTS, http://obamacarefacts.com/obamacare-subsidies/ (last visited Dec. 11, 2015).
[12] *Id.*
[13] 26 U.S.C. § 36B; *Premium Tax Credits*, OBAMACARE FACTS, http://obamacarefacts.com/insurance-exchange/premium-tax-credits/ (last visited Dec. 11, 2015); STAFF OF J. COMM. ON TAXATION, 111TH CONG., TECHNICAL EXPLANATION OF THE REVENUE PROVISIONS OF THE "RECONCILIATION ACT OF 2010," AS AMENDED, IN COMBINATION WITH THE "PATIENT PROTECTION AND AFFORDABLE CARE ACT" (JCX-18-10), at 12 (2010) [hereinafter J. COMM. ON TAXATION REPORT].
[14] J. COMM. ON TAXATION REPORT, *supra* note 13, at 12; *Cost Sharing Reduction Subsidies*, OBAMACARE FACTS, http://obamacarefacts.com/insurance-exchange/cost-sharing-reduction-subsidies-csr/ (last visited Dec. 11, 2015).
[15] J. COMM. ON TAXATION REPORT, *supra* note 13, at 12; *ObamaCare Subsidies*, *supra* note 11.
[16] 42 U.S.C. § 18032(f)(3).
[17] 45 C.F.R. § 155.315(a)–(c).
[18] 45 C.F.R. § 155.315(c)(3), (f)(4)(ii).

documentary evidence of citizenship, status as a national, or legal presence, CMS can terminate the individual's coverage, including tax credits.[19]

A determination of ineligibility due to a "lack of verification is not a conclusion about an individual's legal status—only that a Marketplace did not receive sufficient documentation in the inconsistency period prescribed by law."[20] Individuals who are lawfully present in the United States might nonetheless fail to provide sufficient documentary evidence of their citizenship, status as a national, or legal presence. However, CMS has discretion to extend the 95-day deadline,[21] and throughout 2014, CMS provided individuals with a minimum of 7 months to present sufficient documentation.[22] Moreover, in 2014, the exchanges "conducted an extensive outreach campaign" to assist individuals in submitting eligibility documentation by coordinating with "local assisters, stakeholders, and insurance companies to contact consumers."[23]

B. <u>Advanced Premium Tax Credits</u>

A Premium Tax Credit can be paid in advance to an individual's insurer through the exchange, which is called an Advanced Premium Tax Credit.[24] The exchange determines the amount of credit the individual may be able to claim, largely based on the individual's estimated household income and premiums for health plans in the market.[25] The Department of the Treasury then pays the Advanced Premium Tax Credit directly to the insurance plan and the enrollee pays the remainder of the premium.[26] In the following year, the individual must file a tax return to reconcile the amount of credit allotted during the previous year with the amount of credit to which the individual was entitled, based on the individual's actual household income for that year.[27] If the individual received more credit than that to which he was entitled, the individual must repay the excess credit, which the IRS facilitates by reducing the individual's tax refund.[28] In contrast, if the individual received less credit than the amount to which he was entitled, the individual will receive a larger tax refund.[29] In some cases, the law limits the repayment amount based on the individual's income.[30]

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[19] *Id.*
[20] Appendix A, Ex. 1, Letter from Hon. John Koskinen, Comm'r, IRS, to Hon. Ron Johnson, Chairman, HSGAC (July 14, 2015).
[21] 45 C.F.R. § 155.315(f)(3).
[22] News Release, CMS, March 31, 2015 Effectuated Enrollment Snapshot (June 2, 2015), https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2015-Fact-sheets-items/2015-06-02.html.
[23] *Id.*
[24] *Premium Tax Credits*, *supra* note 13.
[25] I.R.C. § 6103(l)(21); J. Comm. on Taxation Report, *supra* note 13, at 17.
[26] J. Comm. on Taxation Report, *supra* note 13, at 12; Patient Protection & Affordable Care Act of 2009 § 1411(b), 124 Stat. at 224.
[27] J. Comm. on Taxation Report, *supra* note 13, at 17.
[28] I.R.C. § 36B(f)(2)(B); Treas. Reg. § 1.36B-4(a)(3); J. Comm. on Taxation Report, *supra* note 13, at 17. In some cases, the law limits the repayment amount based on the individual's income. I.R.C. § 36B(f)(2)(B).
[29] I.R.C. § 36B(f)(2)(B); Treas. Reg. § 1.36B-4(a)(3); J. Comm. on Taxation Report, *supra* note 13, at 17.
[30] I.R.C. § 36B(f)(2)(B).

This payment system is commonly referred to as a "pay and chase" model, where the Treasury pays a portion of an enrollee's premium without confirming whether the enrollee is eligible for such a payment, and then "chases" after the enrollee to recover the payment if is later determined that the enrollee was ineligible. CMS used a pay and chase model to pay Medicare claims for 45 years, under which it would quickly pay claims without verifying their legitimacy.[31] It is estimated that the pay and chase model resulted in more than $60 billion, per year, in Medicare fraud.[32] In 2011, the Small Business Lending Act required CMS to begin verifying claims before paying them.[33]

In 2014, the exchanges paid out approximately $15.5 billion in Advanced Premium Tax Credits to an estimated 4.5 million taxpayers.[34] The IRS estimates that only 10% of taxpayers—300,000 individuals—received the correct amount of Advanced Premium Tax Credit, and that approximately 50% of taxpayers—1.6 million individuals—received excess credit.[35]

The 2015 tax filing season was the first year in which the IRS was required to reconcile Advanced Premium Tax Credit payments.[36] The Treasury Inspector General for Tax Administration (TIGTA) described ACA implementation as a "significant challenge" for the IRS and highlighted that the ACA "represents the largest set of tax law changes in more than 20 years."[37] Similarly, IRS Commissioner John Koskinen predicted that the 2015 tax year would be "the most complicated filing season before us in a long time, if ever."[38] Additionally, the Taxpayer Advocate Service, an independent watchdog within the IRS, cautioned that in 2015 it is possible that "[t]he IRS may take inappropriate collection actions on shared responsibility payment liabilities."[39] It also emphasized the possibility of improper subsidy payments, due to inaccurate state calculations of the Advanced Premium Tax Credit and the IRS's inability to

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[31] *Medicare Now Required to Check for Fraud Before Paying Claims*, Cal. Health Advocates Blog (Oct. 4, 2010), http://blog.cahealthadvocates.org/2010/10/medicare-checks-for-fraud-before-paying/; CMS, News Release, CMS Cutting-edge Technology Identifies and Prevents $820 Million in Improper Medicare Payments in First Three Years (July 14, 2015).

[32] *Medicare Now Required to Check for Fraud Before Paying Claims*, *supra* note 31; CMS News Release (July 14, 2015, *supra* note 31.

[33] *Medicare Now Required to Check for Fraud Before Paying Claims*, *supra* note 31; CMS News Release (July 14, 2015, *supra* note 31.

[34] Appendix A, Ex. 1, Letter from Hon. John Koskinen, Comm'r, IRS, to U.S. Congress (July 17, 2015). This number likely undercounts the number of individuals who received Advanced Premium Tax Credits because of data matching problems with some Forms 1095-A. *Id.*

[35] *Id.*

[36] Treasury Inspector General for Tax Administration, Semi-Annual Report to Congress (Apr. 1, 2014–Sept. 30, 2014).

[37] *Id.*

[38] William Hoffman, *Koskinen Warns Filing Season Could Be Most Complicated Yet*, TaxAnalysts (Oct. 21, 2014), http://www.taxanalysts.com/www/features.nsf/Features/A60CDC25793BAFA985257D7800568F15?OpenDocument.

[39] Taxpayer Advocate Service, Internal Revenue Service, 2014 Annual Report to Congress: Implementation of the Affordable Care Act May Unnecessarily Burden Taxpayers, at 67–68 (2015).

adequately test and verify the accuracy of data from the ACA exchanges before the filing season.[40]

C. Cost Sharing Reduction Subsidies

Unlike Advanced Premium Tax Credits, the IRS does not reconcile Cost Sharing Reduction Subsidies. Rather, an individual whose actual income is higher than projected is not required to repay any portion of the excess subsidy he received.[41] Similarly, an ineligible individual who improperly receives a Cost Sharing Reduction Subsidy would not need to repay that subsidy. However, if the individual's actual income is lower than projected, the individual may receive a credit for the cost-sharing amount already incurred in the calendar year.[42]

III. AS OF SEPTEMBER 2015, THE ADMINISTRATION IS ESTIMATED TO HAVE AWARDED APPROXIMATELY $750 MILLION IN ADVANCED PREMIUM TAX CREDITS TO INELIGIBLE INDIVIDUALS

A. HHS Information

On March 17, 2015, Chairman Johnson wrote to HHS Secretary Sylvia Burwell to inquire about the cost assistance that HHS awarded to ineligible individuals, asking the following questions:

(1) How did HHS decide to allow individuals to receive coverage before verifying citizenship, status as a national, or legal presence?
(2) How did HHS decide to allow individuals to receive Advanced Premium Tax Credits before verifying citizenship, status as a national, or legal presence?
(3) Regarding the individuals removed from coverage due to a lack of verification, please describe how many of those individuals had coverage for one month, two months, and every month up to nine months.
(4) How many total taxpayer dollars did those individuals receive through premium assistance tax credits and cost-sharing subsidies?
(5) Does HHS plan to recoup those funds?[43]

Secretary Burwell responded to Chairman Johnson's letter on April 27, 2015, but she declined to address these specific questions.[44] Secretary Burwell wrote that in September 2014,

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[40] *Id.*
[41] *ObamaCare Subsidies*, *supra* note 11.
[42] *Id.*
[43] Appendix A, Ex. 1, Letter from Chairman Johnson to Sec'y Burwell (Mar. 17, 2015), *supra* note 3.

the FFMs terminated coverage for 112,000 individuals who failed to provide "any" documentary evidence of eligibility.[45] Secretary Burwell also wrote that in February 2015, the FFMs terminated coverage for an additional 90,000 individuals who failed to provide "sufficient" documentary evidence of eligibility.[46] While HHS did not articulate a distinction between those individuals who failed to provide "any" documentation of their eligibility and those who failed to provide "sufficient" documentation of eligibility, the majority staff recognizes that there may exist a distinction between the populations. However, without better information from HHS, this appears to be a distinction without a difference.

Secretary Burwell did not address the deficiencies in the verification process that allowed individuals to obtain coverage and taxpayer-funded cost assistance, despite their inability to verify their citizenship, status as a national, or legal presence.[47] Secretary Burwell also declined to provide information about the number of individuals who received coverage without verifying their eligibility, and about the length of time that those individuals received coverage.[48] Finally, Secretary Burwell did not provide information about the amount of federal tax dollars improperly expended as a result of the verification process deficiencies.[49]

Furthermore, the numbers that Secretary Burwell provided to Chairman Johnson do not completely correspond with the numbers CMS has published in quarterly reports on ACA enrollment and cost assistance.[50] In light of this, the majority staff used CMS's published numbers to calculate the estimated distribution of Advanced Premium Tax Credits on behalf of individuals who later failed to prove their eligibility.

B. <u>The Majority Staff's Estimate</u>

The majority staff estimates that as of September 30, 2015, CMS awarded approximately $750 million in Advanced Premium Tax Credits to individuals enrolled in FFMs who CMS later determined to be ineligible because the individuals failed to verify their citizenship, status as a national, or legal presence (see Figure 1 below). The estimate does not account for improper Advanced Premium Tax Credits awarded on behalf of individuals enrolled in SBMs because

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[44] Appendix A, Ex. 4, Letter from Hon. Sylvia Burwell, Sec'y, HHS, to Hon. Ron Johnson, Chairman, HSGAC (Apr. 27, 2015).
[45] *Id.*
[46] *Id.*
[47] *Id.*
[48] *Id.*
[49] *Id.*
[50] *Id.*; News Release, CMS, March 31, 2015, *supra* note 22; News Release, CMS, June 30, 2015 Effectuated Enrollment Snapshot (Sept. 8, 2015), https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2015-Fact-sheets-items/2015-09-08.html; News Release, CMS, September 30, 2015 Effectuated Enrollment Snapshot (Dec. 22, 2015), https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2015-Fact-sheets-items/2015-12-22-2.html.

CMS does not report coverage termination information for SBMs.[51] Throughout 2014 and 2015, between 2 million and 2.7 million individuals have enrolled in SBMs, and approximately 80% of SBM enrollees received Advanced Premium Tax Credits.[52]

Figure 1: Estimated Total Amount of Taxpayer Dollars Improperly Awarded in Tax Credits

Date(s) of Termination	Enrollees Removed from Coverage	Percentage of Enrollees who Received Tax Credits	Enrollees Removed who Received Tax Credits[a]	Average # of Months of Improper Coverage	Average Monthly Credit per Enrollee	Average Total Credit per Enrollee[b]	Total Improper Awarded Credit[c]
September 2014	109,000	88%	95,920	7	$276	$1,932	**$185,317,440**
March 31, 2015	117,000	87%	101,790	12	$272	$3,264	**$332,242,560**
April 1, 2015–June 30, 2015	306,000	86%	263,160	3	$271	$813	**$213,949,080**
July 1, 2015–Sept. 30, 2015	48,000	86%	41,280	3	$271	$813	**$33,560,640**
Total							**$765,069,720**

[a] Enrollees removed who received tax credits = enrollees removed from coverage *x* percentage of enrollees who received tax credits

[b] Average total credit per enrollee = average # of months of improper coverage *x* average monthly credit per enrollee

[c] Total improper awarded credit = enrollees removed who received tax credits *x* average total credit per enrollee

C. Methodology

The majority staff derived its estimate based on data in CMS's quarterly reports and the information that HHS provided to the Committee. CMS has issued quarterly reports covering 2014,[53] January 1–March 30, 2015,[54] April 1–June 30, 2015,[55] and July 1–September 30, 2015.[56] The reports provide statistics on enrollment, Advanced Premium Tax Credits, and coverage termination.[57] The majority staff used the information in these reports to calculate—for each time period covered in the reports—an estimate of the amount of Advanced Premium Tax Credits that CMS awarded to individuals in FFMs who ultimately failed to prove their eligibility.

i. January 1–December 30, 2014

In 2014, FFMs[58] terminated coverage for 109,000 individuals[59] who failed to provide sufficient documentation of their citizenship, status as a national, or legal presence.[60] CMS did

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[51] News Release, CMS, March 31, 2015, *supra* note 22; News Release, CMS, June 30, 2015 50; News Release, CMS, September 30, 2015 50.
[52] News Release, CMS, March 31, 2015, *supra* note 22; News Release, CMS, June 30, 2015 50; News Release, CMS, September 30, 2015 50.
[53] News Release, CMS, March 31, 2015, *supra* note 22.
[54] *Id.*
[55] News Release, CMS, June 30, 2015 50.
[56] *Id.*
[57] *Id.*; News Release, CMS, March 31, 2015, *supra* note 22; News Release, CMS, September 30, 2015 50.
[58] References to Federally-Facilitated Marketplaces (FFMs) exclude State-Based Marketplaces (SBMs) that use Healthcare.gov. CMS does not consistently or precisely define the categories of exchanges in its reports. The report

not specify the month of termination; however, the majority staff assumed all 2014 coverage terminations occurred in September 2014. The majority staff made this assumption based on information in Secretary Burwell's April 27, 2015 letter to Chairman Johnson, in which she represented that, as of April 2015, there had been only two instances of coverage termination: September 2014 and February 2015. Therefore, without better information, the majority staff assumed that September 2014 was the first instance of coverage termination, and that there was not another instance of coverage termination before February 2015.

The majority staff assumed that coverage began in March 2014, and that, in accordance with the September 2014 termination date, enrollees received 7 months of coverage. CMS did not provide the Committee with the number of months of coverage as requested by Chairman Johnson. In the first year of enrollment under the ACA, due to technical difficulties with Healthcare.gov, open enrollment spanned October 2013 to April 2014, and enrollees began receiving coverage over a span of time, mostly between January and April 2014. Additionally, although the ACA provides only a 95-day grace period for individuals to present documentary evidence of eligibility, in 2014, the exchanges extended the grace period.[61] The exchanges waited until September 2014 to begin terminating coverage for individuals who failed to prove eligibility. The Committee believes this is a conservative estimate of how long, on average, enrollees received coverage because some enrollees likely received coverage earlier than March 2014.

The majority staff calculated that 88% of enrollees in FFMs received an Advanced Premium Tax Credit in 2014 and assumed the average credit per month was approximately $276.[62] CMS did not provide information on Advanced Premium Tax Credits in 2014 for FFMs.[63] CMS only provided overall national numbers—in 2014, 86% of all enrollees received an Advanced Premium Tax Credit and the average credit was $276 per month.[64] The majority staff used the overall national average credit in its calculation because, during the other time periods reported, the difference between the overall national average credit and the FFM average credit does not exceed $1.[65]

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indicates the numbers for which the majority staff made an assumption about the categories of exchanges captured in a data set.

[59] CMS does not identify whether this number includes individuals who were terminated from SBMs that use Healthcare.gov. News Release, CMS, March 31, 2015, *supra* note 22. The majority staff has determined that CMS's imprecision does not materially the estimate because, in 2014, fewer than 25,000 individuals enrolled in SBMs that used Healthcare.gov. *Id.*

[60] *Id.*

[61] *Id.*

[62] CMS provided the number of individuals enrolled in an exchange in each state, and the number of individuals in each state who received an Advanced Premium Tax Credit. *Id.* The majority staff calculated the percentage of enrollees in FFMs who received an Advanced Premium Tax Credit by calculating the percentage of individuals in each FFM state who received a tax credit, and calculating the average of those percentages.

[63] *Id.*

[64] *Id.*.

[65] *Id.*; News Release, CMS, June 30, 2015 50; News Release, CMS, June 30, 2015 50.

ii. January 1–March 31, 2015

On March 31, 2015, FFMs terminated coverage for 117,000 individuals[66] who failed to provide sufficient documentation of their citizenship, status as a national, or legal presence.[67]

The majority staff assumed that coverage began in April 2014, and therefore, enrollees received 12 months of coverage. CMS did not provide the number of months of coverage as requested by Chairman Johnson. The majority has concluded that these enrollees began coverage in 2014. Although the ACA provides only a 95-day grace period for individuals to present documentary evidence of eligibility, in 2014, the exchanges extended the grace period.[68] CMS reported that in 2015, exchanges began enforcing a 95-day deadline. However, these individuals were terminated on March 31, 2015—fewer than 95 days after 2015 coverage began. To ensure a conservative estimate, the majority staff assumed that all individuals terminated on March 31, 2015, received coverage in April 2014, the last month of the span of coverage initiation in 2014.

At the end of March 2015, 87% of enrollees in FFMs received an Advanced Premium Tax Credit, and the average credit was $272 per month.[69]

iii. April 1–June 30, 2015

Between April 1, 2015, and June 30, 2015, FFMs terminated coverage for 306,000 individuals[70] who failed to provide sufficient documentation of their citizenship, status as a national, or legal presence.[71]

For enrollees whose coverage was terminated between April 1, 2015, and June 30, 2015, the majority staff assumed that HHS provided coverage for 3 months. CMS reported that in 2015, exchanges began enforcing a 95-day grace period, and terminated coverage if an individual could not prove eligibility within 95 days of notification.[72] The majority staff believes this is a conservative estimate because it does not account for the time period between initiation

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[66] CMS does not identify whether this number includes individuals who were terminated from SBMs that use Healthcare.gov. News Release, CMS, March 31, 2015, *supra* note 22. However, when providing other statistics in the news release, CMS excludes Healthcare.gov SBMs from the category of FFMs. Moreover, the majority staff has determined that CMS's imprecision does not materially affect the estimate because, between January 1–March 31, 2015, only 200,000 individuals enrolled in SBMs that used Healthcare.gov. *Id.*

[67] *Id*

[68] *Id.*

[69] *Id.*

[70] CMS does not identify whether this number includes individuals who were terminated from SBMs that use Healthcare.gov. News Release, CMS, June 30, 2015, *supra* note 50. However, when providing other statistics in the news release, CMS excludes Healthcare.gov SBMs from the category of FFMs. Moreover, the majority staff has determined that CMS's imprecision does not materially affect the estimate because, between April 1–June 30, 2015, only 200,000 individuals enrolled in SBMs that used Healthcare.gov. *Id.*

[71] *Id.*

[72] *Id.*

of coverage and CMS's completion of its verification process and notification to the individual requesting documentation of eligibility. Additionally, the estimate assumed that CMS strictly enforced the 95-day termination deadline.

At the end of June 2015, 86% of enrollees in FFMs received an Advanced Premium Tax Credit, and the average credit was $271 per month.[73]

iv. July 1–September 30, 2015

Between July 1, 2015 and September 30, 2015, FFMs terminated coverage for 48,000 individuals[74] who failed to provide sufficient documentation of their citizenship, status as a national, or legal presence.[75]

The majority staff assumed that HHS provided coverage for 3 months. CMS reported that in 2015, exchanges began enforcing a 95-day grace period, and terminated coverage if an individual could not prove eligibility within 95 days of notification.[76] The majority staff believes this is a conservative estimate because it does not account for the time period between initiation of coverage and CMS's completion of its verification process and notification to the individual requesting documentation of eligibility. Additionally, the estimate assumed that CMS strictly enforced the 95-day termination deadline.

The majority staff calculated that 86% of enrollees in FFMs received an Advanced Premium Tax Credit in 2014 and assumes the average credit per month was approximately $271.[77] CMS did not provide information on Advanced Premium Tax Credits for FFMs for July 1, 2015–September 30, 2015.[78] CMS only provided overall national numbers—84% of all enrollees received an Advanced Premium Tax Credit.[79] The majority staff used the overall national average credit in its calculation because, during the other time periods reported, the difference between the overall national average credit and the FFM average credit does not exceed $1.[80]

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[73] *Id.*
[74] CMS does not identify whether this number includes individuals who were terminated from SBMs that use Healthcare.gov. News Release, CMS, September 30, 2015, *supra* note 50. However, the majority staff has determined that CMS's imprecision does not materially affect the estimate because, during the time period, fewer than 200,000 individuals enrolled in SBMs that used Healthcare.gov. *Id.*
[75] *Id.*
[76] *Id.*
[77] CMS provided the number of individuals enrolled in an exchange in each state, and the number of individuals in each state who received an Advanced Premium Tax Credit. *Id.* The majority staff calculated the percentage of enrollees in FFMs who received an Advanced Premium Tax Credit by calculating the percentage of individuals in each FFM state who received a tax credit, and calculating the average of those percentages.
[78] *Id.*.
[79] *Id.*
[80] News Release, CMS, March 31, 2015, *supra* note 22; News Release, CMS, June 30, 2015 50; News Release, CMS, June 30, 2015 50.

IV. THE IRS AND HHS NEGLECTED TO DEVELOP A PLAN TO RECOUP ADVANCED PREMIUM TAX CREDITS THAT WERE AWARDED TO INELIGIBLE INDIVIDUALS

IRS Commissioner John Koskinen testified before the Committee on April 15, 2015, about the IRS's implementation of the ACA.[81] At the hearing, Commissioner Koskinen testified that CMS and HHS—not the IRS—were responsible for recovering Advanced Premium Tax Credit payments that HHS awarded to enrollees who were later removed from coverage after failing to verify their citizenship, status as a national, or legal presence.[82] Specifically, Commissioner Koskinen testified:

> Those determinations and qualifications were made by CMS and HHS, which runs Medicare and Medicaid and has experience on recouping improper payments or payments made in error. And so this is an area where they will be responsible for doing that. . . . CMS will pursue those to the extent that they pursue any other payments that they make, you know, that turned out to be improper.[83]

However, in an April 27, 2015 letter to Chairman Johnson, Secretary Burwell contradicted Commissioner Koskinen's testimony.[84] Regarding a different problem in the reconciliation process, Secretary Burwell stated that the IRS was responsible for identifying and contacting individuals who received an Advanced Premium Tax Credit and failed to file a tax return.[85] She wrote:

> [T]he Marketplaces are required to report data to the Internal Revenue Service (IRS), which includes the amount of [Advanced Premium Tax Credits] paid on an individual's behalf. Based on the reporting, the IRS will determine who benefited from [Advanced Premium Tax Credits] and then failed to file a tax return. The IRS may contact these individuals to notify them that they must file a tax return and reconcile any [Advanced Premium Tax Credits] paid on their behalf.[86]

With respect to HHS's responsibility, Secretary Burwell stated that if the IRS notifies HHS of any individual who received an Advanced Premium Tax Credit and failed to file a tax return, "the individual is not eligible for additional [Advanced Premium Tax Credit] until they do so."[87]

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[81] *IRS Challenges in Implementing the Affordable Care Act: Hearing Before S. Comm. on Homeland Sec. & Governmental Affairs*, 114th Cong. (2015).
[82] *Id.*
[83] *Id.*
[84] Appendix A, Ex. 4, Letter from Sec'y Burwell to Chairman Johnson (Apr. 27, 2015), *supra* note 44.
[85] *Id.*
[86] *Id.*
[87] *Id.*

Commissioner Koskinen subsequently met with Chairman Johnson on May 8, 2015, and informed him that after further discussion with HHS, the IRS would most likely assume responsibility for recouping improperly awarded Advanced Premium Tax Credits. Commissioner Koskinen communicated to Chairman Johnson that he doubted that the IRS would fully recover the improperly awarded taxpayer money.

V. THE IRS'S PLAN TO RECONCILE ADVANCED PREMIUM TAX CREDITS WILL NOT EFFECTIVELY RECOUP CREDITS THAT HHS AWARDED ON BEHALF OF INELIGIBLE INDIVIDUALS

Chairman Johnson wrote to the IRS on May 21, 2015, seeking clarity on the IRS's plan to recoup federal funds awarded in the form of Advanced Premium Tax Credits to enrollees for whom HHS has since terminated coverage for failure to verify eligibility.[88] Commissioner Koskinen responded by letter on July 14, 2015, indicating that the IRS lacks an effective plan to recoup these credits.[89] Commissioner Koskinen emphasized that Advanced Premium Tax Credits are "not allowed for the coverage of an individual who is not lawfully present in the United States," and stated that those individuals "must repay the [Advanced Premium Tax Credits] when they file their tax returns."[90] However, Commissioner Koskinen informed the Chairman that the IRS does not obtain information from CMS about the reason for an individual's coverage termination.[91] Additionally, the tax forms the IRS uses to reconcile Advanced Premium Tax Credits likewise does not collect this information.[92] Knowledge of the reason for coverage termination is necessary to determine whether the individual must repay any received Advanced Premium Tax Credit.

A. <u>Communication Gap Between CMS and the IRS</u>

Commissioner Koskinen informed the Chairman of a lack of information sharing between CMS and the IRS that undoubtedly inhibits the IRS's ability to recoup tax credits that CMS awarded to ineligible individuals. Commissioner Koskinen explained that "[t]here are no agreements between the IRS and the HHS (or the CMS) regarding [Advanced Premium Tax Credits] for those individuals whose coverage was terminated" because of a failure to prove citizenship, status as a national, or legal presence.[93]

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[88] Appendix A, Ex. 5, Letter from Hon. Ron Johnson, Chairman, HSGAC, to Hon. John Koskinen, Comm'r, IRS (May 21, 2015).
[89] Appendix A, Ex. 2, Letter from Comm'r Koskinen to Chairman Johnson (July 14, 2015), *supra* note 20.
[90] *Id.*
[91] *Id.*
[92] Appendix B, Ex. 1, Form 1095-A, Health Insurance Marketplace Statement, Internal Revenue Service; Appendix B, Ex. 2, Form 8962, Premium Tax Credit, Internal Revenue Service.
[93] Appendix A, Ex. 2, Letter from Comm'r Koskinen to Chairman Johnson (July 14, 2015), *supra* note 20. IRS Staff had previously emailed majority staff on June 16, 2015, stating that such documents did not exist and,

According to Commissioner Koskinen, CMS sends monthly reports to the IRS that contain "months of coverage, [Advanced Premium Tax Credit] amounts, and associated premium."[94] However, for an individual whose coverage terminated, the report "does not indicate why coverage terminated."[95] As Commissioner Koskinen stated, coverage may terminate for "any number of reasons."[96] Coverage termination, in itself, does not indicate that the individual failed to verify his eligibility. Ultimately, the IRS admitted that it "does not have an estimate of the amount of [Advanced Premium Tax Credits or Cost Sharing Reduction Subsidies] paid out to insurance providers on behalf of individuals whose coverage was later terminated" for failure to verify eligibility.[97]

B. <u>Deficiencies in Tax Form 1095-A and Tax Form 8962</u>

Commissioner Koskinen articulated a plan to recoup Advanced Premium Tax Credits using Form 1095-A and Form 8962.[98] Commissioner Koskinen wrote:

> Individuals on whose behalf [an Advanced Premium Tax Credit] is paid, including those whose coverage and advance payments were terminated by the Marketplaces as a result of a data matching issue that was not resolved by the timeline provided in the statute, must file an income tax return and attach a Form 8962, Premium Tax Credit, to reconcile the advance payments made on their behalf.[99]

However, neither of these forms solicits the reason for an individual's coverage termination, which is necessary to determine whether the individual must repay their credit.[100]

An individual who receives an Advanced Premium Tax Credit will receive a Form 1095-A from the exchange.[101] The individual uses the information in Form 1095-A to complete and

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furthermore, that "[t]here are no agreements between IRS and HHS (or CMS) regarding recoupment of advance payments of the premium tax credit or cost sharing reductions for those individuals whose coverage was terminated because the Marketplace was unable to confirm citizenship or lawful status." Email from Staff, IRS, to Majority Staff, HSGAC (June 16, 2015) (on file with Committee).

[94] Appendix A, Ex. 2, Letter from Comm'r Koskinen to Chairman Johnson (July 14, 2015), *supra* note 20.

[95] *Id.*

[96] *Id.*

[97] *Id.*

[98] *Id.*

[99] *Id.*

[100] *See* Appendix B, Ex. 1, Form 1095-A, Health Insurance Marketplace Statement, Internal Revenue Service; Appendix B, Ex. 2, Form 8962, Premium Tax Credit, Internal Revenue Service.

[101] *Obamacare Unleashes IRS on Americans*, SENATE REPUBLICAN POLICY COMMITTEE (Sept. 23, 2014), http://www.rpc.senate.gov/policy-papers/obamacare-unleashes-irs-on-americans; Timothy Jost, *Implementing Health Reform: Complicated ACA Tax Forms Could Cause Problems*, HEALTH AFFAIRS BLOG (Sept. 21, 2014), http://healthaffairs.org/blog/2014/09/21/implementing-health-reform-complicated-aca-tax-forms-could-cause-problems/.

return Form 8962 when filing taxes.[102] Form 1095-A contains information about the plan the individual purchased and the amount of tax credit the individual received.[103] Form 8962 collects information to reconcile the difference between the credit that the individual received, and the credit to which the individual is entitled.[104]

Form 8962 is not designed for the use that Commissioner Koskinen described.[105] Rather, Form 8962 assumes that the filer is an eligible enrollee and, thus, it does not collect information about a filer's eligibility.[106] Additionally, if the individual's coverage is terminated, Form 8962 only collects the date of termination and does not collect the reason for termination.[107] Without information about the enrollee's eligibility or the reason for coverage termination, the IRS cannot determine whether the enrollee is required by the ACA to repay their tax credit.[108] Because Form 1095-A and Form 8962 do not contain or collect information about the reason for coverage termination, the forms do not enable the IRS to determine which taxpayers must return their entire credit.

C. <u>HHS and IRS's Assumption That Enrollees Will File Taxes</u>

The IRS's plan to recoup tax credits assumes that each individual who received an improperly awarded credit will file a tax return the following year.[109] If an individual does not file a tax return, the IRS is limited to preventing further distribution of credits to that individual, but will not recoup the already distributed federal funds.[110] Even then, the IRS must cross reference a monthly report that HHS provides listing the individuals who received credits or subsidies that month, with the IRS's own list of individuals who failed to file an income tax return.[111] Moreover, due to the tax return filing process, there is a two-year delay in terminating coverage.[112] An individual who does not file a tax return in 2015, for the 2014 tax year, will still receive coverage and cost assistance in 2015, and coverage will terminate in 2016.[113]

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[102] *Obamacare Unleashes IRS on Americans*, *supra* note 101; Jost, *supra* note 101.
[103] Appendix B, Ex. 1, Form 1095-A, Health Insurance Marketplace Statement, Internal Revenue Service.
[104] Appendix B, Ex. 2, Form 8962, Premium Tax Credit, Internal Revenue Service.
[105] Form 8962 is primarily intended to reconcile tax credits for eligible enrollees where a discrepancy in their projected and actual income results in an overpayment or underpayment of the Advanced Premium Tax Credit. The instructions to Form 8962 assert that individuals who fail to verify their coverage eligibility must repay the entire Advanced Premium Tax Credit, but the instructions do not explain the procedure for reporting or repayment.
[106] Form 8962, Premium Tax Credit, Internal Revenue Service.
[107] *Id.*
[108] *See id.*
[109] *See* Appendix A, Ex. 1, Letter from Comm'r Koskinen, IRS, to U.S. Congress (July 17, 2015), *supra* note 34.
[110] *Id.*
[111] *Id.*
[112] *Id.*; *Questions and Answers on the Premium Tax Credit*, IRS.GOV, https://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/Questions-and-Answers-on-the-Premium-Tax-Credit (last visited Dec. 17, 2015) (questions #15 and #16).
[113] Appendix A, Ex. 1, Letter from Comm'r Koskinen, IRS, to U.S. Congress (July 17, 2015), *supra* note 34; *Questions and Answers on the Premium Tax Credit*, *supra* note 112 (questions #15 and #16).

Of the 4.5 million taxpayers who received an Advanced Premium Tax Credit, as of May 2015, only 2.7 million taxpayers had filed a tax return and reconciled their Advanced Premium Tax Credit payments.[114] The remaining 1.8 million taxpayers either had not filed a tax return, had filed a return but failed to submit the requisite form to reconcile their Advanced Premium Tax Credit, or had requested an extension.[115]

D. <u>Penalty of Perjury</u>

Finally, Commissioner Koskinen noted that individuals who submit applications for coverage under the ACA and file tax returns do so under penalty of perjury.[116] While the threat of potential liability for perjury might stop some individuals from providing false information on their application for coverage or on their tax returns, it is not a wholesale prophylactic. The threat of liability for perjury utterly fails to address or remedy the actual problem of recouping improperly awarded tax credits.

VI. PROBLEMS WITH THE VERIFICATION DEFICIENCIES RAISE CONCERNS ABOUT THE PRESIDENT'S EXECUTIVE ACTIONS ON IMMIGRATION

The President's executive actions on immigration, if upheld, will likely create additional difficulties surrounding the eligibility verification process. On November 20, 2014, President Obama announced his plans to expand the Deferred Action for Childhood Arrivals (DACA) program and to initiate the Deferred Action to Parents of Americans and Lawful Permanent Residents (DAPA) program.[117] Following this announcement, Administration officials made numerous statements assuring Americans that the President's executive actions on immigration would not extend ACA coverage and cost assistance to illegal immigrants. In November 2014, White House spokesman Shawn Turner said that the executive action does not make illegal immigrants eligible to purchase health insurance through the ACA,[118] and in December 2014, White House spokeswoman Katherine Vargas reiterated this position.[119] However, these public statements contradict the realities as acknowledged by HHS.

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[114] Appendix A, Ex. 1, Letter from Comm'r Koskinen, IRS, to U.S. Congress (July 17, 2015), *supra* note 34.
[115] *Id.*
[116] *Id.*
[117] *Transcript: Obama's Immigration Speech*, Wash. Post (Nov. 20, 2014), https://www.washingtonpost.com/politics/transcript-obamas-immigration-speech/2014/11/20/14ba8042-7117-11e4-893f-86bd390a3340_story.html.
[118] Karen Tumulty, *Illegal Immigrants Could Receive Social Security, Medicare Under Obama Action*, Wash. Post (Nov. 25, 2015), http://www.washingtonpost.com/politics/illegal-immigrants-could-receive-social-security-medicare-under-obama-action/2014/11/25/571caefe-74d4-11e4-bd1b-03009bd3e984_story.html.
[119] Eyder Peralta, *Under Executive Action, Immigrants Are Entitled to Social Security Benefits*, NPR.org (Dec. 4, 2014), http://www.npr.org/blogs/thetwo-way/2014/12/03/368216062/under-executive-action-immigrants-are-entitled-to-social-security-benefits.

It is, at best, incomplete for the Administration to claim that beneficiaries of the DACA and DAPA programs will not receive coverage under the ACA, when more than 500,000 individuals have already obtained temporary coverage under the ACA without proving citizenship, status as a national, or lawful presence, because of HHS's flawed verification system.[120] Unless the Administration implements new policies in the wake of DACA and DAPA to prevent individuals from gaining coverage until HHS verifies an individual's citizenship, status as a national, or lawful presence, past practices show that the extension of DACA and creation of DAPA will likely result in additional illegal immigrants gaining at least provisional coverage and taxpayer-funded cost assistance. While the DAPA and DACA-expansion programs are currently under injunction pending further court action,[121] if the injunction is at some point lifted the eligibility verification process will certainly be affected.

VII. CONCLUSION

Two years after open enrollment began under the ACA, HHS and the IRS still lack an effective plan to recover approximately $750 million of taxpayer funds that were improperly distributed on behalf of ineligible enrollees. The information provided to the Committee by the IRS and HHS reveals a troubling lack of coordination between the two agencies responsible for ACA implementation and demonstrates that the IRS and HHS neglected to consider how they would recover these wasteful payments. Commissioner Koskinen's proposed plan to recover these payments, including the use of Form 8962 and threat of penalty of perjury, is insufficient, inefficient, and will prove to be ineffective.

This recoupment method—the so-called "pay and chase" model—has proven to be wasteful and ineffective in the Medicare context. Before the law was changed to require the verification of Medicare eligibility before paying claims, Medicare fraud under the pay and chase model cost taxpayers an estimated $60 billion annually. CMS's process for awarding advanced premium tax credits under the ACA creates a similar susceptibility for waste, fraud, and abuse. In fact, this method of awarding tax credits, coupled with the IRS's inability to effectively recoup improperly awarded funds, already has resulted in significant taxpayer losses.

Chairman Johnson will continue to conduct oversight of the recovery of improperly distributed taxpayer funds on behalf of enrollees who were ineligible to receive the benefit of advanced premium tax credits. While the exchanges are responsible for verifying an individual's eligibility for coverage and cost assistance, the IRS now bears the responsibility of recouping funds awarded to ineligible eligible, and must be accountable for that responsibility.

[120] Appendix A, Ex. 4, Letter from Sec'y Burwell to Chairman Johnson (Apr. 27, 2015), *supra* note 44.
[121] *Texas v. United States*, No. 15-40238 (5th Cir. Nov. 9, 2015).

Appendix A

Exhibit 1

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

March 17, 2015

The Honorable Sylvia Burwell
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue Southwest
Washington, DC 20201

Dear Ms. Burwell:

The Committee on Homeland Security and Governmental Affairs is conducting oversight of the implementation of the Affordable Care Act, also known as ObamaCare. Under the law, only U.S. citizens or those lawfully present in the country qualify for coverage, premium assistance tax credits and cost-sharing subsidies through the federal or state marketplaces.[1] The Department of Health and Human Services (HHS) oversees the verification process to determine which individuals qualify for coverage and taxpayer-funded subsidies.

Under the Administration's current policies, if an individual is unable to prove his or her citizenship or lawfully present status, HHS provides coverage and taxpayer-funded subsidies under ObamaCare before the individual's legal status can be verified by any government agency.[2] In September 2014, HHS announced that it dropped 115,000 individuals from ObamaCare coverage because of their failure to document legal residency status.[3] These individuals had enrolled during the first enrollment period and received coverage beginning in January 2014.

Last month, HHS announced that it dropped an additional 200,000 individuals from ObamaCare coverage because they failed to prove legal residency, after most were enrolled under the law for over a year.[4] When they were enrolled under ObamaCare, many received premium assistance tax credits and cost-sharing subsidies for which they were not entitled. Because many illegal immigrants do not file tax returns, it will be difficult for the Internal Revenue Service to recoup these funds since many of these individuals will not be subject to the reconciliation process when filing taxes.

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[1] 42 U.S.C. § 18032.
[2] 45 CFR § 155.315(f)(4).
[3] Lena H. Sun, *155,000 immigrants to lose health coverage by Sept. 30 because of lack of status data*, THE WASH. POST, Sept. 15, 2014.
[4] Louise Radnofsky, *Thousands to Lose Health Insurance Over Residency Questions*, THE WALL STREET JOURNAL, Feb. 11, 2015.

The Committee is concerned that the President's executive actions on immigration will create additional difficulties within this already problematic verification process. On November 20, 2014, President Obama announced his plans to expand the "Deferred Action for Childhood Arrivals" (DACA) Program and to extend "Deferred Action to Parents of Americans and Lawful Permanent Residents" (DAPA).[5] Administration officials have made numerous statements assuring Americans that the President's recent executive actions on immigration would not extend ObamaCare coverage and access to premium assistance tax credits and cost-sharing subsidies to illegal immigrants. In November 2014, White House spokesman Shawn Turner said that the executive action does not make illegal immigrants eligible to purchase health insurance through ObamaCare.[6] In December 2014, White House spokeswoman Katherine Vargas reiterated this position.[7] However, these public statements seem to contradict the realities reported by the news media and acknowledged by HHS.

It is dishonest for the Administration to declare that beneficiaries of the President's executive actions will not receive coverage under ObamaCare, when over 300,000 individuals already obtained coverage under ObamaCare without proving citizenship or lawfully present status, through HHS's flawed verification system. Unless the Administration has implemented new policies in the wake of DACA and DAPA to prevent individuals from gaining ObamaCare coverage until citizenship and lawfully present status can be verified, past practice shows that the Administration cannot guarantee that the extension of DACA and DAPA will not result in additional illegal immigrants gaining at least provisional Obamacare coverage and taxpayer-funded benefits.

To assist the Committee with its oversight of ObamaCare, please provide detailed answers to the following questions as soon as possible, but no later than 5:00 p.m. on March 31, 2015:

1. How did HHS allow more than 300,000 individuals who were ineligible for ObamaCare coverage to enroll?

2. If an individual acquires a Social Security number under DACA or DAPA, does HHS determine whether that individual is eligible for ObamaCare coverage? If so, how?

3. How does HHS differentiate, if at all, between Social Security numbers issued through DACA or DAPA and those issued to the general population?

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[5] *Transcript: Obama's Immigration Speech*, THE WASH. POST, Nov. 20, 2014.

[6] Karen Tumulty, *Illegal immigrants could receive Social Security, Medicare under Obama action*, THE WASH. POST, Nov. 25, 2015, *available at*: http://www.washingtonpost.com/politics/illegal-immigrants-could-receive-social-security-medicare-under-obama-action/2014/11/25/571caefe-74d4-11e4-bd1b-03009bd3e984_story.html

[7] Eyder Peralta, *Under Executive Action, Immigrants Are Entitled To Social Security Benefits*, NPR.org, Dec. 4, 2014, *available at*: http://www.npr.org/blogs/thetwo-way/2014/12/03/368216062/under-executive-action-immigrants-are-entitled-to-social-security-benefits

4. Will HHS publish regulations or implement any policies or procedures specific to DAPA compliance? If so, please explain when HHS plans to issue these regulations, the nature of the regulations, and detail those policies and procedures.

5. How did HHS decide to allow individuals to receive coverage through an ObamaCare marketplace before he or she verifies citizenship or lawfully present status? Please explain this decision.

6. How did HHS decide to allow individuals to receive premium assistance tax credits and cost-sharing subsidies before he or she verifies citizenship or lawfully present status? Please explain this decision.

7. Please explain the process by which the Social Security Administration and the Department of Homeland Security verify citizenship or lawfully present status of individuals eligible for ObamaCare coverage, and how HHS is notified of the verification results.

8. Regarding the approximately 112,000 individuals removed from coverage in September 2014 due to lack of legal residency verification, please describe how many of those individuals had coverage for one month, two months, and every month up to nine months. How many total taxpayer dollars did those individuals receive through premium assistance tax credits and cost-sharing subsidies? Does HHS plan to recoup those funds? If so, how?

9. Regarding the approximately 200,000 individuals removed from coverage in February 2015 due to lack of legal residency verification, describe how many of those individuals had coverage for one month, two months, and each month up to one year. How many total taxpayer dollars did those individuals receive through premium assistance tax credits and cost-sharing subsidies? Does HHS plan to recoup those funds? If so, how?

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate "the efficiency, economy, and effectiveness of all agencies and departments of the Government."[8] Additionally, S. Res. 253 (113th Congress) authorizes the Committee to examine "the efficiency and economy of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices . . . ."[9]

[8] S. Rule XXV(k); see also S. Res. 445, 108th Cong. (2004).
[9] S. Res. 253 § 12, 113th Cong. (2013).

If you have any questions, please contact Emily Martin or Brooke Ericson of the Committee staff at 202-224-4751. Thank you for your attention to this matter.

