

ACA Q&A with the Midwest LITC Network

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1. The Medical Loss Ratio & the Premium Tax Credit

- What are these checks from health insurance companies?!
 - CMS webpage links to guidance and regulations: [cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/Medical-Loss-Ratio.html](https://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/Medical-Loss-Ratio.html)

The Affordable Care Act requires insurance companies to spend at least 80% or 85% of premium dollars on medical care... If an issuer fails to meet the applicable [Medical Loss Ratio] standard in any given year..., the issuer is required to provide a rebate to its customers.
 - Kaiser Family Foundation has a more detailed explanation of the MLR program: [kff.org/health-reform/fact-sheet/explaining-health-care-reform-medical-loss-ratio-mlr/](https://www.kff.org/health-reform/fact-sheet/explaining-health-care-reform-medical-loss-ratio-mlr/)
 - Rebate checks are sent to subscribers without regard to whether premiums were paid by APTC. CCIIO Technical Guidance ([CCIIO 2015—0001](#)), 5/27/15
- Are MLR rebates taxable income? What if a PTC was claimed based on premiums later refunded?
 - IRS FAQ: [irs.gov/uac/medical-loss-ratio-mlr-faqs](https://www.irs.gov/uac/medical-loss-ratio-mlr-faqs)
 - IRS [Publication 525](#) (2015)

Tax benefit rule. You must include a recovery in your income in the year you receive it up to the amount by which the deduction or credit you took for the recovered amount reduced your tax in the earlier year. ...

If you received a recovery in 2015 for an item for which you claimed a tax credit in an earlier year, you must increase your 2015 tax by the amount of the recovery, up to the amount by which the credit reduced your tax in the earlier year. You had a recovery if there was a downward price adjustment or similar adjustment on the item for which you claimed a credit.

- Do not amend the prior-year return. The rebate may be partially taxable in the year of receipt.

2. APTC Safe Harbors

- Income under 100% FPL on tax return. Treas. Reg. § 1.36B-2(b)(6)
- Exchange determined the taxpayer ineligible for gov't-sponsored MEC. Treas. Reg. § 1.36B-2(c)(2)(v)

- Exchange determined employer insurance unaffordable. Treas. Reg. § 1.36B-2(c)(3)(v)(A)(3)
- Retroactive grant of government-sponsored coverage. Treas. Reg. § 1.36B-2(c)(2)(iv)
- 3 months to transition from APTC to government-sponsored coverage. Treas. Reg. § 1.36B-2(c)(2)(ii)
- Less than a full month of overlap is ok. Treas. Reg. § 1.36B-3(c)(1)(iii)
- Proposed regulation would give 1 transition month to move from APTC to any other MEC. 81 Fed. Reg. at 44,571 (Jul. 8, 2016)
- See also, IRS ACA return preparer best practices, at <https://www.irs.gov/tax-professionals/aca-information-center-for-tax-professionals>
 - Resolving Information Form 1095 Conflicts (4/7/16)

If a Marketplace makes a determination or assessment that an individual is ineligible for Medicaid or CHIP and eligible for APTC when the individual enrolls in a qualified health plan, the individual is treated as not eligible for Medicaid or CHIP for purposes of the premium tax credit for the duration of the period of coverage under the qualified health plan (generally, the rest of the plan year). Accordingly, if your client was enrolled in both Medicaid coverage and in a qualified health plan for which advance credit payments were made for one or more months of the year following a Marketplace determination or assessment that your client was ineligible for Medicaid, your client can claim the premium tax credit for these months, if the client is otherwise eligible.

3. ACA Information Returns

- Form [1095-A](#) – Individual Marketplaces
 - Form 1095-A is needed to claim a PTC
- Form [1095-B](#) – MEC Providers
 - Includes health insurance companies, SHOP Marketplaces, government sponsors of insurance, and self-insured small employers
 - No form currently reports catastrophic coverage. IRS has proposed that Marketplaces use Form 1095-B to report this coverage starting for 2017.
- Form [1095-C](#) – Applicable Large Employers
 - Includes government and non-profit employers, and Indian tribes
- What if the taxpayer doesn't receive a form?
 - See IRS ACA return preparer best practices, at <https://www.irs.gov/tax-professionals/aca-information-center-for-tax-professionals>
 - Premium Tax Credit return preparer best practices (1/21/16)

Due to extensions of the due date for furnishing the 2015 forms to individuals, your clients may not have these by the time they are ready

to file their 2015 tax return. While the information on these forms may assist in preparing a return, they are not required. Like last year, taxpayers can prepare and file their 2015 returns using other information about their health coverage. Individuals do not have to wait for their Form 1095-B or 1095-C in order to file.

4. Post-filing letters from the IRS

Individual Shared Responsibility

- No deficiency rights; ignoring an IRS letter could result in an assessment

Premium Tax Credit

- Submission processing
 - When a tax return is filed with Form 8962, IRS Submission Processing checks for mismatches between the return and 3rd party data for premium(s), SLCSP(s) and APTC amounts. In addition, all tax returns are checked with the ACA Verification Service to verify if the taxpayer received APTC and reconciled the advance payment. IRM 21.6.3.4.2.16.3 (10-01-2015)
 - ACA Verification Service is Account Management's access to the HHS Coverage Data Repository.
 - Math error authority is limited for the PTC. For PTC math error conditions, see IRM 21.6.3.4.2.16.3.1 (06-03-2015). There is no math error to correct third-party data match discrepancies.
- The 12C Letter
 - In order for the tax return to be processed, the taxpayer is asked to submit:
 - Form 1095-A
 - Form 8962
 - Corrected Form 1040, page 2, signed and dated
 - Documents may be faxed or mailed
 - 20 day deadline is given; it will be extended if taxpayer requests more time
 - There is no code visible on the e-services account transcript to indicate a 12C letter or any issues pending with the account. The transcript will not show the return processed.
- Two paths forward if the taxpayer does not respond to Letter 12C
 - IRM 21.6.3.4.2.16.3 (10-01-2015)
 - When 3rd party data discrepancies exist, in most instances Submission Processing will send Letter 12C to try to resolve the discrepancy.
 - If the discrepancy is resolved or below tolerance, the return continues through processing.
 - If the discrepancy cannot be resolved and is above tolerance, the return is processed as filed, the refund is frozen or partially frozen, and the return is referred to Compliance.

5. Outreach Topics & Strategies

- All enrollees should update their information during open enrollment
- To lock in an affordability exemption, apply during open enrollment with healthcare.gov
- Annual household income is what counts for the PTC
- Community Catalyst: communitycatalyst.org/initiatives-and-issues/issues/outreach-and-enrollment (click on Resources on the left side below the page header)
- CMS materials: marketplace.cms.gov/outreach-and-education/outreach-and-education.html