



CONGRESSIONAL BUDGET OFFICE
U.S. Congress
Washington, DC 20515

Phillip L. Swagel, Director

August 25, 2025

Honorable Jodey Arrington
Chairman
Committee on the Budget
U.S. House of Representatives
Washington, DC 20515

Honorable Brett Guthrie
Chairman
Committee on Energy and
Commerce
U.S. House of Representatives
Washington, DC 20515

Honorable Jason Smith
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

*Re: Clarifications of Marketplace Coverage and Eligibility
Under Public Law 119-21 (H.R. 1) and the 2025 Marketplace Integrity
and Affordability Rule*

Dear Chairman Arrington, Chairman Guthrie, and Chairman Smith:

You have asked the Congressional Budget Office for additional information concerning the ways that Public Law 119-21, also referred to in this letter as H.R. 1 and as the 2025 reconciliation act, will affect the ability of certain groups of people to obtain health insurance coverage through the marketplaces established by the Affordable Care Act and the extent to which enrollees are improperly receiving the premium tax credit for that coverage. You also have asked for CBO's assessment of the effects of a final rule published by the Department of Health and Human Services in June 2025.¹ That rule takes effect on August 25, 2025. Your questions are given below along with CBO's answers.

1. Department of Health and Human Services, "Patient Protection and Affordable Care Act; Marketplace Integrity and Affordability," final rule, 90 *Fed. Reg.* 27074 (June 25, 2025), <https://tinyurl.com/fyzyp6sb>.

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Several provisions in the 2025 reconciliation act that apply to the marketplaces will begin to take effect in 2026. CBO estimates that those provisions will increase the number of people without health insurance, in total, by 2.1 million in 2034. In its answers to your questions, CBO provides the separately estimated effect of each provision; those estimates sum to 2.4 million people. In CBO's estimation, interactions among the provisions would reduce that number by 300,000 in 2034.

CBO formulated the estimates relative to the agency's January 2025 baseline budgetary projections, adjusted to account for judicial decisions and administrative actions through April 10, 2025, and to account for the estimated effects of the version of the June 2025 rule not as made final but as proposed in March 2025.²

Questions About Citizenship or Immigration Status Criteria

How many individuals does CBO project will no longer be eligible for premium tax credits (PTCs) and no longer have health insurance because they do not meet the citizenship or immigration status criteria outlined in section 71301 of H.R. 1?

Beginning in 2027, the 2025 reconciliation act restricts noncitizens' eligibility to claim the premium tax credit by making the credit no longer available to noncitizens other than legal permanent residents, Cuban and Haitian entrants, and people physically present under the terms of the Compacts of Free Association between the United States and the freely associated states. CBO estimates that under that provision the number of people without coverage will increase by 900,000 in 2034.

How many non-citizens with incomes below 100 percent of the federal poverty level does CBO project will no longer be eligible for PTCs and no longer have health insurance under section 71302 of H.R. 1?

Beginning in 2026, certain immigrants whose income is below 100 percent of the federal poverty level (FPL) will no longer be eligible for the tax credit under the act. Until 2026, people whose income falls below that threshold at the time they apply for marketplace coverage are ineligible to claim the

2. As it does in similar cases, CBO incorporated half of the full effect of implementing the rule. See Congressional Budget Office, *CBO Explains How It Incorporates Administrative and Judicial Actions When Updating Its Baseline Projections and Preparing Cost Estimates* (December 2024), www.cbo.gov/publication/60846.

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premium tax credit, with one area of exception. Certain immigrants whose income is below the FPL may claim the credit if their immigration status makes them ineligible to enroll in Medicaid; they must also meet other eligibility criteria.³

Beginning in 2026, the act removes eligibility for the credit from anyone whose income is below 100 percent of the FPL. CBO estimates that under that provision, the number of people without insurance will increase by 300,000 in 2034.⁴ Because the provision applies to people who are not eligible for Medicaid, CBO does not expect anyone in that group to gain Medicaid coverage.

A Question About Verification Requirements

How many individuals does CBO project will no longer receive PTCs and not have subsidized health insurance because they are not completing the verification requirements under section 71303 of H.R. 1?

Beginning in 2028, the 2025 reconciliation act requires people to actively affirm their eligibility to enroll in marketplace coverage and to claim the premium tax credit when they apply for that insurance. CBO estimates that under that provision the number of people without health insurance will increase by 700,000 in 2034. The agency estimates that most of that change will stem from a decrease in passive reenrollment, which the act precludes.

Some people may not be able to complete the verification process before their enrollment is scheduled to begin. The act does not specify whether people would be required to pay their entire gross premium while completing the verification process or, alternatively, whether their enrollment could be put on hold without requiring payments until the process is complete. Applicants are not now required to pay the entire gross premium while they await verification of eligibility for a special enrollment period. Drawing on that precedent, CBO

3. As defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, qualified aliens' eligibility for Medicaid is limited, with most becoming eligible only after a five-year waiting period. By contrast, the premium tax credit is available to any applicant who is lawfully present if they meet other eligibility criteria. Thus, people who are ineligible for Medicaid because of their immigration status may still be eligible for the premium tax credit if they are lawfully present in the country.

