

PCG Summary of Health Insurance Marketplace Statutory and Regulatory Changes

Included In:

One Big Beautiful Bill Act (OBBBA), as signed by the President on July 4, 2025

Marketplace Integrity and Affordability Final Rule (CMS-9884-F), published June 25, 2025

July 14, 2025

Introduction

This document provides a summary of major recent federal statutory and regulatory changes related to Affordable Care Act Health Insurance Marketplaces. These provisions have just been finalized in the three weeks preceding the publication of this document and will be of significant interest to state insurance departments and state health insurance exchange entities.

The statutory provisions are included in 2025 HR 1, the “One Big Beautiful Bill Act (OBBBA),” as signed into law by President Trump on July 4, 2025. The Marketplace-related provisions were included in Title VII of the Act and are comprised of eight separate sections numbered 71301 through 71308.

The regulatory provisions are included in the Marketplace Integrity and Affordability Final Rule (CMS-9884-F) published on June 25, 2025. As is the case with federal rules, unless otherwise specified in the rule, provisions become effective 60 days after the rule publication date.

There is some overlap between the statutory and regulatory changes, with some provisions of OBBBA codifying certain rule changes. Many of the rule changes are temporary for Plan Year 2026 and serve to test Marketplace program integrity initiatives.

There is also a relationship between some Medicaid-related changes authorized by OBBBA and Health Insurance Marketplace eligibility. For example, individuals who lose Medicaid eligibility as a result of not meeting the new community engagement requirements are not eligible to receive Marketplace premium tax credits.

Summary of Statutory and Regulatory Marketplace Provisions

This document is ordered to begin with a summary of the statutory provisions of OBBBA, followed by a summary of the regulatory provisions of CMS-9884-F. The statutory summaries include Congressional Budget Office federal fiscal estimates where applicable. Information on implementation dates is also included at the end of each summary item.

Marketplace Related Statutory Changes Included In One Big Beautiful Bill Act (OBBBA)

Section 71301 **Permitting Premium Tax Credit Only for Certain Individuals**

Restricts non-citizen immigrant eligibility for Marketplace premium tax credits to legal permanent residents, certain Cuban immigrants and individuals living in the United States through a Compact of Free Association (CoFA). OBBBA applies these same restrictions to Medicaid in Section 71109 of the bill. The requirement to maintain minimum essential coverage is also amended to conform with these restrictions.

Effective Date: January 1, 2027 (Plan Year 2027)

CBO Federal Fiscal Impact Estimate: Saves \$69.8 billion cumulative, 2025-2034.

Section 71302 **Disallowing Premium Tax Credit During Periods of Medicaid Ineligibility Due to Alien Status**

Repeals Section 36B(c)(1)(B) of US Tax Code Title 26, thereby rescinding premium tax credit eligibility to individuals with incomes below 100% FPL who are not eligible for Medicaid due to their alien status. Alien Medicaid eligibility is established after five years of residency in the United States.

Effective Date: Applies beginning tax year 2026

CBO Federal Fiscal Impact Estimate: Saves \$49.5 billion cumulative, 2025-2034.

Section 71303 **Requiring Verification of Eligibility for the Premium Tax Credit**

Adds new subparagraph 5 to Section 36B(c) of US Tax Code Title 26 to exclude from the definition of “coverage month” any month before the Exchange verifies an individual’s eligibility to enroll in an Exchange plan and receive advance premium tax credits. Information that must be verified includes household income and family size, whether the individual is an eligible alien, any health coverage status or eligibility for coverage and place of residence. Exchange verified “past months” may be treated as “coverage months,” thereby permitting premium tax credit eligibility for those months. The Secretary of HHS may waive these verification requirements for special enrollment period applications that are based on changes in family size. Exchanges are permitted to use reliable third party data sources to verify eligibility. A coverage month also does not include any month in which the individual has not met the requirements in the June 2025 final Exchange rule to file their taxes and reconcile their premium tax credits to their actual income for that tax year. This provision also requires Exchanges to establish a pre-enrollment verification process to enable applicants to verify their eligibility to enroll in the Exchange and receive premium tax credits.

Effective Date: Applies beginning tax year 2028

CBO Federal Fiscal Impact Estimate: Saves \$36.9 billion cumulative, 2025-2034.

Section 71304
Disallowing Premium Tax Credit in Case of Certain Coverage Enrolled In During Special Enrollment Period

This provision disallows an individual to be eligible to receive premium tax credits if their enrollment occurs during a special enrollment period that is based solely on a change in income.

Effective Date: Applies beginning tax year 2026

CBO Federal Fiscal Impact Estimate: Saves \$39.5 billion cumulative, 2025-2034.

Section 71305
Eliminating Limitation on Recapture of Advance Payment of Premium Tax Credit

This provision eliminates the cap on an individual's repayment of advance premium tax credits. Under this provision the full amount of the excess payment will be added to an individual's tax liability for that tax year. This would not apply to an individual who received advance premium tax credits but whose income is reconciled to have been below 100% of federal poverty for the tax year, unless the individual is found to have provided the incorrect income information intentionally or with "reckless disregard for the facts."

Effective Date: Applies beginning tax year 2026

CBO Federal Fiscal Impact Estimate: Saves \$17.3 billion cumulative, 2025-2034.

Section 71306
Permanent Extension of Safe Harbor for Absence of Deductible for Telehealth Services

This provision permits a health plan to still be treated as high deductible health plan even when there is no deductible for telehealth and other remote patient services. This was first authorized temporarily by the CARES Act during COVID and is made permanent with this provision. It applies to high deductible health plans offered in the Health Insurance Marketplace.

Effective Date: Applies to plan years beginning after December 31, 2024

CBO Federal Fiscal Impact Estimate: No federal budget fiscal impact

Section 71307
Allowance of Bronze and Catastrophic Plans in Connection with Health Savings Accounts

This provision specifies that all Marketplace bronze and catastrophic plans qualify as high deductible health plans that may be paired with a health savings account.

Effective Date: Applies to months beginning after December 31, 2025

CBO Federal Fiscal Impact Estimate: No federal budget fiscal impact

Section 71308
Treatment of Direct Primary Care Service Arrangements

This provision does not directly impact statutory requirements around the Health Insurance Marketplace. However, it specifies that Direct Primary Care (DPC) arrangements do not disqualify an individual from contributing to a health savings account (HSA), that DPC fees may be paid with HSA funds and that DPC

arrangements do not meet the definition of a health plan. The indirect Marketplace impact is that individuals who purchase a bronze or catastrophic Exchange plan and pair it with an HSA may be able to enter a DPC arrangement and use HSA funds to pay the DPC fees.

Effective Date: Applies to months beginning after December 31, 2025

CBO Federal Fiscal Impact Estimate: No federal budget fiscal impact

Regulatory Changes Included in Marketplace Integrity and Affordability Final Rule (CMS-9884-F) Published June 25, 2025

45 CFR 147.104 Guaranteed Availability of Coverage

Revised to permit health insurance issuers to deny coverage to an individual or employer due to the individual's or employer's failure to pay premiums owed under a prior policy, including by attributing payment of the premium for a new policy to the prior policy, so long as the issuer applies the past due premium payment in a non-discriminatory manner.

Effective Date: August 24, 2025 (60 days after rule publication date) with no sunset date

45 CFR 155.20 Definitions

Revises the definition of “lawfully present” to exclude Deferred Action for Childhood Arrivals (DACA) recipients, which effectively rescinds their eligibility for premium tax credits and enrollment in Exchange plans, as well as eligibility for Basic Health Program (BHP) coverage in states that have elected or elect to operate a BHP.

Effective Date: August 24, 2025 (60 days after rule publication date) with no sunset date

45 CFR 155.220 Ability of States to Permit Agents and Brokers and Web-Brokers to Assist Qualified Individuals, Qualified Employers, or Qualified Employees Enrolling in QHPs

Revised to give Exchange organizations more flexibility to terminate an agent, broker or web-broker's Marketplace Agreement by tying the evidentiary standard for “cause” to “a preponderance of evidence.”

Effective Date: August 24, 2025 (60 days after rule publication date) with no sunset date

45 CFR 155.305 Eligibility Standards

Revised to require Exchange organizations to deny eligibility for advance payments of the premium tax credit (APTC) to individuals who fail to file taxes and/or reconcile APTC for one year. The previous standard was two years. Also establishes enrollee/applicant notification requirements related to this.

Effective Date: Plan Year 2026 Only (Sunsets at the end of PY26)

45 CFR 155.315**Verification Process Related to Eligibility for Enrollment in a QHP Through the Exchange**

Removes a provision which had authorized applicants to be provided with an additional 60 days to resolve discrepancies related to income verification.

Effective Date: August 24, 2025 (60 days after rule publication date) with no sunset date

45 CFR 155.320**Verification Process Related to Eligibility for Insurance Affordability Programs**

Revised to require Exchanges to invoke the process for resolving application data inconsistencies when an individual attests that their income would make them eligible for premium tax credits, but IRS data indicates the individual's income is below 100% of poverty. Most individuals with incomes below 100% of the federal poverty level (FPL) are eligible for Medicaid. Paragraph (5) is also added to 45 CFR 155.320(c) to require Exchange organizations to not accept applicant income attestation when IRS income information is not available. In these instances, Exchange organizations must use available third-party income information to complete the verification.

