



Center for Consumer Information and Insurance Oversight

RELEASED: July 18, 2022

Failure to File and Reconcile (FTR) Operations Flexibilities for Plan Year 2023

The guidance referenced in this document is applicable to all Exchanges. It does not replace or revise previously issued guidance, but extends previous guidance issued for plan years 2021 and 2022¹ to plan year 2023. The original guidance referenced current federal regulation at 45 CFR 155.305(f)(4), and the statute at section 1412 of the Affordable Care Act. This guidance extends the same flexibilities for consumers and Exchanges regarding Failure to File and Reconcile (FTR) operations for plan year 2023.

In plan years 2021 and 2022, CMS did not act on data from the Internal Revenue Service (IRS) for consumers who have failed to file tax returns and reconcile a previous year's advance payments of the premium tax credit (APTC) and with the premium tax credit (PTC) allowed for the year. 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 Plan. This change allowed APTC to continue for consumers not required to reconcile by attaching Form 8962, Premium Tax Credit, to their 2020 tax return due to IRS' announcement and consumers who reconciled but whose tax returns have not yet been processed by the IRS.

CMS will continue to not act on data from the IRS for consumers who have failed to file tax returns and reconcile a previous year's APTC with the PTC allowed for the year, for plan year 2023. The continuation of this operations flexibility is due to the continued impact of the COVID-19 pandemic on the processing of 2021 federal income tax returns.² This flexibility also extends to State-Based Exchanges. As with last year's announcement, today's announcement does not change the general requirement for taxpayers for whom APTC was paid in 2021 to file their taxes and reconcile the APTC with the PTC allowed for the year.

For more information, please refer to last year's [FTR Operations Flexibility for Plan Years 2021 and 2022 – Frequently Asked Questions](#).

¹ <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/FTR-flexibilities-2021-and-2022.pdf>

² As of May 20, 2022, the IRS reports having 9.8 million unprocessed individual federal tax returns, which includes new tax year 2021 returns. For more information on IRS' operations during COVID-19, please see <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue>