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CENTER FOR CONSUMER INFORMATION AND INSURANCE OVERSIGHT

RELEASED: October 5, 2026

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Subject: Guidance on Noncitizen Eligibility for Advance Payments of the Premium Tax Credit (APTC) and Cost-Sharing Reductions (CSRs) for Plan Year 2027

This document describes changes required by section 71301 of Public Law (Pub. L.) 119-21, which CMS refers to as the Working Families Tax Cut (WFTC) legislation.[1] Specifically, this guidance outlines how the Federally-facilitated Exchange (FFE) will implement new requirements to limit eligibility for advance payments of the premium tax credit (APTC) and income-based cost-sharing reductions (CSRs)[2] for the coverage of lawfully present individuals to only "eligible noncitizens," effective for plan year 2027 and future years. In addition, this document describes how the FFE will redetermine eligibility for current noncitizen enrollees for plan year 2027 and communicate with impacted consumers. In particular, FAQ 6 serves as an addendum to the *Guidance on Annual Redetermination and Re-enrollment for Marketplace Coverage for 2024 and Later*.[3] This document does not apply to Medicaid and the Children's Health Insurance Program (CHIP).

Note: Under 45 CFR 155.20, "eligible noncitizen" means an "eligible alien," as defined in 26 U.S.C. 36B(e)(2)(B). This document uses the phrase "Federally facilitated Exchange" or "FFE" to refer to all State-Based and Federal Marketplaces that utilize the Federal platform. This document does not address State-Based Marketplaces.

Q1: What is changing about Marketplace eligibility for noncitizens in plan year 2027?
A1: Beginning in plan year 2027, eligibility for financial assistance (i.e., APTC and CSRs) is allowed only for the coverage of U.S. citizens, U.S. nationals, and eligible noncitizens. "Eligible

[1] The WFTC legislation (Pub. L. 119-21) was enacted on July 4, 2025.
[2] References to CSRs in this guidance refers only to income-based cost-sharing under 45 CFR 155.305(g) and 155.350(a), and not to cost-sharing reductions under section 45 CFR 155.350 available to American Indians and Alaska Natives regardless of income.
[3] Guidance on Annual Redetermination and Re-enrollment for Marketplace Coverage for 2024 and Later Years is available at *www.cms.gov/files/document/guidance-annual-redetermination-and-re-enrollment-marketplace-coverage-2024-and-later-years.pdf.*

noncitizens" are a defined subset of "lawfully present"[4] noncitizens and must be one of the following:

- Lawful Permanent Residents (i.e., LPRs, or "green card holders")
- Cuban or Haitian Entrants
- Individuals lawfully residing under a Compact of Free Association (i.e., COFA migrants)

Lawfully present noncitizens who are not eligible noncitizens will remain eligible to enroll in a qualified health plan (QHP) through the Marketplace, if otherwise eligible. However, APTC and CSRs will not be allowed for their coverage beginning in plan year 2027, meaning they will have to pay full price for their QHP.

Q2: Why is this change happening?

A2: Under the Affordable Care Act, individuals must meet the definition of "lawfully present" to be eligible to enroll in a QHP in the individual market through an Exchange and to be eligible for APTC and CSRs for their coverage. Section 71301 of the Working Families Tax Cut (WFTC) legislation introduced new changes related to APTC eligibility. Effective for taxable years beginning after December 31, 2026, a lawfully present individual must be an "eligible alien" for a premium tax credit (PTC), and therefore APTC and CSRs, to be allowed for the individual's coverage. There is no change to the requirement that an individual must be "lawfully present" to enroll in a QHP through the Marketplace. The WFTC legislation also requires Exchanges to verify an individual's "eligible alien" status if a PTC is being claimed for the individual's coverage. In other words, for plan year 2027 onwards, APTC and CSRs are only allowed for the coverage of those noncitizens who are eligible noncitizens (that is, are Lawful Permanent Residents, Cuban/Haitian Entrants, or COFA migrants). CMS has updated its regulations in accordance with the WFTC legislation in "Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2027; and Basic Health Program" (91 FR 29526).

Q3: What information will noncitizens be required to provide when they apply at the Federally facilitated Exchange (FFE)?

