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Failure to File and Reconcile (FTR) Operations Frequently Asked Questions (FAQ)

This document describes updated timelines and clarifies processes with regard to Failure to File and Reconcile (FTR) operations for plan years 2024, 2025, and beyond. The guidance referenced in this document is applicable to all Exchanges and provides specific operational details for consumers in Exchanges using the federal eligibility and enrollment platform. This guidance supersedes the previously issued guidance, Failure to File and Reconcile Operations Flexibilities for Plan Year 2023, released on July 18, 2022, and it references current federal regulations at 45 CFR 155.305(f)(4).

In plan years 2021 through 2023, the Centers for Medicare & Medicaid Services (CMS) did not act on data from the Internal Revenue Service (IRS) for consumers who had failed to file tax returns and reconcile a previous year's advance payments of the premium tax credit (APTC) with the premium tax credit (PTC) allowed for the year.¹ This change was made in response to the impact of the COVID-19 Public Health Emergency (PHE) on the processing of federal income tax returns and changes concerning the reconciliation of APTC with PTC for tax year 2020 announced by IRS in response to the American Rescue Plan² Act of 2021 (P.L. 117–2). State-based Exchanges were permitted, but not required, to decline to act on such data from the IRS.

In the Notice of Benefit and Payment Parameters for 2024 (CMS-9899-F) final rule (2024 Payment Notice),³ CMS finalized changes to the FTR requirements at 45 CFR § 155.305(f)(4) so that an Exchange must determine a consumer ineligible for APTC if the consumer failed to file their federal income tax return and reconcile their APTC for two consecutive tax years, instead of for one tax year as previously required.

The 2024 Payment Notice explained that the change to the FTR requirements would be effective upon the effective date of the final rule (which was June 18, 2023) so that Exchanges would be required to follow the new FTR requirements when they began acting on data from the IRS for consumers who had failed to file tax returns and reconcile a previous year's APTC.⁴ However,

¹ Failure to File and Reconcile (FTR) Operations Flexibilities for Plan Year 2023, July 18, 2022. Available at <https://www.cms.gov/cciiio/resources/regulations-and-guidance/ftf-flexibilities-2023.pdf>.

² American Rescue Plan Act of 2021 (ARP Act), Pub. L. No. 117-2, 135 Stat. 4 (March 11, 2021).

³ Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2024, 88 FR 25740 (Apr. 27, 2023).

⁴ State-based Exchanges that continued FTR were required to follow the FTR process described in the 2024 Payment Notice effective June 18, 2023.

the 2024 Payment Notice also stated that, based on information on the availability of data from IRS, CMS intended to continue pausing implementation of the FTR requirement on Exchanges on the federal platform until data from IRS about APTC reconciliation became available to HHS, which CMS expected to be for eligibility determinations for PY 2025, and that CMS expected State Exchanges to do the same. In the 2024 Payment Notice, CMS also committed to provide at least three months' notice before Exchanges are required to begin denying APTC to consumers whose tax filers the IRS reports as having failed to file their federal income tax returns and reconcile APTC for two consecutive tax years. This FAQ serves as the notice that all Exchanges must resume FTR operations and begin the new two-year FTR policy beginning on November 1, 2024, for plan year (PY) 2025 eligibility determinations.

Note: This FAQ refers to both “consumers” and “tax filers.” For the purposes of this FAQ, a consumer is a person applying for (or already enrolled in) qualified health plan (QHP) coverage on an Exchange, either by applying for coverage themselves, or by having a household member apply for coverage on their behalf. For the purposes of this FAQ, a tax filer is the person filing a federal income tax return on behalf of all members of their tax household. A consumer may not necessarily be the tax filer, and the tax filer may not necessarily be a consumer.

Updates to FTR Policy:

Q1: What is the Centers for Medicare & Medicaid Services (CMS) announcing today?

A1: Today, CMS is announcing that the IRS data required to begin the new two-year FTR policy and resume FTR operations as described in the 2024 Payment Notice will be available to all Exchanges in time to resume FTR operations for Open Enrollment (OE) for PY 2025. CMS and the IRS have been working closely together to provide Exchanges with the new FTR data code needed to resume FTR operations and begin operations of the new two-year FTR policy. Thus, all Exchanges are required to resume FTR operations by November 1, 2024. Beginning on November 1, 2024, CMS will use IRS FTR data for APTC eligibility determinations for consumers in Exchanges using the federal eligibility and enrollment platform for PY 2025 and beyond.