Effective Date: August 24, 2025 (60 days after rule publication date), but sunsets at the end of Plan Year 2026

45 CFR 155.335**Annual Eligibility Redetermination**

Revised to specify that for plan year 2026, if an individual is redetermined to be eligible for a \$0 premium plan but has not affirmed or updated their income information for the new plan year, they will be re-enrolled subject to a \$5 monthly premium. This applies to all Marketplace organizations using the federal Exchange platform. Also revises the automatic reenrollment hierarchy by removing (j)(4), which currently allows Exchanges to move an enrollee eligible for silver plan cost sharing reductions from a bronze QHP and re-enroll them into a silver QHP for an upcoming plan year.

Effective Date: The \$5 re-enrollment premium provision is effective starting Plan Year 2026 for Exchanges using the Federal Platform but sunsets at the end of PY26. The \$5 re-enrollment provision has not been finalized for State Exchanges. The re-enrollment hierarchy provision is also effective beginning Plan Year 2026 and does not sunset.

45 CFR 155.400**Enrollment of Qualified Individuals into QHPs**

Revised to restrict the basis of the “premium payment threshold” under which an issuer may consider the applicant/enrollee to have paid sufficiently to effectuate enrollment, avoid triggering a grace period for non-payment or terminating enrollment for non-payment. The revision requires the threshold to be tied to a percent or fixed dollar amount of net premium (i.e., gross premium minus premium tax credits). The option to use gross premiums as a basis for establishing the premium payment threshold is eliminated.

Effective Date: August 24, 2025 (60 days after rule publication date), but sunsets at the end of Plan Year 2026

45 CFR 155.410
Initial and Annual Open Enrollment Periods

Revised to limit the duration of the annual open enrollment period to be no longer than nine weeks and to commence no earlier than November 1 and end no later than December 31.

Effective Date: Beginning for Plan Year 2027 Open Enrollment Period with no sunset date

45 CFR 155.420
Special Enrollment Periods

Revised to repeal the current provision that permits individuals with projected income below 150% of the federal poverty level (FPL) to enroll in or switch QHPs on a month to month basis. Also revised to specify that a change in income only will not be considered a qualifying basis for a special enrollment period.

Finally, a provision is added to require Exchange organizations using the federal platform to establish a pre-enrollment process to verify applicant special enrollment period eligibility. This requirement is met by Exchange organizations if they verify eligibility for at least 75 percent of all special enrollments.

Effective Date: Repeal of the month to month enrollment for individuals with incomes <150% FPL is effective August 24, 2025 (60 days after rule publication date), but sunsets at the end of Plan Year 2026. The provision requiring Exchange organizations using the Federal Platform to verify applicant eligibility for special enrollment is effective beginning Plan Year 2026 but sunsets at the end of PY26. Special enrollment eligibility verification rules have not been finalized for State Exchanges.

45 CFR 156.115
Provision of Essential Health Benefits (EHB)

Revised to add “specified sex trait modification procedures” to the list of services that may not be included as an essential health benefit in an Exchange plan. The rule correspondingly adds a definition of “specified sex trait modification procedures” at 45 CFR 156.400

Effective Date: Plan Year 2026 with no sunset

45 CFR 156.130
Cost Sharing Requirements

Specific to 45 CFR 156.130(e), CMS has finalized an updated methodology to calculate the premium adjustment percentage. The update to this methodology also impacts calculations for plan year 2026 maximum annual limitation on cost sharing, reduced maximum annual limitations on cost sharing, and required contribution percentage.

Effective Date: Plan Year 2026 with no sunset

45 CFR 156.140
Levels of Coverage

Revised to modify the low end “de minimis” variation of the actuarial value that defines the metal level of a qualified health plan to be -4%. The previous low end “de minimis” value was -2%. For example, silver plans, defined as plans have an actuarial value benchmark of 70%, may still be certified as silver plans if their actuarial value is at least 66%. This is effective for Plan Year 2026 and beyond.

Effective Date: Plan Year 2026 with no sunset

45 CFR 156.400
Definitions

Revised to change the definition of de minimis variation for individual market income-based silver plan cost sharing reduction (CSR) variations from +1/0 percentage points to +1/-1 percentage points.

Effective Date: Plan Year 2026 with no sunset