Sincerely,

Ron Johnson
Chairman

cc: The Honorable Thomas R. Carper
Ranking Member

Enclosure

Exhibit 2

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

July 14, 2015

The Honorable Ron Johnson
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your letter dated May 21, 2015, regarding the Affordable Care Act (ACA) and the reconciliation of the advance payments of the premium tax credits (APTC) for those individuals whose legal status could not be confirmed by a Marketplace. We are committed to identifying and efficiently addressing returns that erroneously or fraudulently claim premium tax credits (PTC) or taxpayers who fail to reconcile APTC, and we hope the following information addresses your concerns.

The Department of Health and Human Services (HHS), through the Centers for Medicare & Medicaid Services (CMS), manages the federally-facilitated Marketplaces. The federally-facilitated Marketplaces and state-based Marketplaces are responsible for determining eligibility for enrollment in qualified health plans and eligibility for and the amount of APTC and cost sharing reductions. This includes verifying applicant information from third parties, such as the Social Security Administration and the U.S. Department of Homeland Security.

Individuals on whose behalf APTC is paid, including those whose coverage and advance payments were terminated by the Marketplaces as a result of a data matching issue that was not resolved by the timeline provided in the statute, must file an income tax return and attach a Form 8962, Premium Tax Credit, to reconcile the advance payments made on their behalf. Individuals who received the APTC and fail to file an income tax return to reconcile those advance payments will receive correspondence from us telling them they must file a tax return and Form 8962 or they will not receive the APTC from the Marketplace next year.

We receive information from the Marketplaces on enrollees and the amount of advance payments made on their behalf. As the statute, applicable regulations, instructions, and publications make clear, PTC is not allowed for the coverage of an individual who is not lawfully present in the United States. Any individual not lawfully present who enrolls in a qualified health plan must repay any APTC received at the time of tax filing. Moreover, if individuals not lawfully present were to enroll in a qualified health plan and have APTC paid to lower their monthly premium costs, they would be doing so under penalty of perjury, as they would have attested they were lawfully present in the United States at the time they applied for coverage at the Marketplace. In addition to civil penalties in the ACA for providing false or fraudulent information to the Marketplace, there are penalties for providing false information on a tax return, which individuals sign under penalty of perjury.

Please see the enclosed documents, which more specifically address your questions and requests. I hope this information is helpful. If you have additional questions, please contact me, or a member of your staff may contact Leonard Oursler, Director, Legislative Affairs, at (202) 317-6985.

Sincerely,

John A. Koskinen

Enclosures (2)

Enclosure

1. Please explain what steps the IRS intends to take to recover the estimated $400 million in taxpayer dollars erroneously paid out on behalf of ineligible ObamaCare enrollees since January 2014.

The IRS cannot confirm your estimate of money that was paid out to insurance providers on behalf of individuals whose coverage was terminated because the Marketplaces were unable to confirm citizenship or lawful status. That said, the IRS is committed to identifying and efficiently addressing returns that erroneously or fraudulently claim premium tax credit. As the statute, applicable regulations, instructions, and publications make clear, PTC is not allowed for the coverage of an individual who is not lawfully present in the United States. Taxpayers who received APTC but are not eligible for PTC because they are not lawfully present must repay the APTC when they file their tax returns.

Marketplaces are responsible for verifying eligibility for coverage and financial assistance such as APTC. By law, citizenship and lawful presence attestations and household income must be verified by Marketplaces against specified federal records. If a Marketplace is unable to verify the information that an applicant provides against federal records, the Marketplace must, by law, provide the applicant with time to provide documentary evidence or otherwise resolve the inconsistency. If the Marketplace is unable to verify the citizenship or lawful status of an individual, the coverage (and any relating financial assistance) is terminated. It is important to note that lack of verification is not a conclusion about an individual's legal status – only that a Marketplace did not receive sufficient documentation in the inconsistency period prescribed by law. It is possible therefore that an individual whose coverage was terminated for lack of sufficient documentation does, in fact, have the requisite legal status entitling them to coverage and financial assistance. If someone not lawfully present were to enroll in Marketplace coverage and have APTC paid on their behalf for their coverage, they would be doing so under penalty of perjury, as they attested they were lawfully present in the United States at the time they applied for coverage at the Marketplace. In addition to civil penalties in the ACA for providing false or fraudulent information to the Marketplace, there are penalties for providing false information on a tax return, which individuals sign under penalty of perjury.

2. Please explain how the IRS will recover Obamacare subsidies improperly awarded to an enrollee in a given tax year who either does not file a tax return for the following tax year or has insufficient funds to repay the government.

The IRS receives monthly reports and annual Form 1095-A data from the Marketplaces. Based on this reporting, the IRS is able to determine who benefited from APTC and can follow up with taxpayers as appropriate. Individuals who received the APTC and failed to file an income tax return will receive correspondence from the IRS telling them they must file a tax return and Form 8962 or they will not receive the APTC from the Marketplace next year.

Additionally, using the existing eligibility process during which the Marketplaces ask the IRS for verification of income, the IRS will notify the Marketplace of individuals on whose behalf APTC was provided, and who failed to file a tax return to reconcile those payments for a year for which income data would be used for verification. These individuals will not be eligible for advance payments until they file a return reconciling the advance payments received for the prior year.

If a taxpayer failed to repay excess APTC and as a result has a tax liability, the IRS has the normal collection tools to collect those amounts, including offsetting future refunds.

3. Regarding the approximately 200,000 individuals removed from coverage due to lack of legal residency verification, how many total taxpayer dollars did those individuals receive through premium assistance tax credits and cost-sharing subsidies?

The HHS through the CMS manages the federally-facilitated Marketplaces. The federally-facilitated Marketplaces and state-based Marketplaces are responsible for determining eligibility for enrollment in qualified health plans and eligibility for and the amount of APTC and cost sharing reductions. This includes verifying applicant information from third parties such as the Social Security Administration and the U.S. Department of Homeland Security.

The IRS is committed to identifying and efficiently addressing returns that erroneously or fraudulently claim premium tax credit. Taxpayers who received APTC but are not eligible for PTC because they are not lawfully present must repay the APTC when they file their tax returns. The IRS plays no role in determining the amount of cost-sharing reductions that are paid out.

The IRS does not have an estimate of the amount of APTC or CSR paid out to insurance providers on behalf of individuals whose coverage was later terminated because the Marketplaces were unable to confirm citizenship or lawful status.

4. Does HHS inform the IRS when enrollees are dropped from coverage due to lack of legal residency verification? Please explain the process.

The process begins when an individual enrolls in coverage through a Marketplace. Marketplaces are responsible for verifying eligibility for Marketplace coverage and for financial assistance provided in connection with that coverage. By law, citizenship and lawful presence attestations and household income must be verified by Marketplaces against specified federal records. If a Marketplace is unable to verify the information that an applicant provides against federal records, the Marketplace must, by law, provide the applicant with time to provide documentary evidence or otherwise resolve the inconsistency. If the Marketplace is unable to verify the citizenship or lawful status of an individual, the coverage (and any relating financial assistance) is terminated. It is important to note that lack of verification is not a conclusion about an individual's legal status – only that a Marketplace did not receive sufficient documentation in the inconsistency period prescribed by law. It is possible, therefore, that an individual whose coverage was terminated for lack of sufficient documentation does, in fact, have the requisite legal status entitling them to coverage and financial assistance. If someone not lawfully present were to enroll in Marketplace coverage and have APTC paid on their behalf for their coverage, they would be doing so under penalty of perjury, as they attested they were lawfully present in the United States at the time they applied for coverage at the Marketplace. In addition to civil penalties in the ACA for providing false or fraudulent information to the Marketplace, there are penalties for providing false information on a tax return, which individuals sign under penalty of perjury.

The IRS receives monthly reports and annual Form 1095-A data from the Marketplaces, including information about months of coverage, APTC amounts, and associated premiums. The information does not indicate why coverage terminated, which may happen for any number of reasons. Based on this reporting, the IRS is able to determine who benefited from APTC and can follow up with taxpayers as appropriate. Individuals who received the APTC and failed to file an income tax return will receive correspondence from the IRS telling them they must file a tax return and Form 8962 or they will not receive the APTC from the Marketplace next year.

Additionally, using the existing eligibility process during which the Marketplaces ask the IRS for verification of income, the IRS will notify the Marketplace of individuals on whose behalf APTC was provided, and who failed to file a tax return to reconcile those payments for a year for which income data would be used for verification. These individuals will not be eligible for advance payments until they file a return reconciling the advance payments received for the prior year.

If a taxpayer failed to repay excess APTC and as a result has a tax liability, the IRS has the normal collection tools to collect those amounts, including offsetting future refunds.

5. Please produce any memorandums, letters, meeting notes, or communications reflecting any agreement between HHS and IRS relating to the recoupment of federal funds in the form of advanced premium tax credits or cost-sharing subsidies, awarded to ACA enrollees who are ineligible for coverage for any reason.

There are no agreements between the IRS and the HHS (or the CMS) regarding APTC or CSR for those individuals whose coverage was terminated because the Marketplace was unable to confirm citizenship or lawful status.

6. Please produce any memorandums, letters, meeting notes or communications referring to the process by which the IRS may recoup federal funds in the forms of advance premium tax credits or cost-sharing subsidies awarded to ACA enrollees who are ineligible for coverage for any reason.

The enclosed Publication 974 restates the rule that PTC is not allowed for the coverage of an individual who is not lawfully present in the United States and that all APTC paid for a not lawfully present individual who enrolls in a qualified health plan must be repaid. It provides guidance for taxpayers on how to calculate and report the excess APTC.

Exhibit 3

IRS Commissioner John Koskinen updated members of Congress on July 17on preliminary results from the 2015 filing season related to Affordable Care Act provisions. The following is the text of the letter:

Dear Member:

This is the first year that taxpayers saw changes to their income tax returns related to the individual shared responsibility provision and the premium tax credit provision of the Affordable Care Act (ACA). Likewise, this is the first year the IRS is administering these new provisions. Because we have received numerous requests from Members of Congress, today we are reporting preliminary results from the 2015 tax filing season related to the ACA.

The 2015 tax filing season opened on January 20, 2014. Since that time, the IRS has processed approximately 135 million of the around 150 million individual tax returns we expect.[1] Every year, millions of taxpayers request an extension beyond April 15th to file their return. This year was no different in that the IRS received nearly 12 million requests for extensions which gives taxpayers until October 15th to file their return.[2]

I can report that with the exception of the continued erosion of taxpayer services, the 2015 tax filing season has gone smoothly, generally, and as it relates specifically to the ACA provisions mentioned above. While many people may think that tax filing season is over on April 15th, we conduct a substantial data review afterwards to gather a fuller picture of tax season and determine what post-filing compliance or corrective actions are appropriate. Indeed, this review remains ongoing and our data remains preliminary and is subject to change as additional returns are filed and analyzed, we correct data transcription and other errors, we conduct post-filing compliance activities, and taxpayers provide us with additional information.

Under the normal process, tax return statistics are published about 15 to 18 months after the close of the tax year.[3] This provides time for all returns to be filed, statistically valid samples to be drawn, data to be corrected, and analyses to be conducted. Because this data is preliminary and preparing for publication requires a substantial dedication of resources, we anticipate generally following the normal timeline in the future.

Preliminary Data on the Premium Tax Credit Provision

When eligible individuals signed up for coverage at the Health Insurance Marketplaces (Marketplace), they chose to either have advance payments of the premium tax credit (APTC) made directly to their insurance provider to reduce their premiums throughout

[1] Generally, the data reflected in this letter is based on our preliminary review through June 25th.
[2] Some of the taxpayers who filed for an extension have since filed an income tax return, and are included in the 135 million.
[3] For example, preliminary data for tax year 2013 was published in the Spring 2015 Statistics of Income Bulletin and final statistics for tax year 2013 will be published this August in Publication 1304, Individual Income Tax Returns Complete Report for tax year 2013. See www.irs.gov/uac/SOI-Tax-Stats-Upcoming-Data-Releases for a schedule of upcoming releases.

the year, get their assistance at tax time as a premium tax credit (PTC), or some combination of the two. Taxpayers who had APTC paid on their behalf in 2014 must file a tax return to reconcile the APTC, regardless of whether they otherwise had a tax filing requirement. As expected, most eligible individuals opted for advance credit payments up front,[4] and were informed that they were required to reconcile APTC with the actual amount of PTC to which they were entitled based on their 2014 household income.

We project that about 4.8 million taxpayers need to file a return to claim PTC or reconcile APTC.[5] So far, approximately 3.2 million taxpayers have filed Form 8962, *Premium Tax Credit*, 3 million of whom reported APTC. These taxpayers reported a total of approximately $10 billion in APTC of the approximately $15.5 billion the Marketplaces paid out in 2014.

About 2.7 million taxpayers claimed approximately $9 billion in PTC, reporting an average credit of $3,400. About 40 percent claimed less than $2,000, 40 percent claimed $2,000 to $5,000, and 20 percent claimed $5,000 or more.

- Among taxpayers who claimed PTC or reconciled APTC, approximately 1.3 million, or about 40 percent, claimed a net PTC (meaning PTC exceeded the APTC paid during the year). The average additional amount received was about $600. An estimated 65 percent claimed net PTC of less than $500 and 80 percent claimed less than $1,000.

- By contrast, approximately 1.6 million, or 50 percent, of taxpayers who claimed PTC or reported APTC reported excess APTC (meaning APTC paid during the year exceeded PTC). The average amount repaid was about $800, for a total of $1.3 billion in excess APTC reported as repaid. An estimated 50 percent owe a repayment of less than $500 and 75 percent owe less than $1,000. About 65 percent of taxpayers with excess APTC still reported a refund.

  A taxpayer's APTC is calculated based on their expected income, number of family members, and other factors. If a taxpayer's actual circumstances at the end of the year differ from projections, they may have to repay excess APTC or receive net PTC. Even if a taxpayer reports changes in circumstances to their Marketplace, they may receive more APTC than PTC they are eligible to claim. The statute limits the amount that certain taxpayers must repay.[6] The statutory repayment caps affected only approximately 400,000 taxpayers or about 25

[4] Of those taxpayers who claimed PTC, through June 25th, 97 percent also reported APTC.
[5] Of this 4.8 million, the IRS has identified 4.5 million taxpayers with APTC. This 4.5 million does not include taxpayers who claim PTC but did not receive APTC. It also excludes analysis from some Forms 1095-A with data problems that IRS has not yet matched to taxpayers. This does not mean that the information that the taxpayer received was wrong, and these taxpayers may have successfully filed their tax returns. While most of the data in this letter is through June 25th, this figure is through the end of May.
[6] Pursuant to statute, repayment of excess APTC is capped based on household income. For example, for taxpayers with household income of 200% or less of the Federal poverty line, repayment by single filers is capped at $300 and repayment by taxpayers with any other filing status is capped at $600.

percent of those that reported excess APTC. We estimate that to date approximately $345 million in APTC repayments were above the statutory cap.

- About .3 million or 10 percent of taxpayers received the correct amount of APTC during the year and did not need to make any adjustments at tax time or did not claim any PTC or APTC on their final return. We continue to conduct analysis on these tax returns.

Some taxpayers who received APTC have not yet filed their tax returns. We continue to analyze these cases and contact taxpayers as appropriate. While data in this letter is generally through the end of June, our data analysis on taxpayers who still need to reconcile is through the end of May. Based on information received from the Marketplaces and tax returns filed through the end of May, we have identified 4.5 million taxpayers who received APTC out of a total of 4.8 million who need to file to reconcile APTC or claim PTC and have analyzed their filing behavior.[7]

- Of these 4.5 million taxpayers with APTC, approximately 2.7 million had filed a tax return that was processed by IRS through the end of May.

- Some 360,000 taxpayers with APTC filed for an extension and have until October 15th to file their tax return. We therefore expect additional returns to be filed in the coming months.

- Approximately 710,000 of the taxpayers with APTC have not yet filed a tax return and have not filed an extension, as required. As one part of our post-filing compliance strategy, we are sending letters to taxpayers who had APTC paid on their behalf who have not yet reconciled and who did not file an extension to remind them of their obligation to file a tax return. Under regulations issued by the Department of Health and Human Services (HHS), taxpayers must meet this obligation in order to maintain their eligibility for APTC to help pay for Marketplace coverage in 2016. We are urging these taxpayers to file an electronic tax return to reconcile their ATPC within 30 days. We will follow up with these taxpayers as appropriate.

- Finally, we note that based on preliminary analysis, some 760,000 taxpayers with APTC filed a tax return but did not attach Form 8962 to reconcile those payments, as required. If Marketplace data available during the filing season indicated that taxpayers should have filed a Form 8962, we corresponded with these taxpayers as appropriate and asked them to file a Form 8962.

It is not unusual for the IRS to follow up with taxpayers for more information about their returns after April 15th. This is the first year for this new provision, and we expect that taxpayers will continue to better understand this process as it becomes more routine.

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[7] There are approximately 7 million individuals represented in this subset of 4.5 million Forms 1095-A with APTC.

We are committed to learning from this experience so that we can improve our processes and enhance the support we provide in the future.

Preliminary Data on the Individual Shared Responsibility Provision

Under the individual shared responsibility provision, individuals are required to have qualifying health insurance coverage for each month of the year, have an exemption from the requirement to have minimal essential coverage, or make an individual shared responsibility payment. The vast majority of taxpayers have coverage from one source or another, such as through the individual's workplace, Medicare or Medicaid. These taxpayers needed to do nothing more than check a box on their 2014 tax return. As expected, we are seeing that about 76 percent of taxpayers (currently approximately 102 million tax returns) just checked the box to indicate they had qualifying coverage all year. Another approximately 7 million dependents, who do not have to report on their coverage, filed a return and did not have to do anything new this year, for a total of 81 percent of returns.

Approximately 7.5 million taxpayers reported a total of $1.5 billion in individual shared responsibility payments. By contrast, about 12 million taxpayers claimed a health care coverage exemption.[8] Payments were generally relatively small, with the average payment around $200. About 40 percent of these payments were $100 or less and about 95 percent of these payments were $500 or less. The vast majority – 85 percent– of taxpayers reporting a shared responsibility payment still reported a refund.

Of the taxpayers who reported an individual shared responsibility payment, and estimated 300,000 low-income taxpayers reported a payment when they should have claimed a health care coverage exemption. Although we have not yet completed our post-filing analysis, we are committed to conducting additional outreach to taxpayers, including letters to these specific taxpayers who did not have to report or make a payment. These letters will inform them about available exemptions and note that they may benefit from amending their return. Generally, taxpayers have three years to file amended returns. We are also working with tax software companies to build on lessons we learned from this first filing season as they develop their products for the next tax season, which could also help address this issue going forward.

I hope you find this information helpful as we are committed to being responsive to Congress's interest in this data.

Sincerely,

John A. Koskinen

[8] Currently approximately 5.1 million non-dependent taxpayers did not check the box, claim a health care coverage exemption, or report an individual shared responsibility payment. We are analyzing these cases to determine their status.

Exhibit 4

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

APR 2 7 2015

The Honorable Ron Johnson
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your letter about Marketplace eligibility and enrollment policies under the Affordable Care Act. I am committed to the responsible use of taxpayer dollars for eligible enrollees.

The Affordable Care Act is working for millions of Americans who are able to access quality health coverage at a price they can afford. Almost 7.7 million individuals in the 37 states using the HealthCare.gov platform qualified for an average of $263 per person/month in advanced premium tax credits. We are working to make health insurance coverage affordable for the millions of Americans who depend on it and doing so in an efficient, transparent way that protects taxpayers.

The Centers for Medicare & Medicaid Services (CMS) is committed to verifying the eligibility of consumers who apply for enrollment in qualified health plans through the Marketplace or for insurance affordability programs.

The Affordable Care Act and its implementing regulations direct this verification process and CMS has put several steps in place to verify the identity of an individual applying for Marketplace coverage. State-based and Federally-facilitated Marketplaces (SBMs and FFMs respectively) verify an applicant's eligibility for enrollment in a Qualified Health Plan through the Marketplace using the Data Services Hub (or "Hub"). When a consumer submits his or her Marketplace application, Social Security Numbers and United States' citizenship or immigration status are verified through secure connections from the Hub with already-existing databases of the Social Security Administration (SSA) and the Department of Homeland Security (DHS).

Marketplaces first verify an applicant's citizenship through the SSA, if the application filer attests that the applicant is a United States citizen. If SSA cannot verify an applicant's citizenship, the Marketplace must attempt to verify citizenship through DHS. If the Marketplace cannot verify citizenship through DHS, the Marketplace must then make a "reasonable effort" to identify and address the causes of the inconsistency.[1] If it is unable to resolve the inconsistency in this manner, the Marketplace must notify the applicant and provide the applicant with a period

[1] ACA § 1411(e)(3) and 45 CFR § 155.315(c)(3)

of 90 days to present satisfactory documentary evidence of citizenship.[2] To the extent they are otherwise qualified, applicants are permitted to enroll in Marketplace coverage and receive advance payments of premium tax credit (APTC) and cost-sharing reductions (CSR) during this time if they attest to the Marketplace that they understand that the financial assistance may be subject to repayment.

A citizenship or immigration status inconsistency can occur when the information reported in a consumer's application, such as a Social Security or Permanent Resident Card number, is incomplete or different than the information SSA or DHS has on file. An inconsistency does not necessarily mean there is a problem with an individual's eligibility for enrollment; it means that additional information is needed to verify the information provided in an application. The verification process is designed to prevent eligible individuals from losing coverage based on an inadvertent mistake in their application (for example, if a Social Security Number is entered incorrectly) or if they have more up-to-date information about their eligibility than what is reflected in trusted data sources.

As required by both the Affordable Care Act and federal implementing regulations, we make reasonable efforts to reach and work with individuals to submit sufficient documentation, where required. If an individual's application generates an eligibility issue during its processing, the consumer will need to submit additional documentation. While applicants may have more up-to-date information than what is on file, if we cannot sufficiently verify an applicant's eligibility for coverage through the Marketplace by receiving this documentation, we terminate that applicant's Marketplace coverage.

CMS has an ongoing process of seeking required documentation from Marketplace consumers, and terminating Marketplace coverage for those individuals who do not submit the necessary documents. In September 2014, the FFM ended Marketplace coverage for approximately 112,000 individuals who failed to produce any information on their citizenship or immigration status by the deadline. In February 2015, the FFM ended Marketplace coverage for about an additional 90,000 individuals who failed to produce sufficient information on their citizenship or immigration status by the deadline.

We have worked diligently to notify affected individuals multiple times. We encourage those who receive inconsistency notices, including notices that their Marketplace coverage will be ending, to provide the supporting documents requested as soon as possible to avoid a lapse in coverage, or to reinstate eligibility for Marketplace coverage and financial assistance, if appropriate.

To be eligible to buy private health insurance through a Marketplace, a consumer must be a United States citizen or national or be lawfully present in the United States. Under definitions in the law and implementing regulations, individuals who have received deferred action under the DHS 2012 Deferred Action for Childhood Arrivals (DACA) policy are not eligible to purchase private health insurance through the Marketplace, and premium tax credits are not available to

[2] ACA § 1411(e)(3) and 45 CFR § 155.315(c)(3)

them. Deferred action under the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) and expanded DACA are not relevant at this time because a preliminary injunction was issued by a federal district court halting implementation of these policies.[3]

Regarding your question about enrollees for whom APTCs are paid but the tax filer fails to file taxes, the Marketplaces are required to report data to the Internal Revenue Service (IRS), which includes the amount of APTC paid on an individual's behalf. Based on this reporting, the IRS will be able to determine who benefited from APTC and then failed to file a tax return. The IRS may contact these individuals to notify them that they must file a tax return and reconcile any APTC paid on their behalf. Additionally, using the existing process during which the Marketplaces asks the IRS for verification of income and family size, the IRS will notify the Marketplace of any individual who received APTCs and failed to file a tax return. If Marketplaces are notified that an individual who benefited from APTCs failed to file a return to reconcile the APTC, the individual is not eligible for additional APTC until they do so.

Again, thank you for your letter. As we work to continue the successful implementation of the Affordable Care Act, I am happy to remain in contact with you.

Sincerely,

Sylvia M. Burwell

cc: The Honorable Thomas R. Carper
Ranking Member

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[3] State of Texas, et al. v. United States, et al., 2015 U.S. Dist. LEXIS 18551 (S.D. Tex. Feb. 16, 2015) (order granting preliminary injunction).

Exhibit 5

RON JOHNSON, WISCONSIN, CHAIRMAN

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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510–6250

May 21, 2015

The Honorable John Koskinen
Commissioner
The Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Dear Mr. Koskinen:

The Committee on Homeland Security and Governmental Affairs is conducting oversight of the implementation of the Affordable Care Act, also known as ObamaCare. Under the law, only U.S. citizens or those lawfully present in the country qualify for coverage, premium assistance tax credits and cost-sharing subsidies through the federal or state marketplaces.[1] The Department of Health and Human Services (HHS) oversees the verification process to determine which individuals qualify for coverage and taxpayer-funded subsidies, and the Internal Revenue Service (IRS) reconciles the advanced tax credits awarded to enrollees. However, there appears to be confusion between HHS and the IRS about which agency will recoup ObamaCare tax credits that are mistakenly awarded.

Under the Administration's current policies, if an individual is unable to prove his or her citizenship or lawfully present status, HHS provides coverage and taxpayer-funded subsidies under ObamaCare before the individual's legal status can be verified by any government agency.[2] To date, HHS has dropped over 200,000 individuals from ObamaCare coverage because of their failure to document legal residency status.[3] Many of these enrollees received coverage under the law for close to a year, and many received premium assistance tax credits and cost-sharing subsidies for which they were not entitled, likely costing taxpayers over $400 million.[4]

On March 17, 2015, I wrote to HHS asking how it will recover the advanced premium tax credits mistakenly awarded to the 200,000 enrollees.[5] I also asked how many taxpayer dollars

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[1] 42 U.S.C. § 18032.
[2] 45 CFR § 155.315(f)(4).
[3] Lena H. Sun, *155,000 immigrants to lose health coverage by Sept. 30 because of lack of status data*, THE WASH. POST, Sept. 15, 2014.
[4] According to HHS, the average subsidy per month is $264, and 84% of enrollees receive subsidies. Since most of the enrollees were covered for close to a year before HHS dropped them from coverage, we estimated the loss to taxpayers by calculating the average monthly subsidy over 10 months of coverage, multiplied by 84% of the 210,000 enrollees, to equal approximately $465 million.
[5] Letter from Chairman Ron Johnson, S. Comm. on Homeland Security & Governmental Affairs, to Sylvia Burwell, Sec'y of the Dept. of Health & Human Serv. (March 17, 2015).

those 200,000 ineligible enrollees received in advanced premium tax credits and cost-sharing subsidies.[6] HHS did not answer these questions in its response dated April 27, 2015. Instead, HHS noted that the IRS is responsible for reconciling the proper amount of advanced premium tax credits based on the enrollee's actual income.[7] However, there appears to be no way for IRS to distinguish between tax credits awarded to eligible enrollees, and tax credits awarded to enrollees who were later found to be ineligible for coverage under the law. Unlike eligible enrollees, enrollees who were found to be ineligible must pay back the entire portion of the advanced tax credit, subject to statutory payment limitations.[8]

On April 15, 2015, you testified during a Committee hearing about the IRS's implementation of ObamaCare.[9] At the hearing, members asked you if the IRS recoups tax credits given to ObamaCare enrollees who were later dropped from coverage because they were ineligible. You testified that CMS and HHS – and not the IRS – are responsible for recovering those tax credits, explaining: "Those determinations and qualifications were made by CMS and HHS, which runs Medicare and Medicaid and has experience on recouping improper payments or payments made in error. **And so this is an area where they will be responsible for doing that. ... CMS will pursue those to the extent that they pursue any other payments that they make, you know, that turned out to be improper.**"[10]

There appears to be confusion between the IRS and HHS about which agency is responsible for recouping the ObamaCare tax credits erroneously awarded to ineligible enrollees. In a meeting with me, you changed course from your testimony and stated that IRS would most likely be responsible for recouping mistakenly awarded subsidies, and expressed skepticism that these taxpayer dollars would be fully recovered.[11] Although you stated that your agency will bear the responsibility, I am concerned that neither HHS nor IRS has a plan to recover the estimated $400 million of taxpayer dollars erroneously paid on behalf of ineligible enrollees starting in January of 2014, since just last month neither HHS nor IRS took responsibility. I am further concerned that the IRS and HHS had apparently not considered recovering these lost payments until the Committee raised the issue and it is unclear how your agency will recover funds from individuals who do not file tax returns or who have insufficient funds to repay the overpayment.

To assist the Committee with its oversight of ObamaCare, please provide detailed answers to the following questions and provide the following information as soon as possible, but no later than 5:00 p.m. on June 4, 2015:

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[6] *Id.*
[7] Letter from Sylvia Burwell, Sec'y of the Dept. of Health & Human Serv., to Chairman Ron Johnson, S. Comm. on Homeland Security & Governmental Affairs (April 27, 2015).
[8] IRC § 36B(f)(2)(B).
[9] Hearing before the S. Comm. on Homeland Sec. & Govt. Affairs entitled "IRS Challenges in Implementing the Affordable Care Act" (April 15, 2015).
[10] *Id.* (emphasis added)
[11] Meeting between Ron Johnson, S. Comm. on Homeland Sec. & Gov't Affiars, and John Koskinen, Internal Revenue Serv. (May 8, 2015).

1. Please explain what steps the IRS intends to take to recover the estimated $400 million in taxpayer dollars erroneously paid out on behalf of ineligible ObamaCare enrollees since January 2014.

2. Please explain how the IRS will recover ObamaCare subsidies improperly awarded to an enrollee in a given tax year who either does not file a tax return for the following tax year or who has an insufficient funds to repay the overpayment.

3. Regarding the approximately 200,000 individuals removed from coverage due to lack of legal residency verification, how many total taxpayer dollars did those individuals receive through premium assistance tax credits and cost-sharing subsidies?

4. Does HHS inform the IRS when enrollees are dropped from coverage due to lack of legal residency verification? Please explain this process.

5. Please produce any memorandums, letters, meeting notes, or communications reflecting any agreement between HHS and IRS relating to the recoupment of federal funds in the form of advanced premium tax credits or cost-sharing subsidies, awarded to ObamaCare enrollees who are ineligible for coverage for any reason.

6. Please produce any memorandums, letters, meeting notes or communications referring to the process by which the IRS may recoup federal funds in the form of advanced premium tax credits or cost-sharing subsidies, awarded to ObamaCare enrollees who are ineligible for coverage for any reason.

In addition, to give the taxpayers a better understanding about overpayments of ObamaCare subsidies, I ask that you produce a public report on an annual basis that includes the following information:

1. The total number of ObamaCare enrollees who received advanced premium tax credits;

2. The total amount of taxpayer dollars that were improperly awarded in the form of advanced premium tax credits or cost-sharing subsidies;

3. Of the amount of taxpayer dollars improperly awarded, the amount of taxpayer dollars that were awarded because the enrollee underestimated his or her income;

4. Of the amount of taxpayer dollars improperly awarded due to underestimation of income, the number of enrollees who did not have to pay back the full amount because of the statutory repayment limits; and

5. The total amount of taxpayer dollars of improperly awarded advanced premium tax credits or cost-sharing subsidies that were recovered by the IRS.

Please produce this report as soon as the data is available, but no later than August 1, 2015.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate "the efficiency, economy, and effectiveness of all agencies and departments of the Government."[12] Additionally, S. Res. 73 (114th Congress) authorizes the Committee to examine "the efficiency and economy of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices . . . ."[13]

If you have any questions, please contact Emily Martin of the Committee staff at 202-224-4751. Thank you for your attention to this matter.

Sincerely,

Ron Johnson
Chairman

cc: The Honorable Thomas R. Carper
Ranking Member

Enclosure

[12] S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).
[13] S. Res. 73 § 12, 114th Cong. (2015).

Appendix B

Exhibit 1

Form **1095-A**

Department of the Treasury
Internal Revenue Service

Health Insurance Marketplace Statement

▶ **Information about Form 1095-A and its separate instructions is at *www.irs.gov/form1095a.***

☐ VOID

☐ CORRECTED

OMB No. 1545-2232

2015

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	

Part II Covered Individuals

	A. Covered individual name	**B.** Covered individual SSN	**C.** Covered individual date of birth	**D.** Coverage start date	**E.** Coverage termination date
16					
17					
18					
19					
20					

Part III Coverage Information

Month	**A.** Monthly enrollment premiums	**B.** Monthly second lowest cost silver plan (SLCSP) premium	**C.** Monthly advance payment of premium tax credit
21 January			
22 February			
23 March			
24 April			
25 May			
26 June			
27 July			
28 August			
29 September			
30 October			
31 November			
32 December			
33 Annual Totals			

Instructions for Recipient

You received this Form 1095-A because you or a family member enrolled in health insurance coverage through the Health Insurance Marketplace. This Form 1095-A provides information you need to complete Form 8962, Premium Tax Credit (PTC). **You must complete Form 8962 and file it with your tax return if any amount other than zero is shown in Part III, Column C, of this Form 1095-A (meaning that you received premium assistance through advance credit payments) or if you want to take the premium tax credit.** The filing requirement applies whether or not you're otherwise required to file a tax return. The Marketplace has also reported the information on this form to the IRS. If you or your family members enrolled at the Marketplace in more than one qualified health plan policy, you will receive a Form 1095-A for each policy. Check the information on this form carefully. Please contact your Marketplace if you have questions concerning its accuracy. If you or your family members were enrolled in a Marketplace catastrophic health plan or separate dental policy, you aren't entitled to take a premium tax credit for this coverage when you file your return, even if you received a Form 1095-A for this coverage. For additional information related to Form 1095-A, go to *www.irs.gov/Affordable-Care-Act/Individuals-and-Families/Health-Insurance-Marketplace-Statements*.

VOID box. If the "VOID" box is checked at the top of the form, you previously received a Form 1095-A for the policy described in Part I. That Form 1095-A was sent in error. You shouldn't have received a Form 1095-A for this policy. Don't use the information on this or the previously received Form 1095-A to figure your premium tax credit on Form 8962.

CORRECTED box. If the "CORRECTED" box is checked at the top of the form, use the information on this Form 1095-A to figure the premium tax credit and reconcile any advance credit payments on Form 8962. Don't use the information on the original Form 1095-A you received for this policy.

Part I. Recipient Information, lines 1–15. Part I reports information about you, the insurance company that issued your policy, and the Marketplace where you enrolled in the coverage.

Line 1. This line identifies the state where you enrolled in coverage through the Marketplace.

Line 2. This line is the policy number assigned by the Marketplace to identify the policy in which you enrolled. If you are completing Part IV of Form 8962, enter this number on line 30, 31, 32, or 33, box a.

Line 3. This is the name of the insurance company that issued your policy.

Line 4. You are the recipient because you are the person the Marketplace identified at enrollment who is expected to file a tax return and who, if qualified, would take the premium tax credit for the year of coverage.

Line 5. This is your social security number. For your protection, this form may show only the last four digits. However, the Marketplace has reported your complete social security number to the IRS.

Line 6. A date of birth will be entered if there is no social security number on line 5.

Lines 7, 8, and 9. Information about your spouse will be entered only if advance credit payments were made for your coverage. The date of birth will be entered on line 9 only if line 8 is blank.

Lines 10 and 11. These are the starting and ending dates of the policy.

Lines 12 through 15. Your address is entered on these lines.

Part II. Covered Individuals, lines 16–20. Part II reports information about each individual who is covered under your policy. This information includes the name, social security number, date of birth, and the starting and ending dates of coverage for each covered individual. For each line, a date of birth is reported in column C only if an SSN isn't entered in column B.

If advance credit payments are made, only the individuals for whom you attested the intention to claim a personal exemption deduction (yourself, spouse, and dependents) to the Marketplace at enrollment will be listed on Form 1095-A. If you attested to the Marketplace at enrollment that one or more of the individuals who enrolled in the plan aren't individuals for whom you intend to claim a personal exemption deduction on your tax return, those individuals won't be listed on your Form 1095-A. For example, if you indicated to the Marketplace at enrollment that an individual enrolling in the policy is your adult child for whom you won't claim a personal exemption deduction, that child will receive a separate Form 1095-A and won't be listed in Part II on your Form 1095-A.

If advance credit payments weren't made and you didn't identify at enrollment the individuals for whom you intended to claim a personal exemption deduction, Form 1095-A will list all enrolled individuals in Part II on your Form 1095-A.

Part II also tells the IRS the months that the individuals identified are covered by health insurance and therefore have satisfied the individual shared responsibility provision.

If there are more than 5 individuals covered by a policy, you will receive one or more additional Forms 1095-A that continue Part II.

Part III. Coverage Information, lines 21–33. Part III reports information about your insurance coverage that you will need to complete Form 8962 to reconcile advance credit payments or to take the premium tax credit when you file your return.

Column A. This column is the monthly premiums for the plan in which you or family members were enrolled, including premiums that you paid and premiums that were paid through advance payments of the premium tax credit. If you or a family member enrolled in a separate dental plan with pediatric benefits, this column includes the portion of the dental plan premiums for the pediatric benefits. If your plan covered benefits that aren't essential health benefits, such as adult dental or vision benefits, the amount in this column will be reduced by the premiums for the non-essential benefits. If the policy was terminated by your insurance company due to nonpayment of premiums for one or more months, then a -0- will appear in this column for these months regardless of whether advance credit payments were made for these months.

Column B. This column is the monthly premium for the second lowest cost silver plan (SLCSP) that the Marketplace has determined applies to members of your family enrolled in the coverage. The applicable SLCSP premium is used to compute your monthly advance credit payments and the premium tax credit you take on your return. See the Instructions for Form 8962, Part II, on how to use the information in this column or how to complete Form 8962 if there is no information entered. If the policy was terminated by your insurance company due to nonpayment of premiums for one or more months, then a -0- will appear in this column for the months, regardless of whether advance credit payments were made for these months.

Column C. This column is the monthly amount of advance credit payments that were made to your insurance company on your behalf to pay for all or part of the premiums for your coverage. If this is the only column in Part III that is filled in with an amount other than zero for a month, it means your policy was terminated by your insurance company due to nonpayment of premiums, and you aren't entitled to take the premium tax credit for that month when you file your tax return. You still must reconcile the entire advance payment that was paid on your behalf for that month using Form 8962. No information will be entered in this column if no advance credit payments were made.

Lines 21–33. The Marketplace will report the amounts in columns A, B, and C on lines 21–32 for each month and enter the totals on line 33. Use this information to complete Form 8962, line 11 or lines 12–23.

Exhibit 2

Form **8962**

Department of the Treasury
Internal Revenue Service

Premium Tax Credit (PTC)

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

OMB No. 1545-0074
2015
Attachment Sequence No. 73

Name shown on your return | Your social security number

You cannot claim the PTC if your filing status is married filing separately unless you are eligible 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 . . . 1

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

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

3 Household income. Add the amounts on lines 2a and 2b 3

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 4

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

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

☐ **No.** Continue to line 7.

☐ **Yes.** You are not eligible to receive PTC. If advance payment of the PTC was made, see the instructions for how to report your excess advance PTC repayment amount.

7 Applicable Figure. Using your line 5 percentage, locate your "applicable figure" on the table in the instructions . . 7

8a Annual contribution amount. Multiply line 3 by line 7 . . . . 8a

b Monthly contribution amount. Divide line 8a by 12. Round to whole dollar amount . . 8b

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)?

☐ **Yes.** Skip to Part IV, Shared Policy Allocation, or Part V, Alternative Calculation for Year of Marriage. ☐ **No.** Continue to line 10.

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

☐ **Yes.** Continue to line 11. Compute your annual PTC. Then skip lines 12–23 and continue to line 24.

☐ **No.** Continue to lines 12–23. Compute your monthly PTC and continue to line 24.

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 8a)	**(d)** Annual maximum premium assistance (subtract (c) from (b), if zero or less, enter -0-)	**(e)** Annual premium tax credit allowed (smaller of (a) or (d))	**(f)** Annual advance payment of PTC (Form (s) 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 (s) 1095-A, lines 21–32, column B)	**(c)** Monthly contribution amount (amount from line 8b or alternative marriage monthly contribution)	**(d)** Monthly maximum premium assistance (subtract (c) from (b), if zero or less, enter -0-)	**(e)** Monthly premium tax credit allowed (smaller of (a) or (d))	**(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 24

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 25

26 Net premium tax credit. If line 24 is greater than line 25, subtract line 25 from line 24. Enter the difference here and on Form 1040, line 69; Form 1040A, line 45; or Form 1040NR, line 65. If you elected the alternative calculation for marriage, enter zero. 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 . 26

Part III Repayment of Excess Advance Payment of the Premium Tax Credit

27 Excess advance payment of PTC. If line 25 is greater than line 24, subtract line 24 from line 25. Enter the difference here 27

28 Repayment limitation (see instructions) 28

29 Excess advance premium tax credit repayment. Enter the smaller of line 27 or line 28 here and on Form 1040, line 46; Form 1040A, line 29; or Form 1040NR, line 44 29

Part IV Shared Policy Allocation

Complete the following information for up to four shared policy allocations. See instructions for allocation details.

Shared Policy Allocation 1

30	(a) Policy Number (Form 1095-A, line 2)	(b) SSN of other taxpayer	(c) Allocation start month	(d) Allocation stop month

Allocation percentage applied to monthly amounts	(e) Premium Percentage	(f) SLCSP Percentage	(g) Advance Payment of the PTC Percentage

Shared Policy Allocation 2

31	(a) Policy Number (Form 1095-A, line 2)	(b) SSN of other taxpayer	(c) Allocation start month	(d) Allocation stop month

Allocation percentage applied to monthly amounts	(e) Premium Percentage	(f) SLCSP Percentage	(g) Advance Payment of the PTC Percentage

Shared Policy Allocation 3

32	(a) Policy Number (Form 1095-A, line 2)	(b) SSN of other taxpayer	(c) Allocation start month	(d) Allocation stop month

Allocation percentage applied to monthly amounts	(e) Premium Percentage	(f) SLCSP Percentage	(g) Advance Payment of the PTC Percentage

Shared Policy Allocation 4

33	(a) Policy Number (Form 1095-A, line 2)	(b) SSN of other taxpayer	(c) Allocation start month	(d) Allocation stop month

Allocation percentage applied to monthly amounts	(e) Premium Percentage	(f) SLCSP Percentage	(g) Advance Payment of the PTC Percentage

34 Have you completed shared policy allocation information for all allocated Forms 1095-A?

☐ **Yes.** Multiply the amounts on Form 1095-A by the allocation percentages entered by policy. Add allocated amounts across all allocated policies with amounts for non-allocated policies from Forms 1095-A, if any, to compute a combined total for each month. Enter the combined total for each month on lines 12–23, columns (a), (b), and (f). Compute the amounts for lines 12–23, columns (c)–(e), and continue to line 24.

☐ **No.** See the instructions to report additional shared policy allocations.

Part V Alternative Calculation for Year of Marriage

Complete line(s) 35 and/or 36 to elect the alternative calculation for year of marriage. For eligibility to make the election, see the instructions for line 9. To complete line(s) 35 and/or 36 and compute the amounts for lines 12–23, see the instructions for this Part V.

35	**Alternative entries for your SSN**	(a) Alternative family size	(b) Monthly contribution	(c) Alternative start month	(d) Alternative stop month
36	**Alternative entries for your spouse's SSN**	(a) Alternative family size	(b) Monthly contribution	(c) Alternative start month	(d) Alternative stop month

Exhibit 3

2015 Instructions for Form 8962

Department of the Treasury
Internal Revenue Service

Premium Tax Credit (PTC)

Purpose of Form

Use Form 8962 to figure the amount of your premium tax credit (PTC) and reconcile it with advance payment of the premium tax credit (APTC). If you or a member of your family enrolled in health insurance coverage for 2015 through a Health Insurance Marketplace (Marketplace, also known as an Exchange), APTC may have been paid to your insurance company to help cover your monthly premium, and you may be eligible for the PTC. If APTC was paid on your behalf or, if APTC was not paid on your behalf but you wish to take the PTC, you must file Form 8962 and attach it to your tax return (Form 1040, 1040A, or 1040NR).

Reminder: If you need health coverage, visit *HealthCare.gov* to learn about health insurance options that are available for you and your family, how to purchase health insurance, and how you might qualify to get financial assistance with the cost of insurance.

CAUTION

At enrollment, the Marketplace may have referred to APTC as your “subsidy” or “tax credit” or “advance payment.” The term APTC is used throughout these instructions to clearly distinguish APTC from PTC.

You may take PTC (and APTC may be paid) only for health insurance coverage in a qualified health plan (defined later) purchased through a Marketplace. As a result, you should complete Form 8962 **only** for health insurance coverage in a qualified health plan purchased through a Marketplace. This includes a qualified health plan purchased on *HealthCare.gov* or through a State Marketplace.

If you or a member of your family enrolled in Marketplace coverage, you should have received Form 1095-A, Health Insurance Marketplace Statement, from the Marketplace, showing the months of coverage and APTC paid. If you received a Form 1095-A showing APTC paid for your or your family member’s coverage, you must file Form 8962.