A3: Noncitizens applying for Marketplace coverage will be asked to attest to whether they have eligible noncitizen status when applying for financial assistance, or if they have a different lawfully present immigration status that is not an eligible noncitizen status. Noncitizens should be prepared to provide necessary information from their immigration documents (such as their alien number, passport number, etc.) to help the FFE verify their immigration status. Consumers in States that operate their own Exchange, not on the Federal platform, should follow guidance issued by their State-Based Exchange (SBE).

Q4: How will the FFE verify noncitizen eligibility?

[4] Defined at 45 CFR 155.20

A4: The FFE will electronically submit the provided immigration document information to the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE), consistent with the authorization granted at the start of the Marketplace application, to verify eligibility.

Q5: What can noncitizen consumers expect if the FFE is unable to verify their eligible noncitizen status?

A5: When a consumer attests to being an eligible noncitizen, but the FFE cannot verify their eligible noncitizen status electronically through DHS SAVE when their application is submitted, the consumer will receive a data matching issue (DMI) and will have 95 calendar days to submit documentation to verify their eligible noncitizen status. Such consumers will be eligible to enroll in a QHP and to receive APTC and CSRs, if otherwise eligible, during their DMI period. Examples of documents that consumers can submit to verify their eligible noncitizen status include, but are not limited to, a Permanent Resident Card (also known as "Green Card"), an Employment Authorization Document (EAD), or Arrival/Departure Record (I-94/I-94A).[5] Depending on the consumer's attestation and what information is electronically verified through DHS SAVE, a consumer can generate both a lawful presence DMI and an eligible noncitizen DMI.

If a consumer with both DMIs provides timely documentation that demonstrates their eligible noncitizen status, they will be permitted to remain enrolled in a QHP through the Marketplace with APTC and CSRs, as applicable[6]. If the consumer provides timely documentation that does not demonstrate their eligible noncitizen status, they will be redetermined ineligible for APTC and CSRs. The FFE will also review the documentation to determine whether it demonstrates that the consumer is lawfully present[7]. If the documentation does not demonstrate that the consumer is lawfully present, the consumer will be determined to be ineligible for enrollment in a QHP through the Marketplace. In both cases, the Exchange may request additional documentation from the consumer to demonstrate eligibility during the 95-day DMI period.

Finally, if the consumer fails to provide timely and sufficient documentation to verify their eligible noncitizen status[8], the consumer may be determined ineligible for APTC and CSRs. As is the current practice, if the consumer fails to provide timely documentation to verify their lawful

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[5] A full list of documents to confirm immigration status can be found here: *https://www.healthcare.gov/help/how-do-i-resolve-an-inconsistency/#immigration*

[6] If a document demonstrates that a consumer is an eligible noncitizen, that document also demonstrates that the consumer is lawfully present for purposes of QHP coverage.

[7] In certain cases, consumers may submit documentation that verifies that they are lawfully present for purposes of QHP coverage, but that documentation does not demonstrate that they have eligible noncitizen status. In these scenarios, consumers may need to submit additional information to verify their eligibility for APTC and CSRs. Ultimately, if a consumer's documentation does not demonstrate that they are lawfully present, they will lose QHP coverage altogether.

[8] These include instances where a consumer does not provide any documentation that verifies their eligible noncitizen status during the 95-day DMI period

presence, the consumer will be determined ineligible for enrollment in a QHP through the Marketplace.

Q6: How will the FFE redetermine eligibility for current noncitizen enrollees?
A6: The FFE strongly encourages all noncitizens enrollees to return to the Marketplace and update their application with documentation that reflects their most recent immigration status during Open Enrollment for plan year 2027, to ensure an accurate eligibility determination for the upcoming plan year.

