November 24, 2026

Submitted electronically via Regulations.gov

Dr. Mehmet Oz, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9873-P
P.O. Box 8016
Baltimore, MD 21244-8016

Subject: Patient Protection and Affordable Care Act, Exchange Pre-Eligibility Verification [CMS-9873-P] (RIN 0938-AW03)

Dear Administrator Oz,

Covered California appreciates the opportunity to comment on the U.S. Department of Health and Human Services (HHS) Centers for Medicare & Medicaid Services' (CMS) proposed rule implementing H.R. 1's[1] pre-enrollment verification requirements and proposing related changes to Marketplace eligibility, enrollment, and coverage effective dates.

As California's State-Based Marketplace (SBM), Covered California has helped millions of Californians access affordable health coverage since 2014. We administer eligibility, enrollment, and financial assistance through an integrated Marketplace–Medi-Cal (California's Medicaid) system, giving us direct experience with how verification requirements affect consumers and Marketplace operations. Our experience demonstrates that effective safeguards can strengthen program integrity while reducing unnecessary barriers to coverage.

H.R. 1's pre-enrollment verification requirements create additional hurdles for eligible consumers to obtain and retain financial assistance, undermining the Affordable Care Act's coverage, affordability, and equity goals. We recognize that CMS cannot change the underlying statutory requirements; however, CMS retains important discretion over how it implements them. Requiring duplicative confirmation of recently verified information, imposing unnecessarily complex effective-date rules, and adding operational requirements on an already constrained timeline risk avoidable losses of coverage and assistance. Although H.R. 1 was enacted on July 4, 2025, CMS did not publish this proposed rule until October 27, 2026, with comments due November 27, 2026. With finalization not expected before March 2027, Marketplaces may have fewer than five months to implement the changes before the verification period begins on August 1, 2027.

We urge CMS to delay implementation of this rule by at least one year, while preserving reliable existing verification processes and simplifying enrollment rules. If statutory deadlines limit CMS's ability to delay implementation, CMS should prioritize the statutory requirements and defer additional regulatory requirements. CMS should also coordinate transitional relief with the U.S. Department of Treasury (Treasury) and the Internal Revenue Service (IRS) so that implementation issues do not jeopardize consumers' premium tax credit eligibility or expose them to repayment obligations.

[1] Pub. L. No. 119-21, 139 Stat. 72 (2025)

I. PROTECT CONSUMERS THROUGH COORDINATED IMPLEMENTATION AND TRANSITIONAL RELIEF

Delay implementation to protect coverage and financial assistance

Moving more than one million households through a new annual verification process alone is an undertaking of unprecedented scale for Covered California. This update will require coordinated system development, revised notices, staff and enrollment-partner training, partner coordination, and ongoing assistance to help consumers complete verification and retain financial assistance. These changes simply are not feasible under the proposed timeline. California's integrated Marketplace–Medi-Cal eligibility system and other concurrent H.R. 1 changes compound this work. In prior comment letters, Covered California and state marketplaces across the country requested final guidance by July 2026 and at least 60 days for public comment. With final guidance unlikely prior to March 2027, Marketplaces may have fewer than five months to complete this work before the August 2027 verification period begins.

CMS should delay implementation of the rule as a whole by at least one year. Where CMS has discretion over implementation dates, it should defer additional requirements, including those for pended plan selection, new effective-date rules, and midyear eligibility redeterminations, until the start of the open enrollment period for plan year 2029. This would allow states to prioritize implementation of the statutory pre-enrollment verification requirements. Implementing multiple requirements at once would compete for the staff and system capacity needed to help consumers complete verification and maintain financial assistance. CMS must allow states adequate time after finalizing the rule to build and test systems, prepare clear consumer instructions, and avoid disruptions to coverage or financial assistance.

Provide time-limited CMS non-enforcement relief and consumer hold-harmless protections

CMS should provide time-limited, non-enforcement relief for Marketplaces working in good faith toward compliance during the transition. CMS has exercised non-enforcement discretion in the past, and transitional relief can support implementation while states complete the necessary changes.

For example, CMS has already recognized the need for implementation flexibility under the new Medi-Cal work requirements, announcing[2] an optional hold-harmless period on enforcement to strengthen state systems while protecting otherwise eligible individuals from coverage loss. CMS should coordinate with Treasury and IRS to pair any Marketplace implementation relief with consumer hold-harmless protections covering at least tax year 2028. Relief for a Marketplace alone would not resolve the potential tax consequences for consumers' premium tax credit eligibility.

Coordinate CMS and Treasury/IRS protections for consumers

CMS should coordinate with Treasury and the IRS to protect consumers' premium tax credit eligibility and limit repayment exposure arising from implementation errors. The Treasury and IRS proposal[3] relies on CMS verification requirements, while the elimination of excess advance premium tax credit (APTC) repayment caps increases the potential tax consequences for consumers. CMS non-enforcement relief alone would not, by itself, protect consumers from adverse federal tax consequences. The agencies should coordinate implementation and transitional relief so consumers do not lose tax credit eligibility or incur repayment liability because of Marketplace verification errors

[2] Centers for Medicare & Medicaid Services, *CMS Announces a Hold Harmless Period To Strengthen Medicaid Work Requirement Systems and Improve Beneficiary Experience* (Nov. 13, 2026), cms.gov (providing an optional hold-harmless transition period through June 30, 2027, during which participating states will not deny applications or disenroll otherwise eligible individuals solely for failing to meet Medicaid work requirements).