What's New

Information reporting about employer offer of coverage (Form 1095-C). If you or someone in your household was an employee in 2015, the employer may have sent you a Form 1095-C, Employer-Provided Health Insurance Offer and Coverage. Part II of the Form 1095-C indicates whether the employer offered health insurance coverage and, if so, includes information about the offer. If you purchased health insurance coverage for 2015 through a Marketplace and wish to take the PTC, this information will assist you in determining whether you are eligible for the PTC. See *Minimum essential coverage*, later, for information about how to use Form 1095-C. You do not need to attach the Form 1095-C to your income tax return.

Health Coverage Tax Credit (HCTC). The HCTC is a tax credit that pays a percentage of health insurance premiums for certain eligible taxpayers and their qualifying family members. The HCTC and the PTC are different tax credits that have different eligibility rules. For 2015, if you were an eligible trade adjustment assistance (TAA) recipient, alternative TAA (ATAA) recipient, reemployment TAA (RTAA) recipient, Pension Benefit Guaranty Corporation pension payee, or qualifying family member, you may be able to take the HCTC for health insurance coverage purchased through a Marketplace. However, you cannot continue to take the HCTC for health insurance coverage purchased through a Marketplace starting in tax year 2016. If you think you may be eligible for the HCTC, see Form 8885 and its instructions or visit *www.irs.gov/HCTC* before completing Form 8962.

Future Developments

For the latest information about developments related to Form 8962 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/form8962*.

Reminder for 2016

Report changes in circumstances when you re-enroll in coverage and during the year. If APTC is being paid in 2016 for an individual in your tax family (described later) and you have had certain changes in circumstances (see the examples below), it is important that you report them to the Marketplace where you enroll. Reporting changes in circumstances promptly will allow the Marketplace to adjust your APTC to more accurately reflect the PTC you are estimated to be able to take on your tax return. Adjusting your APTC when you re-enroll in coverage and during the year can help you avoid owing tax when you file your tax return. Changes that you should report to the Marketplace include the following.

- Changes in household income.
- Moving to a different address.
- Gaining or losing eligibility for other health care coverage.
- Gaining, losing, or other changes to employment.
- Birth or adoption.
- Marriage or divorce.
- Other changes affecting the composition of your tax family.

For more information on how to report a change in circumstances to the Marketplace, see *HealthCare.gov* or your State Marketplace website.

General Instructions

What is the Premium Tax Credit (PTC)?

Premium tax credit (PTC). The PTC is a tax credit for certain people who enroll, or whose family member enrolls, in a qualified health plan. The credit provides financial assistance to pay the premiums for the qualified health plan offered through a Marketplace by reducing the amount of tax you owe, giving you a refund, or increasing your refund amount. You must file Form 8962 to compute and take the PTC on your tax return.

Advance payment of the premium tax credit (APTC). APTC is a payment during the year to your insurance provider that pays for part or all of the premiums for a qualified health plan covering you or an individual in your tax family. Your APTC eligibility is based on the Marketplace’s estimate of the PTC you will be able to take on your tax return. If APTC was paid for you or an individual in your tax family, you must file Form 8962 to reconcile (compare) this APTC with your PTC. If the APTC is more than your PTC, you have excess APTC and you must repay the excess, subject to certain limitations. If your PTC is more than the APTC, you can take the difference as a tax credit on your tax return, which will reduce your tax payment or increase your refund.

Note. The Marketplace determined your eligibility for 2015 APTC using projections of your income and your number of personal exemptions when you enrolled in a qualified health plan. If this information changed during 2015 and you did not promptly report it to the Marketplace, the amount of APTC paid may be substantially different from the amount of PTC you can take on your tax return. See *Report changes in circumstances when you re-enroll in coverage and during the year*, earlier, for changes that can affect the amount of your PTC.

Deductions for health insurance premiums. You cannot deduct the portion of your health insurance premium that is paid for by the PTC. If you are deducting medical expenses as an itemized deduction, see Pub. 502, Medical and Dental Expenses. If you are claiming the self-employed deduction for health insurance premiums, see Pub. 974, Premium Tax Credit.

Form 1095-A, Health Insurance Marketplace Statement. You will need Form 1095-A to complete Form 8962. The Marketplace uses Form 1095-A to report certain information to the IRS about individuals who enrolled in a qualified health plan through the Marketplace. The Marketplace sends copies to individuals to allow them to accurately file a tax return taking the PTC and reconciling APTC. For coverage in 2015, the Marketplace is required to provide or send Form 1095-A to the individual(s) identified in the Marketplace enrollment application by January 31, 2016. If you are expecting to receive Form 1095-A for a qualified health plan and you do not receive it by early February, contact the Marketplace.

Under certain circumstances, for example, where two spouses enroll in a qualified health plan and divorce during the year, the Marketplace will provide Form 1095-A to one taxpayer, but another taxpayer will also need the information from that form to complete Form 8962. The recipient of Form 1095-A should provide a copy to other taxpayers as needed.

VOID BOX. If you received a Form 1095-A with the void box checked at the top of the form, that means you previously received a Form 1095-A for the policy shown in Part I that was sent in error. You should not have received a Form 1095-A for the policy shown in Part I of the Form 1095-A. Do not use the information on the Form 1095-A with the void box checked or the previously received Form 1095-A to complete Form 8962.

CORRECTED BOX. If you receive a Form 1095-A with the corrected box checked at the top of the form, use the information on the Form 1095-A with the corrected box checked to figure the PTC and reconcile any APTC on Form 8962. Do not use the information on the original Form 1095-A you received for the policy shown in Part I of the corrected Form 1095-A.

Additional information. For additional information on the PTC, see Pub. 974, Premium Tax Credit. You can also visit *www.irs.gov* and enter "premium tax credit" in the search box.

Who Must File

You must file Form 8962 with your income tax return (Form 1040, Form 1040A, or Form 1040NR) if any of the following apply to you.

- You are taking the PTC.
- APTC was paid for you or another individual in your tax family.
- APTC was paid for an individual (including you) for whom you told the Marketplace you would claim a personal exemption and neither you nor anyone else claims a personal exemption for that individual. See *Individual you enrolled for whom no taxpayer will claim a personal exemption* under *Lines 12 through 23—Monthly Calculation*, later.

If any of the circumstances above apply to you, you must file an income tax return and attach Form 8962 even if you are not otherwise required to file. You must use Form 1040, Form 1040A, or Form 1040NR.

CAUTION *If you are filing Form 8962, you cannot file Form 1040EZ, Form 1040NR-EZ, Form 1040-SS, or Form 1040-PR.*

If someone else enrolled an individual in your tax family in coverage, and APTC was paid for that individual's coverage, you must file Form 8962 to reconcile the APTC. You need to obtain a copy of the Form 1095-A from the person who enrolled the individual.

TIP *If you are claimed as a dependent on another person's tax return, the person who claims you will file Form 8962 to take the PTC and, if necessary, repay excess APTC for your coverage. You do not need to file Form 8962.*

Who Can Take the PTC

You can take the PTC for 2015 if you meet the conditions under (1) **and** (2) below.

1. For at least one month of the year, all of the following were true.

a. An individual in your tax family was enrolled in a qualified health plan offered through the Marketplace on the first day of the month.

b. That individual was not eligible for minimum essential coverage for the month, other than coverage in the individual market. An individual is generally considered eligible for minimum essential coverage for the month only if he or she was eligible for every day of the month (see *Minimum essential coverage*, later).

c. The portion of the enrollment premiums (described later) for the month for which you are responsible was paid by the due date of your tax return (**not** including extensions).

2. You are an applicable taxpayer. To be an applicable taxpayer, you must meet all of the following requirements.

a. For 2015, your household income is at least 100% but no more than 400% of the Federal poverty line for your family size (see the instructions for *Line 4*, later). However, having household income below 100% of the Federal poverty line will not disqualify you from taking the PTC if you meet certain requirements described under *Household income below 100% of the Federal poverty line*, later.

b. No one can claim you as a dependent on a tax return for 2015.

c. If you were married at the end of 2015, generally you must file a joint return. However, filing a separate return from your spouse will not disqualify you from being an applicable taxpayer if you meet certain requirements described under *Married taxpayers*, later.

You are not entitled to the PTC for your own health coverage for any period during which you are not lawfully present in the United States.

For additional requirements and more details, see *Applicable taxpayer*, later.

Terms You May Need to Know

Tax family. For purposes of the PTC, your tax family consists of the individuals for whom you claim a personal exemption on your tax return (generally you, your spouse with whom you are filing a joint return, and your dependents). Your personal exemptions are reported on your Form 1040 or Form 1040A, line 6d, or Form 1040NR, line 7d. Your family size equals the number of individuals in your tax family (including yourself). If no one, including you, claims a personal exemption for you, and you indicated to the Marketplace when you enrolled that you would claim your own personal exemption, see Pub. 974 for instructions on completing Form 8962.

Household income. For purposes of the PTC, household income is the modified adjusted gross income (modified AGI) of you and your spouse (if filing a joint return) (see *Line 2a*, later) plus the modified AGI of each individual whom you claim as a dependent and who is required to file an income tax return because his or her income meets the income tax return filing threshold (see *Line 2b*, later). Household income does not include the modified AGI of those individuals whom you claim as dependents and who are filing a 2015 return only to claim a refund of withheld income tax or estimated tax.

Modified AGI. For purposes of the PTC, modified AGI is the AGI on your tax return plus certain income that is not subject to tax (foreign earned income, tax-exempt interest, and the portion of social security benefits that is not taxable). Use Worksheet 1-1 and Worksheet 1-2, later, to determine your modified AGI.

Taxpayer's tax return including income of a dependent child. A taxpayer who includes the gross income of a dependent child on the taxpayer's tax return must include on Worksheet 1-2 the child's tax-exempt interest and the portion of the child's social security benefits that is not taxable.

Coverage family. Your coverage family includes all individuals in your tax family who are enrolled in a qualified health plan and are not eligible for minimum essential coverage (other than coverage in the individual market). The individuals included in your coverage family may change from month to month. If an individual in your tax family is not enrolled in a qualified health plan, or is enrolled in a qualified health plan but is eligible for minimum essential coverage (other than coverage in the individual market), he or she is not part of your coverage family. Your PTC is available to help you pay only for the coverage of the individuals included in your coverage family.

Monthly credit amount. The monthly credit amount is the amount of your tax credit for a month. Your PTC for the year is the sum of all of your monthly credit amounts. Your credit amount for each month is the lesser of:

- The enrollment premiums (described next) for the month for one or more qualified health plans in which you or any individual in your tax family enrolled; or
- The amount of the monthly applicable second lowest cost silver plan (SLCSP) premium (described below) less your monthly contribution amount (described below).

To qualify for a monthly credit amount, at least one individual in your tax family must be enrolled in a qualified health plan on the 1st day of that month. Generally, if coverage in a qualified health plan began after the 1st day of the month, you are not allowed a monthly credit amount for that month. However, if an individual in your tax family enrolled in a qualified health plan in 2015 and the enrollment was effective on the date of the individual's birth, adoption, or placement for adoption or in foster care, or on the effective date of a court order placing the individual with your family, the individual is treated as enrolled as of the first day of that month. Therefore, the child may be a member of your tax family and coverage family for the entire month for purposes of computing your monthly credit amount.

Enrollment premiums. The enrollment premiums are the total amount of the premiums for the month for one or more qualified health plans in which any individual in your tax family enrolled. Form 1095-A, Part III, column A, reports the enrollment premiums.

You are not allowed a monthly credit amount for the month if any part of the enrollment premiums for which you are responsible that month has not been paid by the due date of your tax return (not including extensions). Premiums another person pays on your behalf are treated as paid by you.

If your share of the enrollment premiums is not paid, the issuer may terminate coverage. The termination is generally effective no sooner than the second month of nonpayment. For any months you were covered but did not pay your share of the premiums, you are not allowed a monthly credit amount.

Applicable SLCSP premium. The applicable SLCSP premium is the second lowest cost silver plan premium offered through the Marketplace where you reside that applies to your coverage family (described earlier). The SLCSP premium is not the same as your enrollment premiums, unless you enroll in the applicable SLCSP. Form 1095-A, Part III, column B, generally reports the applicable SLCSP premium. If no APTC was paid for your coverage, Form 1095-A, Part III, column B, may be wrong or blank or may report your applicable SLCSP premium as -0-. If you had a change in circumstances during 2015 that you did not report to the Marketplace, the SLCSP premium reported in Part III, column B, may be wrong. In either case you must determine your correct applicable SLCSP premium. You **do not** have to request a corrected Form 1095-A from the Marketplace. See *Missing or incorrect SLCSP premium on Form 1095-A*, later.

Monthly contribution amount. Your monthly contribution amount is used to calculate your monthly credit amount. It is the amount of your household income you would be responsible for paying as your share of premiums each month if you enrolled in the applicable SLCSP. It is not based on the amount of premiums you paid out of pocket during the year. You will compute your monthly contribution amount in Part I of Form 8962.

Qualified health plan. For purposes of the PTC, a qualified health plan is a health insurance plan or policy purchased through a Marketplace at the bronze, silver, gold, or platinum level. Throughout these instructions, a qualified health plan is also referred to as a policy. Catastrophic health plans and separate dental plans purchased through the Marketplace, and all plans purchased through the Small Business Health Options Program (SHOP) are not qualified health plans for purposes of the PTC. Therefore they do not qualify a taxpayer to take the PTC.

Minimum essential coverage. Most individuals are required to have qualifying health coverage, qualify for a coverage exemption, or make a payment with their tax return. Health coverage that satisfies this requirement is called minimum essential coverage. An individual in your tax family who is eligible for minimum essential coverage (except coverage in the individual market) for a month is not in your coverage family for that month. Therefore, you cannot take the PTC for that individual's coverage for the months that individual is eligible for minimum essential coverage. In addition to qualified health plans and other coverage in the individual market, types of minimum essential coverage include:

- Most coverage through government-sponsored programs (including Medicaid coverage, Medicare parts A or C, the Children's Health Insurance Program (CHIP), certain benefits for veterans and their families, TRICARE, and health coverage for Peace Corps volunteers);
- Most types of employer-sponsored coverage; and
- Other health coverage the Department of Health and Human Services designates as minimum essential coverage.

Eligibility for minimum essential coverage. In most cases you are considered eligible for minimum essential coverage if the coverage is available to you, whether or not you enroll in it. However, special rules apply to certain types of minimum essential coverage as shown below.

Employer-sponsored coverage. Even if you and other members of your tax family had the opportunity to enroll in coverage offered by your employer for 2015, you are considered eligible for employer-sponsored coverage for a month only if the offer of coverage met a minimum standard of affordability and provided a minimum level of benefits, referred to as “minimum value.” The coverage offered by your employer is generally considered affordable for you and the members of your tax family allowed to enroll in the coverage if your share of the annual premiums for self-only coverage is not more than 9.56% of your household income for 2015. However, employer-sponsored coverage is not considered affordable if, when you or a family member enrolled in a qualified health plan, you gave accurate information about the availability of employer coverage to the Marketplace, and the Marketplace determined that you were eligible for APTC for the individual’s coverage in the qualified health plan. In addition, if you or your family member enrolls in employer-sponsored coverage for a month, you or your family member is considered eligible for employer-sponsored coverage for that month. Finally, if your employer did not offer coverage for your family, you may be able to take the PTC for your family members. For more information on affordability and minimum value, see Pub. 974.

Your employer may have sent you a Form 1095-C with information about the coverage offered to you, if any. See Form 1095-C, line 14, and the instructions included with that form, for information about whether you and other members of your tax family were offered coverage. See Pub. 974 for more information on how to determine whether the coverage you were offered was affordable and provided minimum value, including on how to use Form 1095-C.

Example. Don was eligible to enroll in his employer’s coverage for 2015 but instead applied for coverage in a qualified health plan through the Marketplace for coverage in 2015. Don provided accurate information about his employer’s coverage to the Marketplace and the Marketplace determined that the offer of coverage was not affordable and that Don was eligible for APTC. Don enrolled in the qualified health plan for 2015. Don got a new job with employer coverage that Don could have enrolled in as of September 1, 2015, but chose not to. Don did not return to the Marketplace to determine if he was eligible for APTC for the months September through December, 2015, and remained enrolled in the qualified health plan. Don is not considered eligible for employer-sponsored coverage for the months January through August of 2015 because he gave accurate information to the Marketplace about the availability of employer coverage and the Marketplace determined that he was eligible for APTC for coverage in a qualified health plan. The Marketplace determination does not apply, however, for the months September through December of 2015 because Don did not provide information to the Marketplace about his new employer’s offer of coverage. Whether Don is considered eligible for employer-sponsored coverage and ineligible for the PTC for the months September through December of 2015 is determined under the eligibility rules described in Pub. 974.

Waiting periods and post-employment coverage. If you cannot get benefits under an employer-sponsored plan until after a waiting period has expired, you are not treated as eligible for that coverage during the waiting period. Also, if you leave your employment and are offered post-employment coverage such as COBRA or retiree coverage, you are not considered eligible for that post-employment coverage unless you actually enroll in the coverage. See Pub. 974 for more information.

Medicaid and CHIP. You are generally considered eligible for a government-sponsored program for a month if you met the eligibility criteria for that month, even if you did not enroll. However, if a Marketplace made a determination that you or a family member were ineligible for Medicaid or CHIP for certain months (for example, you were approved for APTC for those months), the individual is considered ineligible for Medicaid or CHIP for those months, even if your actual 2015 income suggests that the individual may have been eligible for Medicaid or CHIP.

Example. Married taxpayers Tom and Nicole applied for insurance affordability programs at the Marketplace for themselves and their two children whom they claim as dependents, Kim and Chris. The Marketplace determined that Kim and Chris were eligible for coverage under CHIP. Instead of enrolling Kim and Chris in CHIP, the entire tax family enrolled in a qualified health plan (with APTC paid only for Tom and Nicole’s coverage). Because Kim and Chris were eligible for CHIP, which is minimum essential coverage, Tom and Nicole are not eligible for the PTC for coverage of Kim and Chris, but may be eligible for the PTC for their own coverage.

For more information about eligibility for Medicaid, CHIP, and other forms of government-sponsored minimum essential coverage, see Pub. 974.

Coverage in the individual market outside the Marketplace. While coverage purchased in the individual market outside the Marketplace is minimum essential coverage, eligibility for this type of coverage does not prevent you from being eligible for the PTC for Marketplace coverage. Coverage purchased in the individual market outside the Marketplace does not qualify for the PTC.

For more details on eligibility for minimum essential coverage, including additional special eligibility rules, see *Minimum Essential Coverage* in Pub. 974. You can also check *www.irs.gov/uac/Individual-Shared-Responsibility-Provision* for future updates about types of coverage that are recognized as minimum essential coverage.

Applicable taxpayer. You must be an applicable taxpayer to take the PTC. Generally, you are an applicable taxpayer if your household income for 2015 (described earlier) is at least 100% but not more than 400% of the Federal poverty line for your family size (provided in Tables 1-1, 1-2, and 1-3, later) and no one can claim you as a dependent for 2015. In addition, if you were married at the end of 2015, you must file a joint return to be an applicable taxpayer unless you meet one of the exceptions described in *Married taxpayers*, later.

For individuals with household income below 100% of the Federal poverty line, see *Household income below 100% of the Federal poverty line* under line 6, later.

Individuals who are incarcerated. Individuals who are incarcerated (other than pending disposition of charges, for example awaiting trial) are not eligible to enroll in a qualified health plan through a Marketplace. However, these individuals may be applicable taxpayers and take the PTC for the coverage of individuals in their tax families who are eligible to enroll in a qualified health plan.

Individuals who are not lawfully present. Individuals who are not lawfully present in the United States are not eligible to enroll in a qualified health plan through a Marketplace. They cannot take the PTC for their own coverage and are not eligible for the repayment limitations in Table 5 for APTC paid for their own coverage. However, these individuals may be applicable taxpayers and take the PTC for the coverage of individuals in their tax families, such as their children, who are lawfully present and eligible to enroll in a qualified health plan. For more information about who is treated as lawfully present for this purpose, visit *HealthCare.gov*. See *Individuals Not Lawfully Present in the United States Enrolled in a Qualified Health Plan* in Pub. 974 for more information on reconciling APTC when an unlawfully present person is enrolled individually or with lawfully present family members.

Married taxpayers. If you are considered married for federal income tax purposes, you must file a joint return with your spouse to take the PTC unless one of the two exceptions below applies to you.

You are not considered married for federal income tax purposes if you are divorced or legally separated according to your state law under a decree of divorce or separate maintenance. In that case, you cannot file a joint return but may be able to take the PTC on your separate return. See Pub. 501, Exemptions, Standard Deduction, and Filing Information.

Even if you are considered married for federal income tax purposes, you may be eligible to take the PTC without filing a joint return if one of the two exceptions below applies to you. If *Exception 1* applies, you can file a return using head of household or single filing status and take the PTC. If *Exception 2* applies, you are treated as married but can take the PTC with the filing status of married filing separately.

Exception 1—Certain married persons living apart. You may file your return as if you are unmarried and take the PTC if one of the following applies to you.

- You file a separate return from your spouse on Form 1040 or Form 1040A because you meet the requirements for *Married persons who live apart* under *Head of Household* in the instructions for Form 1040 or Form 1040A.
- You file as single on your Form 1040NR because you meet the requirements for *Married persons who live apart* under *Were You Single or Married?* in the instructions for Form 1040NR.

Exception 2—Victim of domestic abuse or spousal abandonment. If you are a victim of domestic abuse or spousal abandonment, you can file a return as married filing separately and take the PTC if you meet all of the following.

- You are living apart from your spouse at the time you file your 2015 tax return.
- You are unable to file a joint return because you are a victim of domestic abuse (described next) or spousal abandonment (described below).
- You check the box on your Form 8962 to certify that you are a victim of domestic abuse or spousal abandonment.

Domestic abuse. Domestic abuse includes physical, psychological, sexual, or emotional abuse, including efforts to control, isolate, humiliate, and intimidate, or to undermine the victim's ability to reason independently. All the facts and circumstances are considered in determining whether an individual is abused, including the effects of alcohol or drug abuse by the victim's spouse. Depending on the facts and circumstances, abuse of an individual's child or other family member living in the household may constitute abuse of the individual.

Spousal abandonment. A taxpayer is a victim of spousal abandonment for a tax year if, taking into account all facts and circumstances, the taxpayer is unable to locate his or her spouse after reasonable diligence.

Married filing separately. If you file as married filing separately and are not a victim of domestic abuse or spousal abandonment (see *Exception 2—Victim of domestic abuse or spousal abandonment* under *Married taxpayers* above), then you are not an applicable taxpayer and you cannot take the PTC. You generally must repay all of the APTC paid for a qualified health plan that covered only individuals in your tax family. If the policy also covered at least one individual in your spouse's tax family, you generally must repay half of the APTC paid for the policy. See the instructions for line 9, later. However, the amount of APTC you have to repay may be limited. See the instructions for line 28, later.

