November 24, 2026

Submitted electronically via Regulations.gov

Mr. Frank J. Bisignano
Chief Executive Officer
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Subject: Premium Tax Credit (REG-101576-26; RIN 1545-BS15)

Dear Mr. Bisignano:

Covered California appreciates the opportunity to comment on the U.S. Department of Treasury (Treasury) and Internal Revenue Service's (IRS) proposed rule implementing H.R. 1's[1] changes to eligibility and computation of the premium tax credit (PTC), as well as repayment of excess advance premium tax credit (APTC).

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.

H.R. 1's eligibility restrictions unnecessarily undermine the Affordable Care Act's coverage, affordability, and equity goals. Pre-enrollment verification creates coverage barriers and diverts Marketplace resources from expanding access that is not necessary to maintain appropriate program integrity safeguards. We recognize that Treasury and the IRS cannot change the underlying statute through this rulemaking. Within their implementation authority, however, they should coordinate with the U.S. Department of Health and Human Services (HHS), including Centers for Medicare & Medicaid Services (CMS), to preserve state flexibility without jeopardizing consumers' PTC eligibility, and protect consumers from repayment obligations resulting from a rushed implementation.

Covered California and SBM's across the country requested CMS to provide final rulemaking no later than July 2026. With a final rule not expected until early 2027 and implementation required by August the same year, states face a compressed implementation timeline. The complexity of these changes leaves limited time to build, test, and correct systems, increasing the risk of Marketplace errors that could jeopardize consumers' PTC eligibility and expose them to repayment obligations. CMS has not provided states with a reasonable timeline to adequately implement these requirements, putting core eligibility processes at risk and ultimately placing consumers in a vulnerable financial position.

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

Board Members Kim Johnson, Chair Mayra Alvarez Deborah Kelch **Exec Dir.** Jessica Altman

As a result, Covered California is submitting companion comments to HHS addressing verification processes, effective dates, state flexibility, and implementation relief, including a delay of the implementation of the CMS rule by at least one year. This letter addresses the related federal tax consequences. CMS relief alone may not protect consumers from federal tax liability; therefore, Treasury and the IRS must align their rules and transitional protections with HHS-authorized flexibility to protect consumers' PTC eligibility.

I. ALIGN TREASURY AND IRS RULES WITH CMS FLEXIBILITY AND TRANSITIONAL RELIEF

Recognize CMS verification procedures

Treasury and the IRS propose requiring Marketplaces, beginning with the 2028 tax year, to verify consumers' eligibility under applicable CMS procedures as a condition for coverage to qualify for the PTC. We urge Treasury and the IRS to confirm that verification under those procedures satisfies the PTC verification requirement, allowing consumers who meet all other eligibility requirements to claim the credit.

Coordinate flexibility across both rules

In companion comments to CMS, Covered California requests workable verification and effective-date rules, state flexibility, and implementation relief. Treasury and the IRS should expressly recognize CMS-authorized alternative approaches and transitional relief in their final regulations and guidance. States should be able to use those flexibilities without putting consumers' PTC eligibility at risk. Coordinated guidance should explain how each authorized approach satisfies the corresponding tax requirements.

II. PROTECT CONSUMERS FROM REPAYMENT CAUSED BY MARKETPLACE ERRORS

Provide a consumer safe harbor

Because the limitation on repayment of excess APTC has been eliminated, Marketplace errors could expose consumers to substantial tax liability. The compressed implementation timeline heightens the risk of these errors. Treasury and the IRS should establish a safe harbor from repayment of excess APTC attributable to Marketplace implementation errors when consumers provide accurate information and comply with Marketplace requests. Consumers cannot control whether Marketplace systems process their information correctly and should not bear the resulting tax liability.

Preserve PTC when verification errors are corrected

Treasury and the IRS propose that a Marketplace must verify a consumer's eligibility for a month before that month can count as a coverage month for PTC purposes. We urge Treasury and the IRS to clarify that a month may still qualify if the Marketplace later corrects a verification error and confirms that the consumer met all eligibility requirements for that month. Consumers who provide accurate information and comply with Marketplace requests should not lose PTC for which they otherwise qualify because the Marketplace initially processed their information incorrectly. This protection would complement Covered California's request that CMS permit retroactive APTC when a consumer's eligibility for an earlier period is established.

III. PROVIDE ONE-YEAR NON-ENFORCEMENT RELIEF

Allow a good-faith transition

To give SBMs time to implement the new verification requirements in good faith, Treasury and the IRS should adopt a one-year non-enforcement policy for tax year 2028. Moving more than one million households through a new annual verification process would be an undertaking of unprecedented scale for Covered California. The work requires coordinated system development, revised notices, training, and consumer assistance, alongside other H.R. 1 changes. The complexity of these changes and the short implementation period after final regulations leave limited time to build, test, and correct systems.

Transitional relief must protect consumers' PTC eligibility, not merely shield Marketplaces from enforcement. Treasury and the IRS must provide a process so that consumers retain eligibility when a Marketplace implementing the requirements in good faith encounters verification errors or system issues covered by the relief.

Provide alternative transitional protections if needed

If a one-year non-enforcement policy is unavailable, Treasury and the IRS should adopt a good-faith compliance standard and other transitional relief to protect states and consumers when Marketplace verification processes require correction. That relief should include the consumer safe harbor described above and be coordinated with CMS so implementation flexibility does not expose consumers to adverse tax consequences.

Covered California appreciates Treasury and the IRS's consideration of these comments. We look forward to continued collaboration to implement the new requirements in a way that preserves state flexibility and protects consumers' coverage, financial assistance, and tax credit eligibility.

Sincerely,



Jessica Altman
Executive Director