Q2: Why is CMS making this announcement regarding FTR operations?

A2: CMS committed to providing at least three months' notice before Exchanges are required to resume denying APTC to consumers or their tax filer for whom IRS data reports as having failed to file their federal income taxes and reconcile their APTC for two consecutive tax years.⁵ The publication of this FAQ fulfills this requirement and serves as a notice to Exchanges of the upcoming restart of FTR operations on November 1, 2024, for PY 2025 and beyond.

⁵ Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2024 final rule, 88 FR 25740 (Apr. 27, 2023).

Q3: What changes to the prior FTR policy did CMS finalize in the 2024 Payment Notice?

A3: In the 2024 Payment Notice, CMS finalized changes to the previous FTR policy such that an Exchange may determine an otherwise eligible consumer or their tax filer as ineligible for APTC due to failing to reconcile only if that consumer or their tax filer did not file their federal income tax returns and reconcile APTC for two consecutive tax years, compared to the previous policy where an Exchange was required to determine a consumer or their tax filer as ineligible for APTC if the consumer or their tax filer did not file their federal income tax return and reconcile APTC for only one tax year.

Specifically:

- Exchanges will now be required to determine consumers ineligible for APTC after the consumer or their tax filer has failed to file a federal income tax return and reconcile APTC paid on behalf of the consumer, using IRS Form 8962, for two consecutive tax years.
- Exchanges using the federal eligibility and enrollment platform will identify and notify consumers and tax filers for whom the IRS has identified as failing to file and reconcile past APTC for only one tax year and for two consecutive tax years. Direct notices, sent via U.S. Postal Service (USPS) to the address of record for tax filers identified as failing to file and reconcile past APTC for only one tax year, will inform them that they need to file and reconcile or risk themselves or someone in their household being determined ineligible for APTC if they fail to file their federal income tax return and reconcile APTC for a second consecutive tax year. Consumers will receive a separate notice informing them that they are at risk of losing their APTC if they fail to take at least one of the several actions listed in the notice, including ensuring that they or their tax filer has filed and reconciled. CMS finalized in the Notice of Benefit and Payment Parameters for 2025 (CMS-9895-P) (2025 Payment Notice final rule) to require that all Exchanges send informative notices at least annually to tax filers who have failed to file and reconcile.⁶

Q4: Are consumers or their tax filers required to file their federal income tax return and reconcile past APTC every year including years while FTR is paused?

A4: Yes, the Affordable Care Act (ACA) requirement that consumers or their tax filer receiving APTC must file their federal income tax returns and reconcile APTC has not changed. Every year, tax filers who have APTC paid for themselves or on behalf of eligible members of their tax household must file their federal income tax return and reconcile the APTC with the PTC allowed for the year by completing [IRS Form 8962](#).

⁶ Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2025 final rule, 89 FR 26218 (Apr 15, 2024).

IRS Operations:

Q5: What role does the IRS play in the FTR process?

A5: The IRS has historically provided Exchanges with three FTR codes that Exchanges used to identify consumers whose tax filers (1) have not filed their federal income tax returns, (2) have not reconciled APTC, or (3) received a valid filing extension. The IRS will continue to provide these existing “one-tax year FTR status” codes to all Exchanges through the Federal Data Services Hub (“the Hub”). In light of the changes CMS finalized in the 2024 Payment Notice, the IRS will now provide Exchanges with a new fourth FTR code. This new FTR code will be provided via the Hub to Exchanges and will identify consumers whose tax filer has not filed their federal income tax returns and reconciled APTC for two consecutive tax years. Consumers with this new code are considered to have a “two-tax year FTR status.”

Operations for Exchanges Using the Federal Eligibility and Enrollment Platform:

Q6: Generally, how will Exchanges using the federal eligibility and enrollment platform enforce the new FTR requirements?

A6: Each year, as part of the normal Open Enrollment (OE) processes, Exchanges that use the federal eligibility and enrollment platform will perform a check of IRS data through the Hub to identify whether current consumers who received APTC have filed their federal income tax returns and reconciled APTC. Tax filers for whom IRS data shows have not filed and reconciled for either one or both of the most recent two tax years for which IRS has data are referred to as having either a “one-tax year FTR status” or a “two-tax year FTR status.”

Exchanges using the federal eligibility and enrollment platform will send notices to both consumers and their tax filers with an FTR status before OE begins. The notice to the consumer will alert them that they are at risk of losing APTC if they do not take at least one of the recommended actions listed in the notice.⁷ The notice to the tax filer will alert them that IRS data shows that they have not filed a federal income tax return for the applicable tax year(s) and/or reconciled APTC using IRS Form 8962 and they or their household members are at risk for losing APTC. In January, after OE ends, consumers or their tax filer will have a further verification of their FTR status if they indicated on their application that they filed and reconciled APTC. This verification process is referred to as FTR Recheck (see Q7 for further explanation of the FTR Recheck process).

⁷ Informing a consumer that their household’s tax return has not yet been filed is considered to be disclosure of federal tax information (FTI). Combined notices are sent to consumers, who may or may not be the tax filer, and in order to prevent the improper disclosure of FTI, the notices include several actions that a consumer may need to take in order to remain eligible for APTC as a way of protecting FTI.

For those with a one-tax year FTR status:

The notices sent prior to OE will encourage consumers and their tax filers identified as having a **one-tax year FTR status** to file their federal income tax return and complete the required reconciliation using IRS Form 8962 as soon as possible. If they fail to do so, they risk losing their APTC for the coverage year after the year in which they are enrolling in coverage if they fail to file and reconcile their APTC for a second consecutive tax year. As an example, a consumer enrolling in coverage for plan year 2025, for whom IRS data shows has a one-tax year FTR status at the time of application, is at risk of losing their APTC eligibility for plan year 2026 if they do not file and reconcile APTC for a second consecutive year. Consumers in a one-tax year FTR status will be able to update their new plan year application during OE. If the consumer does not update their application during OE, they will be auto-reenrolled and will remain eligible for APTC for the new coverage year, if otherwise eligible. All consumers with a one-tax year FTR status or their tax filer will have a further verification of their FTR status in January, after OE ends, during the process mentioned above known as FTR Recheck. Including consumers with a one-tax year FTR status in FTR Recheck will provide Exchanges using the federal eligibility and enrollment platform an additional opportunity to educate them about the requirement to file their federal income tax returns and reconcile APTC or risk having APTC removed if they fail to file and reconcile for a second consecutive tax year.

For those with a two-tax year FTR status:

If during the first FTR check before OE begins, the consumer is identified as having a **two-tax year FTR status** and does not attest on the new plan year application that they or their tax filer have filed and reconciled past APTC, they will be determined ineligible for APTC at the point of application submission. If the consumer has a two-tax year FTR status but attests that they or their tax filer have filed and reconciled past APTC, the consumer will be found eligible for APTC at the point of application submission, if otherwise eligible. These consumers will have a further verification of their FTR status in January, after OE ends, during the process mentioned above known as FTR Recheck, which allows a few weeks for IRS data to be refreshed.

Q7: What is the FTR Recheck process used by Exchanges using the federal eligibility and enrollment platform and when will it occur for PY 2025 eligibility determinations?

A7: FTR Recheck is the post-OE verification process for consumers with either a one-tax year or two-tax year FTR status. Exchanges using the federal eligibility and enrollment platform will begin FTR Recheck operations by cross referencing past FTR statuses, consumers' attestations made on the PY 2025 applications if applicable, and IRS FTR data to confirm whether consumers filed their federal income tax returns and reconciled APTC for one or both of the two most recent tax years for which IRS provides data to Exchanges through the Hub. FTR Recheck for PY 2025 will happen in January 2025.

For those in a one-tax year FTR status:

At the time of FTR Recheck, if IRS data indicates that a consumer with a **one-tax year FTR status** has not filed and reconciled the past year's APTC paid on their behalf, the consumer will

receive a notice alerting them to take one of the actions listed in the notice. The tax filer will receive an additional notice that alerts them to file and reconcile as soon as possible or remain at risk for losing APTC for the following coverage year if they fail to file and reconcile APTC for a second, consecutive tax year.

For those in a two-tax year FTR status:

At the time of FTR Recheck, if IRS data indicates that a consumer with a **two-tax year FTR status** has not filed and reconciled APTC for two consecutive tax years, the consumer will receive a notice alerting them to take one of the actions listed in the notice. The tax filer will receive a notice that alerts them to file and reconcile as soon as possible or they or their covered household member will lose their APTC for the remainder of the current coverage year. Exchanges on the federal eligibility and enrollment platform will perform a final check of IRS data in Spring 2025, using the FTR Recheck process, to verify the FTR status of those consumers who attested to having filed and reconciled in their application. If IRS data still indicates that the consumer has a two-tax year FTR status, the consumer will remain in QHP coverage but will generally have their APTC ended effective the month after the final check is completed. CMS intends to make this check in April 2025, which means APTC would be removed May 1, 2025.