Specific Instructions

Name. Print or type your name exactly as you entered it on your tax return. If you are married and filing a joint return, enter the name that appears first on your return.

Social security number. The social security number on this form should match the social security number on your tax return. If you are married and filing a joint return, enter the first social security number that appears on your tax return.

If you are a nonresident alien or resident alien and you entered an individual taxpayer identification number (ITIN) on your tax return, enter this number on Form 8962.

Victims of domestic abuse or spousal abandonment. Check the box on the line above Part I of Form 8962 if you are filing as married filing separately and you are a victim of domestic abuse or spousal abandonment (see *Exception 2—Victim of domestic abuse or spousal abandonment* under *Married taxpayers*, earlier). By checking this box, you are certifying that you qualify for an exception to the requirement to file a joint return with your spouse. Do not attach documentation of the abuse or abandonment to your tax return. Keep any documentation you may have with your tax return records. For examples of what documentation to keep, see Pub. 974.

Married filing separately. If APTC was paid for your coverage but you cannot take the PTC because you are married filing a separate return and you do not qualify for an exception to the joint filing requirement, complete lines 1 through 5 to figure your separate household income as a percentage of the Federal poverty line. Skip lines 6 through 8b and complete lines 9 and 10 (and Part IV, if applicable). When completing line 11 or lines 12 through 23, complete only column (f). Then complete the rest of the form to determine how much you must repay.

Part I—Annual and Monthly Contribution Amount

Line 1

Enter on line 1 the number of exemptions from your Form 1040 or Form 1040A, line 6d, or Form 1040NR, line 7d.

Note. If an individual in your tax family was enrolled in a policy with an individual in another tax family and you are not taking the PTC, the other taxpayer may agree to reconcile all APTC paid for the policy. See the instructions for line 9 and Part IV, later, for more information about this rule. If you and the other taxpayer agree that he or she will reconcile all APTC paid and you are not taking the PTC, enter -0- on line 1. Then check the "**Yes**" box on line 9 and follow the instructions for *Line 9* and *Part IV*. (Specifically, in the instructions to Part IV, see *Policy amounts allocated 100%* in either *Allocation Situation 1. Taxpayers divorced or legally separated in 2015* or *Allocation Situation 4. Other situations where a policy is shared between two tax families*).

Line 2a

Enter your modified AGI on line 2a. Use the worksheet next to figure your modified AGI from your tax return.

Worksheet 1-1. Taxpayer's Modified AGI—Line 2a

1. Enter your adjusted gross income (AGI)* from Form 1040, line 38; Form 1040A, line 22; or Form 1040NR, line 37 . . . . **1.**__________
2. Enter any tax-exempt interest from Form 1040, line 8b; Form 1040A, line 8b; or Form 1040NR, line 9b . . . . **2.**__________
3. Enter any amounts from Form 2555, lines 45 and 50, and Form 2555-EZ, line 18 . . . . **3.**__________
4. Enter the excess, if any, of Form 1040, lines 20a over 20b; or Form 1040A, lines 14a over 14b . . . . **4.**__________
5. Add lines 1 through 4. Enter here and on Form 8962, line 2a . . . . **5.**__________

**If you are filing Form 8814 and the amount on Form 8814, line 4, is more than $1,050, you must enter certain amounts from that form on Worksheet 1-2. See Form 8814 under Line 2b, later.*

Note. If the amount on line 5 of Worksheet 1-1 above is less than zero, see *Line 3*, later, before you enter an amount on Form 8962, line 3.

Line 2b

Enter on line 2b the combined modified AGI for your dependents who are required to file an income tax return because their income meets the income tax return filing threshold. Use the worksheet next to figure these dependents' combined modified AGI. Do not include the modified AGI of dependents who are filing a tax return only to claim a refund of tax withheld or estimated tax.

Form 8814. If you are filing Form 8814, *Parents' Election To Report Child's Interest and Dividends*, and the amount on Form 8814, line 4, is more than $1,050, you must include on line 1 of Worksheet 1-2 the sum of the tax-exempt interest from Form 8814, line 1b; the lesser of Form 8814, line 4 or line 5; and any nontaxable social security benefits your child received.

Worksheet 1-2. Dependents' Combined Modified AGI—Line 2b

1. Enter the AGI* for your dependents from Form 1040, line 38; Form 1040A, line 22; Form 1040EZ, line 3; and Form 1040NR, line 37 . . . . **1.**__________
2. Enter any tax-exempt interest for your dependents from Form 1040, line 8b; Form 1040A, line 8b; Form 1040EZ, the amount written to the left of the line 2 entry space; and Form 1040NR, line 9b . . . . **2.**__________
3. Enter any amounts for your dependents from Form 2555, lines 45 and 50, and Form 2555-EZ, line 18 . . . . **3.**__________
4. Enter for each of your dependents the excess, if any, of Form 1040, lines 20a over 20b; and Form 1040A, lines 14a over 14b . . . . **4.**__________
5. Add lines 1 through 4. Enter here and on Form 8962, line 2b . . . . **5.**__________

**Only include your dependents who are required to file an income tax return because their income meets the income tax return filing threshold.*

Note. If the amount on line 5 of Worksheet 1-2 above is less than zero, see the instructions for *Line 3*, next, before you enter an amount on Form 8962, line 3.

Line 3

Add the amounts on lines 2a and 2b. Combine them even if one or both of them are negative. If the total is less than zero, enter -0- on line 3.

Line 4

Check the box to indicate your state of residence in 2015. Enter on line 4 the amount from Table 1-1, 1-2, or 1-3, below, that represents the Federal poverty line for your state of residence for the family size you entered on line 1 of Form 8962. If you moved at all during 2015 and you lived in Alaska and/or Hawaii, or you are filing jointly and you and your spouse lived in different states, use the table with the higher dollar amounts for your family size.

Table 1-1. Federal Poverty Line for the 48 Contiguous States and the District of Columbia

IF your Family Size* from Form 8962, line 1, was . . .	**THEN** enter the amount below on Form 8962, line 4 . . .
1	$11,670
2	$15,730
3	$19,790
4	$23,850
5	$27,910
6	$31,970
7	$36,030
8	$40,090

**If your family size was more than 8 people, add $4,060 for each additional person. For example, if your family size is 11, you have 3 additional people. Multiply $4,060 by 3 and add the result of $12,180 to $40,090. Enter the result of $52,270 on Form 8962, line 4.*

Table 1-2. Federal Poverty Line for Alaska

IF your Family Size* from Form 8962, line 1, was . . .	**THEN** enter the amount below on Form 8962, line 4 . . .
1	$14,580
2	$19,660
3	$24,740
4	$29,820
5	$34,900
6	$39,980
7	$45,060
8	$50,140

**If your family size was more than 8 people, add $5,080 for each additional person. For example, if your family size is 11, you have 3 additional people. Multiply $5,080 by 3 and add the result of $15,240 to $50,140. Enter the result of $65,380 on Form 8962, line 4.*

Table 1-3. Federal Poverty Line for Hawaii

IF your Family Size* from Form 8962, line 1, was . . .	**THEN** enter the amount below on Form 8962, line 4 . . .
1	$13,420
2	$18,090
3	$22,760
4	$27,430
5	$32,100
6	$36,770
7	$41,440
8	$46,110

**If your family size was more than 8, add $4,670 for each additional person. For example, if your family size is 11, you have 3 additional people. Multiply $4,670 by 3 and add the result of $14,010 to $46,110. Enter the result of $60,120 on Form 8962, line 4.*

Line 5

Figure your household income as a percentage of the Federal poverty line using Worksheet 2 below.

Worksheet 2. Household Income as a Percentage of the Federal Poverty Line

1. Enter the amount from line 3 of Form 8962 . . . . **1.** ________

2. Enter the amount from line 4 of Form 8962 . . . . **2.** _______

3. Multiply the amount on line 2 by 4.0 . . . . . . **3.** ________

4. Is the amount on line 1 more than the amount on line 3?

- **Yes.** The amount on line 1 above is more than 400% of the Federal poverty line. Enter 401 here and on line 5 of Form 8962.
- **No.** Divide the amount on line 1 above by the amount on line 2 above. If the result is not a whole percentage, **do not** round, use **only** the first two numbers after the decimal point. Enter the result here and on line 5 of Form 8962. For example, for 0.9984, enter the result as 99; for 1.8565, enter the result as 185; for 3.997, enter the result as 399 . . . . **4.** ________

Line 6

If the amount on line 5 is at least 100% but no more than 400%, check the **"No"** box on line 6 and continue to line 7. If the amount on line 5 is less than 100%, see *Household income below 100% of the Federal poverty line* next to determine if you qualify for the PTC. If the amount on line 5 is 401%, you are not eligible for the PTC. Check the **"Yes"** box and see *Household income above 400% of the Federal poverty line* below for instructions on how to repay any APTC paid for your or your family's coverage.

Household income below 100% of the Federal poverty line. If the amount on line 5 is less than 100%, you can take the PTC if you meet the requirements under *Estimated household income at least 100% of the Federal poverty line*, next, or *Alien lawfully present in the United States* below.

Estimated household income at least 100% of the Federal poverty line. You may qualify for the PTC if your household income is less than 100% of the Federal poverty line and you meet all of the following requirements.

- You or an individual in your tax family enrolled in a qualified health plan through a Marketplace.
- The Marketplace estimated at the time of your enrollment that your household income would be at least 100% but not more than 400% of the Federal poverty line for your family size for 2015.
- APTC was paid for the coverage for one or more months during 2015.
- You otherwise qualify as an applicable taxpayer (except for the Federal poverty line percentage).

Alien lawfully present in the United States. Certain aliens with household income below 100% of the Federal poverty line are not eligible for Medicaid because of their immigration status. You may qualify for the PTC if your household income is less than 100% of the Federal poverty line if you meet all of the following requirements.

- You or an individual in your tax family enrolled in a qualified health plan through a Marketplace.
- The enrolled individual is lawfully present in the United States **and** is not eligible for Medicaid because of immigration status.
- You otherwise qualify as an applicable taxpayer (except for the Federal poverty line percentage).

If you meet all of the requirements under either *Estimated household income at least 100% of the Federal poverty line* or *Alien lawfully present in the United States*, check the **"No"** box on line 6 and continue to line 7.

If your household income is less than 100% of the Federal poverty line and you did not meet the requirements under *Estimated household income at least 100% of the Federal poverty line* or *Alien lawfully present in the United States*, you are not an applicable taxpayer and you are not eligible to take the PTC. Check the **"Yes"** box on line 6, skip lines 7 and 8, and go to line 9. However, if no APTC was paid for any individuals in your tax family, **stop**; do not complete Form 8962.

Household income above 400% of the Federal poverty line. If the amount on line 5 is 401%, you cannot take the PTC. You generally must repay all APTC paid for individuals in your tax family (but see below for two exceptions). Skip lines 7 and 8, and complete lines 9 and 10 (and Part IV and/or Part V, if applicable). Complete only column (f) of line 11 or lines 12 through 23. Enter -0- on line 24, and enter the amount from line 11, column (f) or the total of lines 12 through 23, column (f), on lines 25, 27, and 29. Enter the amount from line 29 on your Form 1040, line 46; Form 1040A, line 29; or Form 1040NR, line 44.

If your household income is above 400% of the Federal poverty line but you qualify for the alternative calculation for the year of marriage (see the instructions for *Line 9*, later), you may be able to reduce the amount of APTC you have to repay.

If you enrolled an individual for whom another taxpayer will claim a personal exemption, the other taxpayer may be responsible to repay all or part of the APTC (see the instructions for *Line 9*, later).

Line 7

Enter on line 7 the decimal number from Table 2 next that applies to the amount you entered on line 5. This number is used to calculate your contribution amount.

Table 2. Applicable Figure

TIP *If the amount on line 5 is less than 133, your applicable figure is 0.0201. If the amount on line 5 is between 300 through 400, your applicable figure is 0.0956.*

IF Form 8962, line 5 is . . .	**ENTER** on Form 8962, line 7 . . .	**IF** Form 8962, line 5 is . . .	**ENTER** on Form 8962, line 7 . . .	**IF** Form 8962, line 5 is . . .	**ENTER** on Form 8962, line 7 . . .	**IF** Form 8962, line 5 is . . .	**ENTER** on Form 8962, line 7 . . .
less than 133	0.0201	175	0.0518	218	0.0697	261	0.0842
133	0.0302	176	0.0523	219	0.0701	262	0.0845
134	0.0308	177	0.0527	220	0.0704	263	0.0848
135	0.0314	178	0.0532	221	0.0708	264	0.0851
136	0.0320	179	0.0537	222	0.0711	265	0.0854
137	0.0326	180	0.0541	223	0.0715	266	0.0857
138	0.0331	181	0.0546	224	0.0718	267	0.0860
139	0.0337	182	0.0550	225	0.0722	268	0.0863
140	0.0343	183	0.0555	226	0.0726	269	0.0865
141	0.0349	184	0.0560	227	0.0729	270	0.0868
142	0.0355	185	0.0564	228	0.0733	271	0.0871
143	0.0361	186	0.0569	229	0.0736	272	0.0874
144	0.0367	187	0.0574	230	0.0740	273	0.0877
145	0.0373	188	0.0578	231	0.0743	274	0.0880
146	0.0378	189	0.0583	232	0.0747	275	0.0883
147	0.0384	190	0.0588	233	0.0750	276	0.0886
148	0.0390	191	0.0592	234	0.0754	277	0.0889
149	0.0396	192	0.0597	235	0.0757	278	0.0892
150	0.0402	193	0.0602	236	0.0761	279	0.0895
151	0.0407	194	0.0606	237	0.0764	280	0.0898
152	0.0411	195	0.0611	238	0.0768	281	0.0901
153	0.0416	196	0.0615	239	0.0771	282	0.0903
154	0.0421	197	0.0620	240	0.0775	283	0.0906
155	0.0425	198	0.0625	241	0.0778	284	0.0909
156	0.0430	199	0.0629	242	0.0782	285	0.0912
157	0.0434	200	0.0634	243	0.0785	286	0.0915
158	0.0439	201	0.0638	244	0.0789	287	0.0918
159	0.0444	202	0.0641	245	0.0792	288	0.0921
160	0.0448	203	0.0645	246	0.0796	289	0.0924
161	0.0453	204	0.0648	247	0.0799	290	0.0927
162	0.0458	205	0.0652	248	0.0803	291	0.0930
163	0.0462	206	0.0655	249	0.0806	292	0.0933
164	0.0467	207	0.0659	250	0.0810	293	0.0936
165	0.0472	208	0.0662	251	0.0813	294	0.0938
166	0.0476	209	0.0666	252	0.0816	295	0.0941
167	0.0481	210	0.0669	253	0.0819	296	0.0944
168	0.0486	211	0.0673	254	0.0822	297	0.0947
169	0.0490	212	0.0676	255	0.0825	298	0.0950
170	0.0495	213	0.0680	256	0.0828	299	0.0953
171	0.0499	214	0.0683	257	0.0830	300 thru 400	0.0956
172	0.0504	215	0.0687	258	0.0833		
173	0.0509	216	0.0690	259	0.0836		
174	0.0513	217	0.0694	260	0.0839		

Line 8a

Multiply line 3 by line 7 and enter the result on line 8a, rounded to the nearest whole dollar amount.

Line 8b

Divide line 8a by 12.0 and enter the result on line 8b, rounded to the nearest whole dollar amount.

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

Line 9

Before you complete line 10, you must complete *Part IV* if you are *Allocating policy amounts* (see below) with another taxpayer or complete *Part V* if you want to use the *Alternative calculation for year of marriage* (see below). Both of these situations may apply to you, so be sure to read the rest of the instructions for *Line 9*.

Allocating policy amounts. You need to allocate policy amounts (enrollment premiums, SLCSP premiums, and/or APTC) on a Form 1095-A between your tax family and another tax family if:

- The policy covered at least one individual in your tax family and at least one individual in another tax family, and
- You received a Form 1095-A for the policy that does not accurately represent the members of your tax family who were enrolled in the policy (meaning that it either lists someone who is not in your tax family or does not list a member of your tax family who was enrolled in the policy) or the other tax family received a Form 1095-A for the policy that includes a member of your tax family.

If this applies to you, check the **"Yes"** box. For each policy to which the two conditions above apply, follow the instructions in Table 3. Shared Policy Allocation—Line 9, later, to determine which allocation rule applies for that qualified health plan.

A qualified health plan may have covered at least one individual in your tax family and one individual not in your tax family if:

- You got divorced during the year,
- You are married but filing a separate return from your spouse,
- You or an individual in your tax family were enrolled in a qualified health plan by someone who is not part of your tax family (for example, your ex-spouse enrolled a child whom you are claiming as a dependent), or
- You or an individual in your tax family enrolled someone not part of your tax family in a qualified health plan (for example, you enrolled a child whom your ex-spouse is claiming as a dependent).

Multiple allocations in the same month. If a qualified health plan covers individuals in your tax family and individuals in two or more other tax families for one or more months, see the rules in Pub. 974 under *Multiple Shared Policy Allocations*.

Example. One qualified health plan covers Bret, his spouse Paulette, and their daughter Sophia from January through August, and APTC is paid for the coverage of all three. Bret and Paulette divorce on August 26. Bret and Paulette each file a tax return using a filing status of single. Sophia is claimed as a dependent by her grandfather, Mike. Bret, Paulette, and Mike must allocate the amounts from Form 1095-A for the months of January through August on their tax returns using the worksheets and instructions in Pub. 974 because amounts on Form 1095-A must be allocated among three tax families (Bret's, Paulette's, and Mike's).

Multiple allocations in different months. You may need to allocate policy amounts under a qualified health plan using different rules for different months if you had a change in circumstance. Use Table 3 to determine which allocation rule to use for each month.

Example. Henry enrolled himself, his spouse, Cara, and their two dependent children, Heidi and Matt, in a policy for 2015 purchased at the Marketplace. APTC was paid on behalf of each. The couple divorced on June 30, and Cara purchased different health insurance at the Marketplace for July through December in which she enrolls with Heidi and Matt. Henry claims Heidi as a dependent on his tax return. Cara claims Matt as a dependent on her tax return. For the months Henry and Cara were married (January through June), they will allocate the amounts from the policy on line 30 using the rules under *Allocation Situation 1. Taxpayers divorced or legally separated in 2015*, later. For the months Henry and Cara were divorced (July through December), they will allocate the amounts from the policy on line 31 using the rules under *Allocation Situation 4. Other situations where a policy is shared between two tax families*, later.

Alternative calculation for year of marriage. If you got married during 2015 and APTC was paid for an individual in your tax family, you may want to use the alternative calculation for year of marriage, an optional calculation that may reduce the amount of excess APTC you would have to repay under the general rules. Follow the instructions in Table 4. Alternative Calculation for Year of Marriage Eligibility, later, to determine whether you qualify for the alternative calculation. If you are electing the HCTC on Form 8885 for a coverage month, you cannot use the alternative calculation for year of marriage for the same coverage you received APTC.

If you need to allocate policy amounts and also are using the alternative calculation for the year of marriage, follow the instructions in Table 3 before you follow the instructions for Table 4.

If you are **not** allocating policy amounts and not using the alternative calculation for the year of marriage, check the "**No**" box and go to line 10.

Note. If both Part IV and Part V apply to you, complete Part IV first.

Table 3. Shared Policy Allocation—Line 9

Follow Steps 1–3 below to determine which allocation rule to use in *Part IV—Shared Policy Allocation*, later, to allocate the policy amounts for each qualified health plan identified in the instructions to line 9. For each policy, if your answer directs you to Part IV, skip directly to the section of the Part IV instructions identified. You do not need to complete the remaining steps below.

STEP 1

If

- You divorced or legally separated from a spouse in 2015; and
- The policy covered at least one individual in your tax family **AND** at least one individual in your former spouse's tax family…

Then allocate using the rules in *Allocation Situation 1. Taxpayers divorced or legally separated in 2015* in *Part IV—Shared Policy Allocation.*
Otherwise, continue to Step 2.

STEP 2

If

- You were married at the end of 2015 but are filing a separate return from your spouse; and
- The policy covered at least one individual in your tax family **AND** at least one individual in your spouse's tax family*…

Then allocate using the rules in *Allocation Situation 2. Taxpayers married at year end but filing separate returns* in *Part IV—Shared Policy Allocation.*
Otherwise, continue to Step 3.

Also follow these instructions if you meet the rules in Exception 1—Certain married persons living apart or Exception 2—Victim of domestic abuse or spousal abandonment under* Married taxpayers, *earlier, and a policy covered at least one individual in your tax family* ***AND* *at least one individual in your spouse's tax family.*

STEP 3

If

- No APTC was paid for the policy...

Then allocate using the rules in *Allocation Situation 3. No APTC* in *Part IV—Shared Policy Allocation*.
Otherwise, allocate using the rules in *Allocation Situation 4. Other situations where a policy is shared between two tax families* in *Part IV—Shared Policy Allocation*.

Table 4. Alternative Calculation for Year of Marriage Eligibility

Answer questions 1–5 below to determine whether you may be eligible to elect the alternative calculation for year of marriage.

1	Were you and your spouse each unmarried on January 1, 2015? ☐ **Yes.** Continue to the next question in this table. ☐ **No.** You are not eligible to elect the alternative calculation. Check the **"No"** box on Form 8962, line 9, and continue to line 10.
2	Were you married on December 31, 2015? ☐ **Yes.** Continue to the next question in this table. ☐ **No.** You are not eligible to elect the alternative calculation. Check the **"No"** box on Form 8962, line 9, and continue to line 10.
3	Are you filing a joint return with your spouse for 2015? ☐ **Yes.** Continue to the next question in this table. ☐ **No.** You are not eligible to elect the alternative calculation. Check the **"No"** box on Form 8962, line 9, and continue to line 10.
4	Was anyone in your tax family enrolled in a qualified health plan before your first full month of marriage? (For example, if you got married on July 15, your first full month of marriage was August.) ☐ **Yes.** Continue to the next question in this table. ☐ **No.** You are not eligible to elect the alternative calculation. Check the **"No"** box on Form 8962, line 9, and continue to line 10.
5	Was APTC paid for anyone in your tax family during 2015? ☐ **Yes.** Continue to Worksheet 3 next to determine whether excess APTC was paid during 2015. If excess APTC was paid, you are eligible to elect the alternative calculation. If the amount you entered on Form 8962, line 5, is 401, do not complete Worksheet 3. See *Alternative Calculation for Year of Marriage* in Pub. 974 to determine if electing the alternative calculation reduces your repayment amount. ☐ **No.** You are not eligible to elect the alternative calculation. Do not complete Part V. If you did not complete Part IV, check the **"No"** box on line 9 and continue to line 10. If you completed Part IV, check the **"No"** box on line 10, skip line 11, and continue to *Lines 12 through 23—Monthly Calculation*, later.

Worksheet 3. Alternative Calculation for Marriage Eligibility

Complete this worksheet to determine whether you received excess APTC in 2015.

If Part IV—Shared Policy Allocation *applies to you, do* ***not*** *complete this worksheet until you have completed Part IV.*

Monthly Calculation	(a) Form(s) 1095-A, lines 21–32, column A*	(b) Form(s) 1095-A, lines 21–32, column B**	(c) Form 8962, line 8b	(d) Subtract column (c) from column (b)	(e) Smaller of column a or column (d)	(f) Form(s) 1095-A, lines 21–32, column C***
1 January						
2 February						
3 March						
4 April						
5 May						
6 June						
7 July						
8 August						
9 September						
10 October						
11 November						
12 December						
13 **Totals:** Enter the total of column (e), lines 1–12, and the total of column (f), lines 1–12						

14 Is line 13, column (e), less than line 13, column (f)?

☐ **Yes.** Excess APTC was paid in 2015. You are eligible to elect the alternative calculation. See *Alternative Calculation for Year of Marriage* in Pub. 974 to determine if electing the alternative calculation reduces your repayment amount.

☐ **No.** There was no excess APTC paid in 2015. You are not eligible to elect the alternative calculation. Do not complete Part V.

- If you did not complete Part IV, check the **"No"** box on line 9 and continue to line 10. If you are required to use lines 12 through 23 of Form 8962, enter the amounts from lines 1 through 12 of this worksheet in the lines for the corresponding months and columns on Form 8962.
- If you completed Part IV, check the **"No"** box on line 10, skip line 11, and enter the amounts from lines 1 through 12 of this worksheet in the lines for the corresponding months and columns of lines 12 through 23 of Form 8962.

**See* Column (a) *under* Lines 12 through 23—Monthly Calculation*, later, for instructions for the amounts to enter on lines 1 through 12, column (a), of this worksheet. These are the amounts of the monthly premiums reported on Form(s) 1095-A, lines 21 through 32, column A.*

***See* Column (b) *under* Lines 12 through 23—Monthly Calculation*, later, for instructions for the amounts to enter on lines 1 through 12, column (b), of this worksheet. These are the amounts of the monthly premium for the applicable SLCSP reported on Form(s) 1095-A, lines 21 through 32, column B.*

****See* Column (f) *under* Lines 12 through 23—Monthly Calculation*, later, for instructions for the amounts to enter on lines 1 through 12, column (f), of this worksheet. These are the amounts of the monthly APTC reported on Form(s) 1095-A, lines 21 through 32, column C.*

Line 10

Read the following instructions to determine whether you should check the "**Yes**" box or **"No"** box and then proceed as directed.

TIP *If you were enrolled in a qualified health plan for fewer than 12 months during 2015, check the* ***"No"*** *box and continue to lines 12–23.*

Full-year coverage with no changes on Form 1095-A, Part III, columns A or B. Check the **"Yes"** box and continue to line 11 if **all** of the following apply for each qualified health plan you or a member of your tax family were enrolled in for 2015. Otherwise, check the **"No"** box and continue to lines 12–23.

- You were enrolled in a qualified health plan for all 12 months during 2015;
- Your enrollment premium was the same for every month of 2015. Your enrollment premium is reported in Part III, column A, lines 21 through 32, of Form 1095-A; and
- Your SLCSP premium is the same for every month of 2015. Your SLCSP premium is reported in Part III, column B, lines 21 through 32 of Form 1095-A. But see *Missing or incorrect SLCSP premium on Form 1095-A*, below.

Missing or incorrect SLCSP premium on Form 1095-A. Generally, there are two situations where your SLCSP premium may not be accurately reflected on your Form 1095-A. If either of these two situations apply to you, you must determine the correct applicable SLCSP premium for every month. If the correct applicable SLCSP premium is not the same for every month of 2015, check the **"No"** box and continue to lines 12–23. The two situations in which your SLCSP may not be accurately reflected on your Form 1095-A are:

1. **No APTC was paid for your coverage.** If no APTC was paid for your or your family member's coverage, the SLCSP premium reported in Part III, column B, lines 21 through 32 of Form 1095-A may be wrong, or may be left blank, or reported as -0-. To determine your applicable SLCSP premium for each month, see Pub. 974 or, if you enrolled through the Federally-facilitated Marketplace, go to *www.HealthCare.gov/tax-tool/*. If your correct applicable SLCSP premium is not the same for all 12 months, check the **"No"** box and continue to lines 12–23.

2. **Change in circumstances affecting SLCSP.** If you had a change in circumstances during 2015 that you did not report to the Marketplace, the SLCSP premium reported in Part III, column B, lines 21 through 32 of Form 1095-A may be wrong. Examples of changes in circumstances that may affect your applicable SLCSP premium include the following.

- You enrolled an individual newly added to your tax family during 2015 (for example, a newborn).
- An individual in your tax family was not enrolled in your qualified health plan for all of 2015.
- An individual in your coverage family became eligible for or lost eligibility for employer coverage or other minimum essential coverage during 2015.
- You are claiming the personal exemption for an individual, but you did not indicate to the Marketplace at enrollment that you would do so.
- You indicated to the Marketplace at enrollment that you would claim the personal exemption for an individual, but you are not doing so.
- An individual enrolled in the coverage died during 2015 but you did not remove the individual from the policy.
- You moved during 2015.

If any of the above apply and you did not notify the Marketplace or if you have reason to believe the Marketplace reported the wrong applicable SLCSP premium, determine the correct applicable SLCSP premium for the months affected. See Pub. 974 for information on determining the correct applicable SLCSP premium or, if you enrolled through the Federally-facilitated Marketplace, go to *www.HealthCare.gov/tax-tool/*. If your correct applicable SLCSP premium is not the same for all 12 months, check the **"No"** box and continue to lines 12–23.

Example 1. Mike and Susan enroll together in a qualified health plan through the Marketplace. They do not have a change in circumstance during the year. They receive a Form 1095-A, which reports $800 for the enrollment premiums in column A on lines 21 through 32 and $850 for the applicable SLCSP premium in column B on lines 21 through 32, for January through December. They check the **"Yes"** box on Form 8962, line 10 and complete line 11 because for each of columns A and B there is an amount for all 12 months and the amounts did not change.

Example 2. Same facts as *Example 1* above, but starting on August 1, Mike is eligible for Medicare, and does not notify the Marketplace. Because Mike is eligible for other minimum essential coverage, their coverage family changed starting in August. As a result, Mike and Susan must update the applicable SLCSP premium reported in column B for the months of August through December (Form 1095-A, lines 28 through 32, column B) following the instructions in Pub. 974. Since the SLCSP premium is not the same for every month of the year, Mike and Susan cannot use line 11 and must complete lines 12 through 23 on Form 8962. Mike and Susan check the "**No**" box on Form 8962, line 10 and complete lines 12 through 23. They determine that the applicable SLCSP premium for the coverage family of one (Susan) for August through December is $400 each month. Mike and Susan enter $850 in Form 8962, lines 12 through 18, column (b), and $400 in lines 19 through 23, column (b).

Example 3. Lee receives a Form 1095-A, which reports in column A $1,000 on lines 21 through 32 for January through December and in column B $900 on lines 21 through 31 for January through November. However, column B reports $650 on line 32 because an individual included in Lee's coverage family was eligible for minimum essential coverage (other than coverage in the individual market) for the entire month of December and Lee reported the change to the Marketplace. Lee checks the **"No"** box on line 10 and completes lines 12 through 23.

Line 11—Annual Totals

Note. If you checked the **"Yes"** box on line 10 and you are completing line 11, **do not** complete lines 12 through 23. Once you complete line 11, skip to line 24.

If you checked the **"Yes "** box on line 6 or you are using filing status married filing separately and *Exception 2—Victim of domestic abuse or spousal abandonment*, earlier, does not apply to you, skip columns (a) through (e), and complete only *Column (f)*, later.

Column (a). Enter the annual premiums from Form 1095-A, line 33, column A. If you have more than one Form 1095-A, add the amounts together and enter the total on Form 8962, line 11, column (a). This amount is the total of your enrollment premiums for the year, including the portion paid by APTC.

TIP *If you or a member of your tax family were enrolled in a stand-alone dental plan that provided pediatric benefits, the portion of the dental plan premiums for the pediatric benefits will be included in the amount in column A on the Form 1095-A that reports the coverage in your primary health plan. If your plan covered benefits that are not essential health benefits, such as adult dental or vision benefits, the amount in this column will be reduced by the premiums for the non-essential benefits.*

Column (b). Enter the annual applicable SLCSP premium from Form 1095-A, line 33, column B. If you have more than one Form 1095-A, enter the amount as follows.

- If individuals in your coverage family enrolled in more than one policy in the same state you will receive a Form 1095-A for each policy. The Marketplace should have entered the same SLCSP premium, which applies to all members of your coverage family, on each Form 1095-A. Enter the amount from column B of **only one** Form 1095-A—do not add the values from each form. However, if you got married in December of 2015 and you and your spouse, or individuals in your and your spouse's tax family, were enrolled in separate qualified health plans, add the amounts from Form 1095-A, column B, for each plan (or plans) and enter the total. If you got married in a month other than December, your applicable SLCSP premium may not be the same for every month. If it is not the same for every month, you cannot use line 11.
- For individuals enrolled in qualified health plans in different states, add together the amounts from column B of the Forms 1095-A from each state and enter the total on Form 8962, line 11, column (b).

Need to determine applicable SLCSP premium. If during 2015, your coverage family changed or you moved and you did not notify the Marketplace, or if no APTC was paid, the applicable SLCSP premium reported on your Form(s) 1095-A may be missing or incorrect. See *Missing or incorrect SLCSP premium on Form 1095-A* under *Line 10*, earlier, to determine your correct applicable SLCSP premium to enter in column (b).

Column (c). Enter the amount from line 8a of Form 8962.

Column (d). Subtract the amount in column (c) from the amount in column (b). If the result is zero or less, enter -0-.

Column (e). Enter the lesser of the amount in column (a) and the amount in column (d).

Column (f). Enter the APTC amount from Form 1095-A, line 33, column C. If you have more than one Form 1095-A, add the amounts together and enter the total on Form 8962, line 11, column (f).

Not an applicable taxpayer. If you are not an applicable taxpayer because your household income is over 400% of the Federal poverty line or you are using filing status married filing separately and *Exception 2—Victim of domestic abuse or spousal abandonment*, earlier, does not apply to you, you cannot take the PTC. You must repay some or all of the APTC entered on line 11, column (f). To complete the rest of the form, skip lines 12 through 23, enter -0- on line 24, and enter the amount from line 11, column (f), on lines 25 and 27. Then complete lines 28 (if it applies to you) and 29. Enter the amount from line 29 on your Form 1040, line 46; Form 1040A, line 29; or Form 1040NR, line 44.

Lines 12 through 23—Monthly Calculation

Note. If you checked the **"No"** box on line 10 and you are completing lines 12 through 23, **do not** complete line 11.

If you checked the **"Yes"** box on line 6 and you did not elect the alternative calculation for the year of marriage **or** you are using filing status married filing separately and *Exception 2—Victim of domestic abuse or spousal abandonment*, earlier, does not apply to you, skip columns (a) through (e), and complete only *Column (f)*, later.

Column (a). Enter on lines 12 through 23, column (a), the amount of the monthly premiums reported on Form 1095-A, lines 21 through 32, column A, for the corresponding month. If you have more than one Form 1095-A affecting a particular month, add the amounts together for that month and enter the total on the appropriate line on Form 8962, column (a). This amount is the total of your enrollment premiums for the month, including the portion paid by APTC.

If a -0- appears on Form 1095-A, on any of lines 21 through 32, column A, you are not entitled to a monthly credit amount for that month because enrollment premiums were not paid. Enter -0- on the appropriate line on Form 8962, column (a).

If you completed *Part IV—Shared Policy Allocation* for any Form 1095-A, add the monthly premium amounts allocated to you, if any, using the allocation percentage you entered on lines 30 through 33, column (e), to the monthly premiums for other policies that you did not allocate.

Column (b). Enter on lines 12 through 23, column (b), the amount of the monthly applicable SLCSP premium reported on Form 1095-A, lines 21 through 32, column B, for the corresponding month. If you have more than one Form 1095-A affecting a particular month, use the following rules to determine the amounts to enter on Form 8962, column (b), for that month.

- If individuals in your coverage family enrolled in separate policies in the same state, you will receive a Form 1095-A for each policy. The Marketplace should have entered the same SLCSP premium, which applies to all members of your coverage family for coverage that month, on each Form 1095-A. Enter the amount from column B of only one Form 1095-A—do not add the values from each form. Enter this amount on Form 8962, lines 12 through 23, column (b). See *Marriage in 2015*, later, if you got married during 2015.
- If individuals in your coverage family enrolled in qualified health plans in different states, add together the amounts from column B of Forms 1095-A from each state and enter the total on Form 8962, lines 12 through 23, column (b).
- If you completed *Part IV—Shared Policy Allocation* for any Form 1095-A, add the amounts of applicable SLCSP premium allocated to you, if any, using the allocation percentage you entered on Form 8962, lines 30 through 33, column (f), to the applicable SLCSP premium shown on the Form(s) 1095-A that you did not allocate.
- If a -0- appears on Form 1095-A, on any of lines 21 through 32, column A, you are not entitled to a monthly credit amount for that month because your enrollment premiums were not paid. Enter -0- on the appropriate line on Form 8962, column (b).

Need to determine correct applicable SLCSP premium. If during 2015, your coverage family changed or you moved and you did not notify the Marketplace, or if no APTC was paid, the applicable SLCSP premium reported on your Form(s) 1095-A may be missing or incorrect. See *Missing or incorrect SLCSP premium on Form 1095-A* under *Line 10*, earlier, to determine your correct applicable SLCSP premium to enter in column (b).

Marriage in 2015. If you got married in 2015 and you and your spouse (or individuals in your tax family) were enrolled in separate qualified health plans during months prior to your first full month of marriage, add together the amounts from Form 1095-A, column B, for each plan (or plans) and enter the total. If you completed *Part V—Alternative Calculation for Year of Marriage*, use the instructions in Pub. 974 for the entries to make for your pre-marriage months.

Column (c). If you did not complete *Part V—Alternative Calculation for Year of Marriage*, enter on lines 12 through 23, column (c), your monthly contribution amount from line 8b. If columns (a) and (b) of any of lines 12 through 23 are blank, leave column (c) of the corresponding line blank.

If you completed *Part V—Alternative Calculation for Year of Marriage*, see Pub. 974 for how to complete column (c).

Column (d). Subtract the amount in column (c) from the amount in column (b). If the result is zero or less, enter -0-.

Column (e). Enter for each month the lesser of the amount in column (a) and the amount in column (d) for that month.

Column (f). Enter on lines 12 through 23, column (f), the amount of the monthly APTC reported on Form 1095-A, lines 21 through 32, column C. If you have more than one Form 1095-A affecting a particular month, add the amounts together for that month and enter the total on the appropriate line on Form 8962, column (f).

If you completed *Part IV—Shared Policy Allocation* for any Form 1095-A, include only the amounts of the monthly APTC allocated to you, if any, using the allocation percentage you entered on lines 30 through 33, column (g), and combine that amount with the amounts of the monthly APTC for other policies that you did not allocate.

Not an applicable taxpayer. If you are not an applicable taxpayer because your household income is over 400% of the Federal poverty line or you are using filing status married filing separately and *Exception 2—Victim of domestic abuse or spousal abandonment*, earlier, does not apply to you, then you must repay all of the total APTC entered on lines 12 through 23, column (f) (unless the alternative calculation for the year of marriage rule applies to you and you are able to reduce your repayment amount, or you are filing married filing separately and a repayment limitation applies). To complete the rest of the form, enter -0- on line 24, and enter the total of lines 12 through 23, column (f), on lines 25 and 27. Then complete lines 28 (if it applies to you) and 29. Enter the amount from line 29 on your Form 1040, line 46; Form 1040A, line 29; or Form 1040NR, line 44.

Example. Melissa and Ryan were married at the beginning of 2015. They have no dependents. They were enrolled under the same qualified health plan through a Marketplace from January through April. Monthly APTC of $1,000 was paid for them, for a total of $4,000. They divorced April 10. Melissa enrolled in single coverage from May through December. Monthly APTC of $100 was paid for her, for a total of $800. Ryan did not enroll in coverage.

At the end of the year, Melissa or Ryan will receive a Form 1095-A reporting their coverage for January through April. The recipient of the Form 1095-A should provide a copy to the non-recipient. Melissa will receive a Form 1095-A reporting her coverage for May through December.

For 2015, Melissa's family size is one and her household income is over 400% of the Federal poverty line. Ryan's family size is one and his household income is also over 400% of the Federal poverty line. They follow the rules under *Allocation Situation 1. Taxpayers divorced or legally separated in 2015* and agree to allocate the APTC 60% to Melissa and 40% to Ryan. The allocation is only for the period of time Melissa and Ryan were married. The sum of the APTC allocated to Melissa is $2,400 ($1,000 x 0.6 x 4 months). Melissa must add this sum to her APTC of $800 for her single coverage. She enters the monthly amounts on lines 12–23, column (f), and the total of $3,200 on Form 8962, lines 25, 27, and 29. Melissa enters the amount from line 29 on the applicable line of her tax return.

The sum of the APTC allocated to Ryan is $1,600 ($1,000 x 0.4 x 4 months). Ryan enters the monthly amounts on Form 8962, lines 12–23, column (f), and the total of $1,600 on lines 25, 27, and 29. Ryan enters the $1,600 from line 29 on the applicable line of his tax return.

Individual you enrolled for whom no taxpayer will claim a personal exemption. If you indicated to the Marketplace at enrollment that you would claim the personal exemption for an individual (including yourself) but no taxpayer claims a personal exemption for the individual, you must report any APTC paid for that individual's coverage. Follow the rules in *Column (f)*, earlier, to report this APTC.

Line 24

Enter the amount from line 11(e) or add lines 12(e) through 23(e) and enter the total.

Line 25

Enter the amount from line 11(f) or add lines 12(f) through 23(f) and enter the total.

Line 26

If line 24 is greater than line 25, subtract line 25 from line 24 and enter the result on line 26. This result is the amount of your PTC that is more than the APTC paid, your net PTC. This amount will reduce the amount of tax you must pay with your tax return or increase your refund. Also enter the amount from line 26 on Form 1040, line 69; Form 1040A, line 45; or Form 1040NR, line 65. Skip lines 27 through 29. If line 24 is equal to line 25, enter -0- on line 26 and skip lines 27 through 29.

If you elected the alternative calculation for the year of marriage, and line 24 is greater than line 25, enter -0- on line 26 and skip lines 27 through 29.

If line 25 is greater than line 24, skip line 26 and go to Part III.

Part III—Repayment of Excess Advance Payment of the Premium Tax Credit

Complete this part to figure the amount of excess APTC you must repay.

Line 27

If line 25 is greater than line 24, subtract line 24 from line 25 and enter the result.

Line 28

The excess APTC you must repay may be limited to the amounts in Table 5, next. If one of the following applies to you, there is no repayment limitation and you must repay the full amount shown on line 27.

- If your entry on Form 8962, line 5, is 400 or 401.
- You are electing to take the HCTC on Form 8885 for the same coverage you received APTC.

If either of these situations apply, leave line 28 blank and enter the amount from line 27 on line 29.

If neither situation applies to you, enter the appropriate amount from Table 5 on line 28. If you were married at the end of 2015 but are filing separately from your spouse, the repayment limitation shown in Table 5 applies to you and your spouse separately based on the household income reported on each return.

If APTC was paid for the coverage in a qualified health plan of an individual who was not lawfully present, the limitation does not apply to APTC paid for individuals who are not lawfully present. See Pub. 974 for more information, including the calculation necessary to figure the repayment limitation if an individual not lawfully present is enrolled with one or more family members who are lawfully present for one or more months of the year.

Table 5. Repayment Limitation

IF the amount on Form 8962, line 5 is . . .	**ENTER** on line 28 . . .	
	for a filing status of Single—	for any other filing status—
Less than 200	$300	$600
At least 200 but less than 300	$750	$1,500
At least 300 but less than 400	$1,250	$2,500
400 or 401	leave line 28 blank	

Line 29

Enter the smaller of line 27 or line 28. If line 28 is blank, enter the amount from line 27 on line 29. Also enter the amount from Form 8962, line 29 on Form 1040, line 46; Form 1040A, line 29; or Form 1040NR, line 44.

Part IV—Shared Policy Allocation

See the instructions for *Line 1* and *Line 9* to determine whether you need to complete Part IV.

Specific Allocation Situations

Allocation Situation 1. Taxpayers divorced or legally separated in 2015. You and your former spouse must allocate policy amounts on your separate returns to figure your PTC if both of the following apply.

- You and your former spouse were married to each other at some point during 2015 but were no longer married to each other at the end of 2015.
- At any time during 2015, you and your former spouse were enrolled in the same qualified health plan, or you or an individual in your tax family (as shown on your tax return) was enrolled in the same policy as your former spouse or as an individual in your former spouse's tax family.

You will allocate with your former spouse a percentage of the total enrollment premiums, the applicable SLCSP premium, and APTC for coverage under the plan during the months you were married. You will find these amounts on your Form(s) 1095-A, Part III, columns A, B, and C, respectively. You and your former spouse can allocate these amounts using any percentage you agree on from zero through one hundred percent, but you must allocate all amounts using the same percentage. If you do not agree on a percentage, you and your former spouse must allocate 50% of each of these amounts to you and 50% of each to your former spouse.

Policy amounts allocated 100%. If 100% of policy amounts are allocated to you, check "**Yes**" on line 9 and complete Part IV by entering 100 in the appropriate box(es) for your allocation percentage. If 0% of the policy amounts are allocated to you, complete Part IV by entering -0- in the appropriate box(es) for your allocation percentage.

Example 1. Keith and Stephanie are married at the beginning of 2015 and have three children, Ben, Grace, and Max. In January, Keith enrolls Ben, Grace, and Max in a qualified health plan beginning in January. Keith and Stephanie divorce in July. The children become eligible for and enroll in government-sponsored health coverage and disenroll from the qualified health plan, effective August 1.

Keith claims Ben and Grace as dependents and Stephanie claims Max as a dependent for 2015. Keith and Stephanie agree to allocate the policy amounts 33% to Stephanie and 67% to Keith. Therefore, 33% of the enrollment premium, the applicable SLCSP premiums, and APTC are allocated to Stephanie and 67% of these amounts are allocated to Keith. The allocation is only for the months Keith and Stephanie were married.