For enrollees who do not return to update their application by the last day on which a plan selection may be made for coverage effective January 1, consistent with its authority under section 1411(f)(1)(B) of the Patient Protection and Affordable Care Act (PPACA) to redetermine eligibility in appropriate circumstances, the FFE will modify its processes to redetermine eligibility for APTC/CSRs and enrollment in a QHP through the Marketplace as described below. Pursuant to 45 CFR 155.335(a)(2)(ii), an Exchange may conduct annual eligibility redeterminations in accordance with procedures specified by the Secretary, and the FFE has elected to do so. These procedures are currently set forth in the *Guidance on Annual Redetermination and Re-enrollment for Marketplace Coverage for 2024 and Later.*[9] **The following serves as an addendum to those reenrollment procedures for 2027.**

For noncitizen enrollees who do not update their application by the last day on which a plan selection may be made for coverage effective January 1, the following redetermination procedures will apply:

- If the FFE has access to previous data from DHS SAVE indicating that a noncitizen enrollee is an eligible noncitizen, the enrollee will remain eligible for APTC and CSRs, if otherwise eligible.
- If the FFE is able to newly verify the enrollee's eligible noncitizen status through DHS SAVE, the enrollee will remain eligible for APTC and CSRs, if otherwise eligible.
- If the FFE does not have access to previously verified data indicating that the enrollee is an eligible noncitizen, and the FFE is unable to verify eligible noncitizen status through DHS SAVE, the enrollee will be redetermined ineligible for APTC and CSRs effective January 1, 2027. Generally, this means that they will be automatically re-enrolled in a QHP through the Marketplace without APTC and CSRs.
    - However, if, in the process of verifying an enrollee's immigration status through DHS SAVE, the FFE verifies that the enrollee is no longer lawfully present, the enrollee will be redetermined ineligible for QHP coverage through the Marketplace effective January 1, 2027. This is consistent with section 1312(f)(3)

[9] Guidance on Annual Redetermination and Re-enrollment for Marketplace Coverage for 2024 and Later Years is available at *www.cms.gov/files/document/guidance-annual-redetermination-and-re-enrollment-marketplace-coverage-2024-and-later-years.pdf*

of the PPACA, which provides that to be a qualified individual eligible to enroll in a QHP in the individual market through an Exchange, the individual must be or must reasonably expected to be for the period for which enrollment is sought, a U.S. citizen, U.S national, or an alien lawfully present in the U.S.

Q7: How will the FFE communicate with impacted consumers?
A7: The FFE will implement content changes on the Marketplace eligibility application (OMB Control Number 0938-1191) before Open Enrollment 2027 – both on HealthCare.gov and on Enhanced Direct Enrollment (EDE)[10] partner platforms – to highlight that only U.S. citizens, U.S. nationals, and eligible noncitizens are eligible for financial assistance.

The FFE will also send targeted communications to ensure current Marketplace enrollees are informed, in advance, of any changes to their eligibility for QHP enrollment and/or for APTC or CSRs and to encourage enrollees to return to the Marketplace if their immigration status has changed. Communications include the Marketplace Open Enrollment Notice (MOEN), which will include tailored messaging for any enrollees whose eligible noncitizen status could not be verified through DHS SAVE, to inform them that they will lose APTC and CSRs for plan year 2027 unless they act to confirm their status. In addition to the MOEN, these enrollees will also receive a Marketplace Eligibility Determination Notice prior to the beginning of the new plan year that indicates they are ineligible for APTC and CSRs due to their immigration status and informs them of their appeal rights.

As noted above in Q6, if the FFE verifies that an enrollee is not lawfully present, the FFE will send a separate notice informing them that their enrollment through the Marketplace will end because they are no longer eligible, of their appeal rights, and of additional options for the impacted population.

Q8: If an FFE enrollee knows they will no longer be eligible for APTC/CSRs in plan year 2027 and wants to ensure their plan is not renewed, what action can they take?
A8: The enrollee **should** cancel their Marketplace coverage for plan year 2027. For more information on how to do so, please visit https://www.healthcare.gov/how-to-cancel-a-marketplace-plan. If the enrollee does not cancel their coverage for plan year 2027, they may be automatically re-enrolled in a QHP without APTC or CSRs, if they are determined to still be lawfully present.

Q9: What happens if an FFE enrollee for whom the FFE cannot verify eligible noncitizen status does not return to the Marketplace during Open Enrollment to update their immigration status information and select a new plan for plan year 2027?

[10] For more information about EDE, please visit: *https://www.cms.gov/marketplace-private-insurance/agents-brokers/direct-enrollment-partners*

A9: They will be automatically re-enrolled in a QHP [11] without APTC or CSRs effective January 1, 2027, unless the FFE verifies that the enrollee is no longer lawfully present. In this case, the enrollee will be redetermined ineligible for enrollment in a QHP through the Marketplace and for APTC and CSRs effective January 1, 2027. This is applicable for both single and multi-member households. If the original subscriber on a policy is removed during the plan year (for example, due to not having eligible status for QHP coverage through the Marketplace) the FFE assigns a new subscriber to the policy from the remaining enrollees and age-rates all remaining qualified individuals as of the new policy start date[12].

Q10: Will FFE enrollees who are determined to be lawfully present, but not eligible noncitizens, and who are automatically re-enrolled into Marketplace coverage without APTC and CSRs be provided with a grace period to pay their plan premiums prior to planned termination?

A10: Noncitizens who are no longer eligible for financial assistance will no longer be afforded the three-month APTC grace period required in 45 CFR 156.270(d), as it applies only to enrollees receiving APTC when they entered delinquency. Instead, these enrollees would be subject to any grace period policy set by the issuer, subject to applicable state laws, as described in 45 CFR 155.430(b)(2)(ii)(B). For enrollees who are required to make a binder payment, such as consumers alternately reenrolled with another issuer, their policy would be canceled if they failed to pay binder by the binder payment deadline set by the issuer, per 45 CFR 155.400(e)(1)(i).

Q11: What should noncitizen enrollees expect to see on their Form 1095-A beginning with the 2027 tax year?

A11: Form 1095-A is a prepopulated tax form that the FFE sends to consumers if they or a member of their household were enrolled in a QHP. Form 1095-A provides information that helps consumers file their federal income taxes, reconcile any APTC received, and claim the PTC. Consumers need the information on Form 1095-A to complete Internal Revenue Service (IRS) Form 8962. All lawfully present enrollees, including eligible noncitizens, will receive Form 1095-A beginning in January of 2028 for the 2027 tax year.

- Eligible noncitizens, like other enrollees who are eligible for APTC, will receive Form 1095-A that includes their monthly enrollment premium amount, monthly APTC amount, and the monthly premium for the Second Lowest Cost Silver Plan (SLCSP) in their rating area. This includes any eligible noncitizens who received a DMI related to their immigration status.

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[11] The QHP re-enrollment hierarchy for annual eligibility redetermination can be found at 45 CFR 155.335(j).
[12] For more information, please review the *Federally facilitated Exchange (FFE) Enrollment Manual: https://regtap.cms.gov/reg_librarye.php?i=6484*

- Enrollees who are lawfully present noncitizens but are ineligible for APTC due to their lack of eligible noncitizen status will also receive Form 1095-A. However, these individuals may see a blank or "0" under monthly enrollment premiums, monthly SLCSP premiums, and monthly APTC under Part III.
    - In a mixed status household[13] the monthly enrollment premium and monthly SLCSP premium amounts reported on Form 1095-A may be reduced to exclude the portion of the premiums allocable to individuals in the household who are lawfully present noncitizens who are not eligible noncitizens.
- If enrollees find errors with their Form 1095-A, consumers should contact the Marketplace Call Center at 1-800-318-2596 (TTY: 1-855-889-4325) and the FFE will issue a corrected form.

Q12: How will SBEs redetermine eligibility for noncitizen enrollees?
A12: Eligibility redetermination processes may vary across SBEs. SBEs have access to the same Federal Data Services Hub Verify Lawful Presence (VLP) service used by the FFE to verify lawful presence and eligible noncitizen immigration status through DHS SAVE, and they should leverage this service to minimize burden for enrollees where possible. Other SBEs may also maintain a direct connection to the DHS SAVE service. CMS is providing SBEs with technical assistance, and SBEs are encouraged to contact CMS with additional questions. Enrollees with questions about their eligibility or their state's redetermination process should reach out directly to their respective SBE.

Q13: Does section 71301 of the WFTC legislation impact Medicaid and Children's Health Insurance Program (CHIP) coverage for noncitizens?
A13: No. Section 71301 impacts noncitizen eligibility for APTC and CSRs through the Marketplace. However, section 71109 of the WFTC legislation impacts Federal financial participation for coverage provided to certain noncitizens in Medicaid and CHIP.

[13] "Mixed status" households are households that have members with different immigration and citizenship statuses.