Q8: When FTR operations resume, for which tax years will the IRS send data to Exchanges via the Hub for determining whether someone hasn't filed their federal income tax return and reconciled past APTC for one or two consecutive tax years?

A8: IRS will send federal income tax data for the two most recent tax years available. For PY 2025 eligibility determinations, IRS will send data for tax years 2022 and 2023. Therefore, when FTR operations resume on November 1, 2024, for PY 2025 APTC eligibility determinations, Exchanges using the federal eligibility and enrollment platform will be checking whether consumers have filed their federal income tax returns and reconciled APTC for tax years 2022 and 2023.⁸ For future years, IRS will continue to send federal income tax data for the two most recent tax years available and Exchanges using the federal eligibility and enrollment platform will be checking whether consumers have filed their federal income tax returns and reconciled APTC for those years.

Information for Consumers:

Q9: What can consumers or their tax filers who reside in states served by Exchanges on the federal eligibility and enrollment platform, and are identified as only having a one-tax year FTR status, expect in 2024?

⁸ IRS data will update to return the two most current tax years' data sometime in late summer. For example, in summer 2025, IRS codes will update to use information from tax years 2023 and 2024.

A9: Consumers who have failed to file a federal income tax return and reconcile APTC for tax year 2023, but have reconciled APTC for tax year 2022, will be identified as having a one-tax year FTR status when applying for PY 2025 coverage during OE. These consumers will still be eligible for APTC in plan year 2025 but will be at risk of losing APTC eligibility for plan year 2026 if they do not file and reconcile for a second consecutive year. Exchanges using the federal eligibility and enrollment platform will include messaging about needing to file and reconcile as soon as possible in pre-Open Enrollment notices to consumers or their tax filers identified as having one-tax year FTR status. CMS encourages consumers or their tax filers in this situation to file their federal income tax returns and reconcile APTC using IRS Form 8962 as soon as possible in order to comply with the requirement to file and reconcile. Under the FTR process, consumers with a one-tax year FTR status will not be at risk of losing APTC for PY 2025, if otherwise eligible.

Additionally, consumers who have only failed to file and reconcile for one tax year, specifically, tax year 2023, will be included in the FTR Recheck process in January 2025. All consumers who did not file their federal tax return and reconcile APTC from the previous tax year will be notified during FTR Recheck, which happens after the conclusion of OE in the next coverage year. Including consumers with a one-tax year FTR status in FTR Recheck will provide Exchanges using the federal eligibility and enrollment platform an additional opportunity to educate these consumers about the requirement to file their federal income tax returns and reconcile APTC or risk having APTC removed if they fail to file and reconcile for a second consecutive tax year. Since these consumers only failed to file and reconcile for one tax year, they will remain enrolled in QHP coverage with APTC for all of PY 2025, if otherwise eligible. CMS recommends that consumers in this situation file their federal income tax returns for tax year 2023 and reconcile APTC as soon as possible to ensure they remain APTC eligible for the 2026 coverage year.

Q10: What can consumers who reside in States served by Exchanges on the federal eligibility and enrollment platform, and who are identified as having a two-tax year FTR status expect in 2024?

A10: Consumers who have failed to file federal income tax returns and reconcile APTC for tax years 2022 **and** 2023 will be identified as having a two-tax year FTR status, and therefore ineligible for APTC for PY 2025 coverage. That is, while consumers can still purchase coverage for PY 2025, they will lose their financial assistance via the APTCs to purchase such coverage. If consumers with a two-tax year FTR status have filed their federal income tax returns and reconciled APTC for tax years 2022 and 2023 using IRS Form 8962, but IRS hasn't yet updated their data for various reasons, for example because the consumer successfully obtained a filing extension from IRS, the Exchange using the federal eligibility and enrollment platform will remind the consumer that they can attest in their application for QHP coverage for the 2025 plan year to having filed and reconciled APTC. Consumers who attest, under penalty of perjury, that they have filed and reconciled, will be found eligible for APTC for their PY 2025 coverage, if otherwise eligible, subject to FTR Recheck.

After OE ends, Exchanges using the federal eligibility and enrollment platform will perform FTR Recheck to verify those attestations to determine if the consumer has filed and reconciled. If consumers or their tax filers have not filed and reconciled their past APTC for applicable years, they must do so using IRS Form 8962 as soon as possible to comply with the requirement to file and reconcile. Tax filers who, after FTR Recheck, have not filed and reconciled for two consecutive tax years, specifically tax years 2022 and 2023, even though they have attested to having done so, will receive a warning notice after OE ends in January that they must file immediately or will lose their APTC eligibility for PY 2025 and may face a tax liability from the IRS for failing to file and reconcile APTC. During this time, consumers will receive a separate, general warning notice informing them that they must make sure they have filed their tax return and reconciled APTC or they are at immediate risk of losing their APTC. In Spring 2025, Exchanges on the federal eligibility and enrollment platform will check IRS data one final time and if IRS data still indicates that the consumer has a two-tax year FTR status, the consumer will remain in QHP coverage but will have their APTC ended the month after CMS conducts the final check. CMS intends to make this check in April 2025, which means APTC would be removed May 1, 2025.

Q11: What can consumers do to regain their APTC eligibility after APTC is ended due to the FTR process?

A11: CMS encourages consumers who have their APTC ended due to the FTR process to file and reconcile as soon as possible. Once a consumer has filed and reconciled, they should update their application and attest to having filed and reconciled to regain their APTC eligibility for the coverage year. Consumers who believe their APTC was ended erroneously and wish to regain APTC eligibility for the rest of the coverage year in which their APTC was removed, may file an appeal with the Marketplace Appeals Center (see Q12 for more information on appeals).

Whenever a consumer applies for coverage or updates their existing application, Exchanges that use the federal eligibility and enrollment platform will continue to check IRS data to determine whether the consumer is in a two-tax year FTR status, and if they are, will find the consumer ineligible for APTC. If the consumer believes they are eligible for APTC, even though IRS data do not reflect they have filed and reconciled, they may file an appeal with the Marketplace Appeals Center (see Q12).

Q12: Can a consumer appeal if they believe they're still eligible for APTC?

A12: Yes. Consumers in States served by Exchanges on the federal eligibility and enrollment platform who believe that the Exchange erroneously ended their APTC may submit an appeal to the Department of Health & Human Services (HHS) appeals entity, which is referred to as the Marketplace Appeals Center. The Marketplace Appeals Center can be reached by calling 1-855-231-1751 (TTY: 711). Additionally, consumers can visit <https://www.healthcare.gov/marketplace-appeals/getting-help/> for help filing an appeal, or they

may also refer to their Eligibility Determination Notice which provides instructions on how to submit an appeal. Consumers in State-based Exchanges (SBEs) can file an appeal with their State Exchange's appeals entity. Consumers can find information about their SBE by visiting <https://www.healthcare.gov/marketplace-in-your-state/>.

Information for State-based Exchanges:

Q13: What FTR operations must State-based Exchanges (SBEs) implement for PY 2025?

A13: Per regulation at 45 CFR 155.305(f)(4), SBEs are required to comply with the new two-year FTR rule beginning with eligibility determinations for PY 2025. CMS expects all SBEs to notify consumers in both a one-tax year FTR status and two-tax year FTR status, as described in Q6 above. For many SBEs that conduct annual eligibility redeterminations for existing Exchange consumers in the months leading up to open enrollment, the date of restart of FTR operations may be earlier than the November 1, 2024 beginning of OE, when Exchanges using the federal eligibility and enrollment process will restart FTR operations. SBEs are afforded flexibility in the manner they conduct FTR operations, and therefore enforcement and FTR Recheck procedures described for Exchanges using the federal eligibility and enrollment platform may not be the same across SBEs. Consumers at risk of being identified as having failed to file their federal income tax returns and reconcile APTC for two consecutive tax years should check with their SBE to find out how they are implementing the FTR operations and any next steps they need to take beyond filing and reconciling APTC with IRS Form 8962. Consumers can find information about their SBE by visiting <https://www.healthcare.gov/marketplace-in-your-state/>.

Q14: When will SBEs be able to test their systems to ensure they are receiving the new IRS code, which will indicate a consumer is in a two-tax year FTR status?

A14: States were able to begin testing the new FTR code on Monday, March 11, 2024, and this testing will continue in phases as CMS makes this new code available in testing and live environments.