[3] 91 Fed.Reg. 65494 (Oct. 15, 2026).

outside their control. Within their respective legal authorities, the agencies should ensure that consumers do not lose APTC or cost-sharing reduction (CSR) while a Marketplace corrects such errors, treat affected months as coverage months for premium tax credit purposes, and protect consumers from repaying excess APTC attributable to those errors.

II. MODIFY SPECIFIC PROPOSALS TO PRESERVE STATE FLEXIBILITY AND COVERAGE

In addition to the necessary one-year overall implementation delay, the following recommendations address specific proposals to protect consumers and make implementation workable. Our recommendations on the substance of additional requirements do not replace our requests to delay them; they apply if CMS finalizes those requirements, regardless of their implementation date.

Make pre-enrollment verification workable

CMS should defer pre-open enrollment information collection for first-time applicants as part of the requested one-year overall implementation delay. Implementing this process by plan year 2028 is not operationally feasible, and states need additional time to develop the necessary systems and procedures. CMS should also preserve October shopping, where consumers can preview and compare Marketplace health plans and premiums prior to open enrollment. California's qualified health plan rates are not approved, and enrollment systems are not ready until late September, making earlier shopping or collection of plan preferences infeasible.

Avoid duplicative annual confirmation and preserve retroactive financial assistance

CMS should minimize duplicative annual confirmation requirements to the extent permitted by H.R. 1. Otherwise, eligible consumers may lose financial assistance and coverage simply because they do not respond. CMS should clarify when states may rely on existing verified information and count redeterminations completed within the preceding 90 days toward the annual confirmation requirement when all inconsistencies have been resolved and no new information indicates a change.

CMS should also preserve state flexibility to establish default effective dates and offer retroactive or prospective options. When a renewing enrollee's APTC is withheld because of an unresolved data matching inconsistency and eligibility for that period is later verified, CMS should allow APTC to apply retroactively to the start of the benefit year by default, with a prospective option.

Finalize the family-size special enrollment period exception

Covered California supports providing APTC and cost-sharing reductions based on attestation for the specified family-size special enrollment periods (SEPs). This exception helps prevent interruptions in financial assistance during significant life events, particularly birth and the postpartum period.

Simplify effective-date rules and preserve state flexibility

If CMS finalizes the proposed effective-date rules for consumers whose data matching issues are resolved, it should allow each SBM to establish a clear default effective date consistent with its enrollment systems and practices, while offering prospective or retroactive effective date options as appropriate. Multiple effective-date timelines complicate implementation and make it harder for consumers to understand when coverage and financial assistance begin. These substantive changes remain necessary even if CMS provides additional implementation time.

Delay pended-plan-selection requirements and allow workable state alternatives

CMS should defer the pended-plan-selection requirements as part of the requested one-year overall implementation delay and permit alternative approaches that achieve the intended outcomes while accommodating state enrollment systems and operations. We recognize the proposal's consumer-

protective intent: allowing consumers to select a plan while gathering documents may help them avoid missing enrollment deadlines. However, coverage may not take effect, and consumers may mistakenly believe enrollment is complete. Confusing enrollment choices, notices, and changing effective dates may undermine that intent.

If CMS finalizes these requirements, it should simplify the effective-date rules rather than tie coverage to multiple timelines based on inconsistency resolution and the 15th-of-the-month cutoff. CMS should allow clear state default effective dates and applicable prospective or retroactive effective date options under either open enrollment schedule. If the shortened schedule does not apply, CMS should avoid restoring calendar-based delays and preserve rules that support timely coverage. CMS should also provide broader flexibility for pended plan selection and coverage effective dates during SEPs, consistent with state enrollment systems and practices.

Defer midyear changes and permit interim use of updated attestations

CMS should defer the proposed midyear redetermination changes as part of the requested one-year overall implementation delay, so states can prioritize pre-enrollment verification. In the interim, CMS should allow states to determine APTC eligibility based on updated attestations, rather than impose different rules depending on whether financial assistance increases or decreases or a family-size SEP applies.

CMS should also defer the proposed effective-date requirements for enrollee-reported changes, changes after resolving a data matching issue, and changes following an inconsistency period or data matching process, as part of the requested one-year overall implementation delay. These requests reinforce the need for a one-year overall implementation delay, address the timing of implementation, including when these requirements take effect, and complement our recommendations to simplify the underlying requirements and preserve state flexibility.

Thank you for considering these comments. These pre-enrollment verification requirements represent the largest enrollment process and system changes for Marketplaces since our initial launch. Given that CMS has delayed rulemaking such that states will not be given final guidance in time to confidently make the numerous system changes needed, we implore CMS to protect consumers and prevent avoidable issues and barriers to coverage by providing an implementation timeline that is reasonable and achievable. Further, we urge CMS to preserve effective state processes, prioritize the core verification transition, and coordinate implementation with Treasury and the IRS to protect eligible consumers' coverage and financial assistance.

Sincerely,



Jessica Altman
Executive Director