On her Form 8962, Part IV, line 30, Stephanie enters Keith's social security number in column (b) and enters "0.33" in columns (e), (f), and (g). On his Form 8962, Part IV, line 30, Keith enters Stephanie's social security number in column (b) and enters "0.67" in columns (e), (f), and (g). Stephanie and Keith both enter "01" in column (c) and "07" in column (d).

Example 2. The facts are the same as in Example 1 except that Keith and Stephanie cannot agree on an allocation percentage. Therefore, 50% of the enrollment premiums, the applicable SLCSP premium, and APTC are allocated to each taxpayer. On their Forms 8962, Part IV, line 30, Keith and Stephanie each enter "0.50" in columns (e), (f), and (g).

Allocation Situation 2. Taxpayers married at year end but filing separate returns. If you were married at the end of 2015, you are filing a separate return from your spouse, and you or an individual in your tax family was enrolled in the same policy as your spouse or an individual in your spouse's tax family at any time during 2015, you and your spouse must equally allocate (50% to each spouse) certain policy amounts. Married individuals who file separate returns are generally not eligible to take the PTC. However, you may be able to take the PTC if you file a return as single or head of household (see Exception 1—Certain married persons living apart under *Married taxpayers*, earlier) or you file a return as married filing separately due to domestic abuse or spousal abandonment (see Exception 2—Victim of domestic abuse or spousal abandonment under *Married taxpayers*, earlier).

If Exception 1 or Exception 2 applies, follow rules in the next paragraph. If neither exception applies, see Married filing separately (not in Exception 2—Victim of domestic abuse or spousal abandonment), later.

Exception 1—Certain married persons living apart or Exception 2—Victim of domestic abuse or spousal abandonment. Enter "0.50" in columns (e) and (g) of the appropriate line in Part IV to allocate the enrollment premium and APTC. Leave column (f) blank because you do not allocate the applicable SLCSP premium. Instead, enter the SLCSP premium that applies to your coverage family on lines 12 through 23. See Example 1, below, and Example 2, later.

CAUTION *If you enrolled in coverage in the Marketplace with your spouse or another individual who is not in your tax family, your coverage family and applicable SLCSP premium may be different from the coverage family and applicable SLCSP premium the Marketplace used to determine the amount of your APTC. In that case you must use a different applicable SLCSP premium to calculate your credit than the amount reported on Form 1095-A, Part III, column B. See Pub. 974 for information on determining the correct applicable SLCSP premium or, if you enrolled through the Federally-facilitated Marketplace, go to www.HealthCare.gov/tax-tool/.*

Married filing separately (not in Exception 2—Victim of domestic abuse or spousal abandonment). Enter "0.50" in column (g) of the appropriate line in Part IV to allocate the APTC. Leave columns (e) and (f) blank because you do not allocate the enrollment premiums or the applicable SLCSP premium. You must repay the APTC allocated to you subject to the limit on line 28 because you are not an applicable taxpayer. See Example 3 and Example 4, later.

Example 1. John and Carol are married at the end of 2015 and have one child, Mark. John and Carol enrolled in a qualified health plan for 2015. The plan covered John, Carol, and Mark, with an annual premium of $14,000 and APTC of $8,500, which applied to the coverage for all of the individuals. John moved out of the residence on May 15. Carol and Mark continued to reside at the residence. John and Carol file separate returns for 2015. Carol qualifies to file her return as head of household. John files his return as married filing separately. Carol claims Mark as her dependent. Because Carol and John are not filing a joint return, they each have their own tax families, which are different from the tax family they indicated to the Marketplace they expected to have when they enrolled. Carol's family size reported on her tax return is two because John is not in her tax family. Carol's Federal poverty line percentage is determined using only her and Mark's modified AGI. John's modified AGI is not included because he is not in Carol's tax family.

Carol's family size for 2015 for purposes of computing her contribution amount is two (Carol and her dependent, Mark). Because John is not in Carol's tax family, he is not in her coverage family, which consists of Carol and her dependent, Mark, for purposes of determining her applicable SLCSP premium. If neither John nor Carol notifies the Marketplace about the change in family circumstances, the Form 1095-A that Carol or John receives will report in column B the applicable SLCSP premium that covers Carol, Mark, and John, which will be incorrect. Carol looks up the SLCSP premium that applies to her and Mark.

Carol takes into account $7,000 ($14,000 x 0.50) of the premiums of the plan in which she and Mark were enrolled in figuring her PTC. Carol must then reconcile $4,250 ($8,500 x 0.50) of the APTC for her coverage. Amounts from this policy are allocated for all months Carol and John were enrolled. On her Form 8962, Part IV, line 30, Carol enters John's social security number in column (b) and enters "0.50" in columns (e) and (g). Column (f) is left blank. Instead of allocating the applicable SLCSP premium, Carol will enter the applicable SLCSP premium that applies to her and Mark.

Since John is filing his tax return as married filing separately and no exception to the married filing jointly requirement applies, he is not an applicable taxpayer and must repay the $4,250 in APTC allocated to him, subject to the repayment limitations on line 28. On his Form 8962, Part IV, line 30, John enters Carol's social security number in column (b) and enters "0.50" in column (g). John leaves columns (e) and (f) blank because he is not an applicable taxpayer and cannot take the PTC.

Example 2. Kevin and Nancy are married at the end of 2015 and have no dependents. Kevin and Nancy are enrolled in a qualified health plan for 2015 with an annual premium of $10,000 and APTC of $6,500. Nancy is a victim of domestic abuse and is unable to file a joint return under the rules outlined in Exception 2—Victim of domestic abuse or spousal abandonment under *Married taxpayers*, earlier. Nancy files her return using the filing status married filing separately and checks the box on the front of Form 8962.

Nancy's family size for 2015 for purposes of computing her monthly contribution is one (Nancy). Nancy's coverage family for purposes of determining her applicable SLCSP premium for 2015 also is one (Nancy). If neither Kevin nor Nancy notifies the Marketplace about the change in family circumstances, the Form 1095-A that Kevin or Nancy receives will report in column B the premium for the applicable SLCSP that covers Nancy and Kevin, which will be incorrect. Nancy must determine the correct premium for the applicable SLCSP covering only Nancy. Nancy looks up her correct premium for the applicable SLCSP.

Nancy's Federal poverty line percentage is determined using Nancy's modified AGI and her family size of one. Nancy takes into account $5,000 ($10,000 x 0.50) of the enrollment premiums in figuring her PTC. Nancy must reconcile $3,250 ($6,500 x 0.50) of the APTC for her coverage. On her Form 8962, Part IV, line 30, Nancy enters Kevin's social security number in column (b) and enters "0.50" in columns (e) and (g). Column (f) is left blank. Instead of allocating the applicable SLCSP premium, Nancy will enter the applicable SLCSP premium that applies to Nancy. Nancy enters this amount on the applicable lines in column (b), lines 12 through 23.

Example 3. For 2015, Michael and Colleen are married with no dependents and are enrolled in a qualified health plan. APTC of $8,700 is paid for them during 2015. Michael and Colleen each file their returns for 2015 as married filing separately and *Exception 2—Victim of domestic abuse or spousal abandonment* does not apply to either of them. Michael and Colleen are not applicable taxpayers and cannot take the PTC. They must allocate the $8,700 APTC one-half (50%) to Michael and one-half (50%) to Colleen. On her Form 8962, Part IV, line 30, Colleen enters Michael's social security number in column (b) and enters "0.50" in column (g). On his Form 8962, Part IV, line 30, Michael enters Colleen's social security number in column (b) and enters "0.50" in column (g).

Example 4. The facts are the same as *Example 3* except that only Colleen is covered under the policy. Colleen does not complete Part IV of her Form 8962. She reports all of the APTC on line 11 or lines 12 through 23, whichever applies. Michael does not file Form 8962 because he was not enrolled in a qualified health plan.

Allocation Situation 3. No APTC. If this allocation situation applies, the enrollment premiums are allocated in proportion to the SLCSP premium that applies to each taxpayer's coverage family. If no APTC was paid for the policy, the Marketplace may not know which enrollees are in which tax family, and therefore may furnish only one Form 1095-A showing the total premium. When this happens, the taxpayer receiving the Form 1095-A should provide a copy to the other taxpayers. You and the other taxpayer must complete only column (e) on the appropriate line in Part IV to allocate the enrollment premiums to each family. See *Missing or incorrect SLCSP premium on Form 1095-A* under *Line 10*, earlier, to determine your correct applicable SLCSP premium.

Example. Gary and his 25-year-old nondependent son, Jim, enroll in a qualified health plan. Jim has no dependents. The policy covers Gary, Jim, and Gary's two young daughters who are Gary's dependents. No APTC is paid for this policy. The Form 1095-A furnished by the Marketplace to Gary shows an enrollment premium of $15,000 for the year and the SLCSP premium that applies to a coverage family that incorrectly includes Gary, Gary's daughters, and Jim. (Some states may report -0- or leave column B blank on the Form 1095-A when no APTC is paid.) Gary and Jim determine that the SLCSP premium that applies to Gary and his two dependents is $12,000 and the SLCSP premium that applies to Jim is $6,000. Gary and Jim are applicable taxpayers and each can take the PTC.

Gary computes his credit using his household income and family size of three, and the applicable SLCSP premium for a coverage family of three of $12,000. Jim computes his credit using his household income and family size of one, and the applicable SLCSP premium for a coverage family of one of $6,000.

Gary and Jim must allocate the enrollment premiums of $15,000 reported on the Form 1095-A, Part III, column A, in proportion to each taxpayer's applicable SLCSP premium as follows. Gary's allocated enrollment premiums are $10,000 ($15,000 x $12,000/$18,000) (67% of the total premiums of $15,000) and Jim's allocated enrollment premiums are $5,000 ($15,000 x $6,000/$18,000) (33% of the total premiums of $15,000).

Gary enters Jim's social security number on line 30, column (b), and enters "0.67" in column (e). Jim enters Gary's social security number on line 30, column (b), and enters "0.33" in column (e). Gary and Jim leave line 30, columns (f) and (g), blank.

Allocation Situation 4. Other situations where a policy is shared between two tax families. Complete Part IV using the rules in this section if Allocation Situations 1 through 3 do not apply.

A taxpayer claiming the personal exemption for an individual or individuals (including the individual himself or herself) on behalf of whom APTC was paid may be able to take the PTC for the individual or individuals' coverage, but in any event must reconcile the APTC for the individual or individuals' coverage. If another taxpayer indicated to the Marketplace that he or she would claim the personal exemption for an individual you are claiming, or you indicated to the Marketplace that you would claim the personal exemption for an individual being claimed by another taxpayer, the Form 1095-A sent by the Marketplace for the policy does not accurately reflect the members of your coverage family and the other taxpayer's coverage family. In that case, you and the other tax family must allocate the enrollment premiums, the APTC, and the applicable SLCSP premium.

You and the other taxpayer may agree on any allocation percentage from zero through one hundred percent. You may use the percentage you agreed on for every month for which this allocation rule applies, or you may agree on different percentages for different months. However, you must use the same allocation percentage for all policy amounts (enrollment premiums, applicable SLCSP premiums, and APTC) in a month. If you cannot agree on an allocation percentage, the allocation percentage is equal to the number of individuals enrolled by one taxpayer for whom the other taxpayer claims a personal exemption for the tax year divided by the total number of individuals enrolled in the same policy as the individual. The allocation percentage you use and that you put on line 30 of Form 8962 is the percentage of the policy amounts for the coverage that you will use to compute your PTC and reconcile APTC.

Policy amounts allocated 100%. If 100% of the policy amounts are allocated to you, check **"Yes"** on line 9 and complete Part IV by entering 100 in the appropriate box(es) for your allocation percentage. If 0% of the policy amounts are allocated to you, complete Part IV by entering -0- in the appropriate box(es) for your allocation percentage.

Note. If APTC is paid for coverage of an individual for whom no taxpayer claims a personal exemption, the taxpayer who attests to the Marketplace to the intention to claim a personal exemption for the individual is responsible for reporting and reconciling the APTC. See *Individual you enrolled for whom no taxpayer will claim a personal exemption* under *Lines 12 through 23—Monthly Calculation*, earlier.

Example 1. Joe and Alice have been divorced since January 2014 and have two children, Chris and Jane. Joe enrolls himself, Chris, and Jane in a qualified health plan for 2015. The premium for the plan is $13,000. Based on a family size and coverage family of three and an applicable SLCSP premium of $12,000, Joe is approved for and receives APTC computed as follows: Joe's projected household income for 2015 is $59,370 (300% of the Federal poverty line for a family size of three). Joe's APTC for 2015 is $6,324 ($12,000 applicable SLCSP premium less $5,676 contribution amount (household income $59,370 x applicable figure 0.0956)). Joe's actual household income for 2015 is $59,774.

Jane lives with Alice for more than half of 2015 and Alice claims Jane as a dependent. Joe and Alice agree to an allocation percentage of 20% to determine how much of the policy amounts for the qualified health plan are for Jane's coverage. Therefore, 20% of the enrollment premiums, APTC, and the applicable SLCSP premium are allocated to Alice and 80% are allocated to Joe.

In computing PTC, Joe takes into account $10,400 of enrollment premiums ($13,000 x 0.80). Joe must reconcile $5,059 of APTC ($6,324 x 0.80). Joe's tax family for 2015 includes only Joe and Chris, and Joe's household income of $59,774 is 380% of the Federal poverty line for a family size of two. Joe's applicable SLCSP premium for 2015 is $9,600 (the applicable SLCSP premium covering Joe, Chris, and Jane of $12,000, minus the amount allocated to Alice of $2,400 ($12,000 x 0.20)). Joe's PTC for 2015 is $3,886 (the lesser of $3,886, the excess of Joe's applicable SLCSP premium of $9,600 minus the contribution amount of $5,714 ($59,774 x 0.0956), and $10,400, Joe's enrollment premiums). Joe has excess APTC of $1,173 (the excess of the APTC of $5,059 over the PTC of $3,886).

When Joe completes Part IV of Form 8962, he enters Alice's social security number on line 30, column (b), and enters "0.80" in columns (e), (f), and (g). Alice is responsible for reconciling $1,265 ($6,324 x 0.20) of APTC for Jane's coverage. If Alice is eligible for the PTC, she will take into account $2,600 ($13,000 x 0.20) of the enrollment premiums for Jane and $2,400 ($12,000 x 0.20) of the applicable SLCSP premiums. Alice must compute her contribution amount using the Federal poverty line percentage for the household income and family size reported on her Form 8962.

Example 2. The facts are the same as in Example 1 except that Joe and Alice do not agree on an allocation percentage. Therefore, the allocation percentage equals the number of individuals Joe enrolled in a qualified health plan for whom Alice claims a personal exemption (1, Jane), divided by the number of individuals enrolled in the plan (3, Joe, Chris, and Jane). Thus the allocation percentage is 33%. Alice is allocated 33% of the enrollment premiums, APTC, and applicable SLCSP premiums for the policy and the remaining 67% of each is allocated to Joe.

Lines 30 through 33, Columns (a) through (g)

If you shared a policy with another taxpayer in one of the situations described in Specific Allocation Situations, earlier, complete line 30, columns (a) through (g), as applicable. If you shared a policy with another taxpayer and you are not making an allocation in all three columns, (e), (f), and (g), leave the column blank that does not apply.

If you shared multiple policies during the year or must do more than one allocation for a single policy, complete lines 31 through 33 for each separate allocation, as needed. For instructions on making more than four separate allocations, see Line 34, later.

Not an applicable taxpayer. If you are not an applicable taxpayer because your household income is over 400% of the Federal poverty line or you are using filing status married filing separately and Exception 2—Victim of domestic abuse or spousal abandonment, earlier, does not apply to you, you cannot take the PTC. Unless you are electing the alternative calculation for the year of marriage, do not enter any percentages in columns (e) or (f) when completing Part IV.

Lines 30 through 33, column (a). Enter the Marketplace-assigned policy number from Form 1095-A, line 2. If the policy number of the Form 1095-A is more than 15 characters, enter only the last 15 characters.

Lines 30 through 33, column (b). Enter the social security number of the taxpayer with whom you are allocating policy amounts. This social security number may or may not be reported on your Form 1095-A, depending on your relationship to the other taxpayer.

Lines 30 through 33, column (c). Enter the first month you are allocating policy amounts. For example, if you were enrolled in a policy with your former spouse from January through June, enter "01" in column (c).

Lines 30 through 33, column (d). Enter the last month you are allocating policy amounts. For example, if you were enrolled in a policy with your former spouse from January through June, enter "06" in column (d).

Lines 30 through 33, column (e). If your allocation situation requires you to allocate the enrollment premiums on Form 1095-A, lines 21 through 32, column A, enter your allocation percentage for that policy in column (e). Enter your allocation percentage as a decimal rounded to two places (for example, for 40%, enter 0.40). Otherwise, leave column (e) blank.

Lines 30 through 33, column (f). If your allocation situation requires you to allocate the applicable SLCSP premium on Form 1095-A, lines 21 through 32, column B, enter your allocation percentage for that policy in column (f). Enter your allocation percentage as a decimal rounded to two places (for example, for 67%, enter 0.67). You will enter an allocation percentage in column (f), in the following two circumstances.

- You allocated the policy amounts under Taxpayers divorced or legally separated in 2015, earlier.
- You allocated the policy amounts under Other situations where a policy is shared between two or more families, earlier.

Leave column (f) blank in all other allocation situations because you do not allocate the applicable SLCSP premium reported in those situations. Instead, you must determine the correct applicable SLCSP premium for your coverage family and enter that amount on Form 8962, lines 12 through 23, column (b). See Pub. 974 for information on determining the correct premium for the applicable SLCSP or, if you enrolled through the Federally-facilitated Marketplace, go to www.HealthCare.gov/tax-tool/.

Lines 30 through 33, column (g). If your allocation situation requires you to allocate the APTC on Form 1095-A, lines 21 through 32, column C, enter your allocation percentage for that policy in column (g). Enter your allocation percentage as a decimal rounded to two places (for example, for 80%, enter 0.80). Otherwise, leave column (g) blank.

Line 34

If you have completed your required allocations of policy amounts shown on Forms 1095-A using lines 30 through 33, check the **"Yes"** box on line 34. If you must make more than four allocations of policy amounts shown on Forms 1095-A, check the **"No"** box on line 34 and attach a statement to your return providing the information shown on lines 30 through 33, columns (a) through (g) for each additional allocation.

If you got married in 2015 and APTC was paid for an individual in your tax family, see Table 4 under *Line 9* in the instructions for Part II, earlier, to determine if you should complete Part V. If you do not complete Part V, check the **"No"** box on Form 8962, line 10, skip line 11, and continue to Lines 12 through 23—Monthly Calculation in the instructions for Part II, earlier.

Part V—Alternative Calculation for Year of Marriage

Complete Part V to elect the alternative calculation for your pre-marriage months. Electing the alternative calculation is optional, but may reduce the amount of excess APTC you must repay. To be eligible to make this election, you must meet either of the following conditions.

- You checked the **"Yes"** box on Form 8962, line 6, **and** you answered "**Yes**" to all 5 questions in Table 4, earlier.

• You checked the **"No"** box on Form 8962, line 6, **and** the **"Yes"** box on line 14 of Worksheet 3, earlier.

If you, your spouse, or any individual in your tax family had coverage under a qualified health plan for at least one month before your first full month of marriage, use the worksheets and instructions necessary to complete the alternative calculation in Pub. 974.

CAUTION *Do not go to Pub. 974 until you have completed Table 4, earlier, to determine whether you meet the requirements to elect the alternative calculation.*

Line 35. Complete line 35, columns (a) through (d) as indicated in Pub. 974 under *Alternative Calculation for Year of Marriage.*

Line 36. Complete line 36, columns (a) through (d) as indicated in Pub. 974 under *Alternative Calculation for Year of Marriage.*

Avoiding Common Mistakes

Mistakes in completing Form 8962 can cause you to pay too much tax, delay the processing of your return or refund, or cause you to receive notices or other correspondence from the IRS. To avoid making common mistakes on your Form 8962 and on your income tax return, carefully review all of the following before attaching Form 8962 to your tax return.

Common Mistakes in Completing Form 8962

Whole dollar amounts. Form 8962 and the IRS electronic filing program provides for entries of dollars only. Your Form 1095-A may include amounts in dollars and cents. You should round the amounts on Form 1095-A to the nearest whole dollar and enter dollars only on Form 8962. If you file a paper return and **do not** round amounts to whole dollars, be sure to enter the decimal to separate dollars and cents.

Math accuracy. Check your math, especially when completing line 11, or lines 12 through 23, and entering the totals on lines 24 and 25. Review your entries on line 11 or lines 12 through 23 if your entries on lines 24 and 25 seem higher than expected (for example, greater than $25,000). Examples of math errors include the following:

• Dollar and cents amounts from Form 1095-A entered as dollars on Form 8962.
• Transposition of numbers or errors in amounts (for example, line 12, column (a), monthly enrollment premium of $1,200 entered as $12,000).
• Annual totals from Form 1095-A, line 33, entered as monthly amounts on Form 8962, lines 12 through 23.

Line 2b. Complete line 2b **only** if your dependent(s) are required to file an income tax return. You enter your and your spouse's (if filing a joint return) modified AGI on line 2a. If you are not required to complete line 2b, enter your modified AGI from line 2a on line 3.

Line 5. Review your entries on *Worksheet 2. Household Income as a Percentage of the Federal Poverty Line* for accuracy. An incorrect entry on this line will impact the amount of your PTC.

Line 11. Use the amounts shown on Form 1095-A, line 33 (columns A, B, and C), for completing line 11. **Do not** use monthly amounts from Form 1095-A, lines 21-32 (columns A, B, and C). If you are instructed to complete line 11, **do not** complete lines 12 through 23.

Lines 12 through 23. Use the monthly amounts from Form 1095-A, lines 12-32 (columns A, B, and C), when completing lines 12 through 23. **Do not** use total amounts from Form 1095-A, line 33. If you are instructed to complete lines 12 through 23, **do not** complete line 11.

Line 24. If your filing status is married filing separately and you are not eligible to check the box above line 1 on Form 8962, your entry on line 24 should be -0-. If you enter an amount greater than -0-, the IRS will reduce your entry to -0-.

Line 26. If you have an amount on line 26 (other than -0-), be sure to enter that amount on Form 1040, line 69; Form 1040A, line 45; or Form 1040NR, line 65.

Line 29. If you have an amount on line 29, be sure to enter that amount on Form 1040, line 46; Form 1040A, line 29; or Form 1040NR, line 44.

Part V—Alternative Calculation for Year of Marriage Election. Confirm your entries for start and stop months. These months should be inclusive of all months you are using a reduced monthly contribution. Either you or your spouse should have a start date that is the same as the first month you claim PTC on lines 12 through 23. For example, if your first monthly entry in Part II is on line 14 for March, either you or your spouse should show 03 as the start date when completing Part V.