4. See Congressional Budget Office, letter to the Honorable Brendan F. Boyle, the Honorable Hakeem Jeffries, the Honorable Jeff Merkley, and the Honorable Chuck Schumer concerning the distributional effects of Public Law 119-21 (August 11, 2025), www.cbo.gov/publication/61367.

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finds it unlikely that people will be required to pay their gross premiums while completing the verification process under the 2025 reconciliation act and expects the Administration to issue guidance or regulations to that effect.

Questions About a Change to the Special Enrollment Period

How many individuals does CBO project will no longer receive PTCs and not have subsidized health insurance due to the changes to the special enrollment period for individuals with certain incomes under section 71304 of H.R. 1? Are these individuals otherwise eligible for enrollment and, if applicable, PTCs during the standard open enrollment period?

CBO estimates that the act's changes to the special enrollment period for people whose income is at or below 150 percent of the FPL will increase the number of people without health insurance by 400,000 in 2034. People in that group will still be eligible to enroll in marketplace coverage during the open enrollment period and, if eligible, to claim the premium tax credit.

A Question About the Reconciliation of the Advance Premium Tax Credit

Does the removal of the limitation on repayment of excess advanced PTCs under section 71305 of H.R. 1 change individuals' eligibility for PTCs?

The act's removal of the limitation on the repayment of an excess advance premium tax credit does not affect enrollees' eligibility to claim the premium tax credit.

Questions About Access to Other Subsidized Health Care Coverage

Could those who lose eligibility for advanced PTCs due to provisions in H.R. 1 still choose to enroll in a marketplace plan without advanced PTCs? How many of these individuals have access to other subsidized health care coverage, including employer-sponsored health insurance?

In CBO's estimation, the act's provisions will result in some people losing eligibility for the advance premium tax credit. Under the 2025 reconciliation act, applicants who cannot meet the law's citizenship or immigration criteria must pay the full premium and cannot claim a tax credit. People who cannot verify their eligibility or tax-filing status also are ineligible to receive an advance credit until they complete verification.

People who lose eligibility for the advance premium tax credit under the act can still enroll in a marketplace plan without the advance premium tax credit; some who lose eligibility will become uninsured. CBO estimates, after

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accounting for interactions among all provisions in the act, that about 1.8 million people in 2034 will fall into that category. By statute, eligibility for the advance credit is limited to people who are ineligible for affordable employment-based insurance or for minimum essential coverage like Medicaid, so the agency anticipates that most people who lose eligibility for an advance premium tax credit under the provision will not have access to other subsidized coverage. However, about 400,000 (or 22 percent) of the 1.8 million people will have access to employment-based coverage that, although subsidized, is considered unaffordable for the purpose of determining eligibility for the premium tax credit.

A Question About Premiums

By what percentage will H.R. 1 lower gross benchmark premiums, on average, in marketplace plans established by the Affordable Care Act in 2034?

CBO estimates that the act will reduce gross benchmark premiums by 0.6 percent in 2034.

Questions About Improper Receipt of Marketplace Subsidies

What analysis has CBO done regarding the extent to which individuals are improperly receiving PTCs for marketplace coverage under current law? Do any of the provisions in H.R. 1 or the June 2025 final rule titled “Patient Protection and Affordable Care Act; Marketplace Integrity and Affordability” reduce improper receipt of PTCs?

Recent work at CBO and elsewhere indicates that many enrollees are improperly claiming the premium tax credit and receiving cost-sharing reductions for marketplace coverage.⁵ In CBO’s estimation, several provisions in the 2025 reconciliation act and in the final rule published by the Department of Health and Human Services in June 2025 will reduce the number of people who improperly claim the tax credit.

Eligibility for marketplace coverage and subsidies is determined on the basis of information that enrollees report on their applications. That information

5. Brian Blase and others, *The Greater Obamacare Enrollment Fraud: The Fraud Got Much Worse in 2025* (Paragon Health Institute, June 2025), <https://tinyurl.com/bdhfn6xj>; and Benjamin Hopkins, Jessica Banthin, and Alexandra Minicozzi, “How Did Take-Up of Marketplace Plans Vary With Price, Income, and Gender?” *American Journal of Health Economics*, vol. 11, no. 1 (Winter 2025), pp. 63–90, www.journals.uchicago.edu/doi/10.1086/727785.

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includes the income enrollees expect to earn for the year in which they will be covered. There are incentives for enrollees to report incorrect information in order to obtain larger subsidies and for agents, brokers, or others to do so on their behalf in order to obtain larger commissions. CBO considers an enrollee to have improperly received an advance premium tax credit if they, or someone acting on their behalf, intentionally provides incorrect information or does not attempt to provide accurate information. CBO does not consider an enrollee to have improperly received an advance premium tax credit if their expected income differs from their actual income as a result of the inherent difficulty of projecting income.

Ways Enrollees Can Misrepresent Eligibility for Subsidies. In CBO's estimation, enrollees can misrepresent their eligibility in various ways: by overstating or understating their income, for example, or by improperly claiming eligibility for a special enrollment period. Misrepresentations also can be unintentional.

Overstating Income. With the exception of certain immigrants, before 2026, most people who expect to earn income below the FPL are ineligible for marketplace subsidies. People who are also ineligible for Medicaid have an incentive to report income above the FPL when they apply for coverage so that they can receive an advance premium tax credit and cost-sharing reductions. Such overstatements occur predominantly in states that have not expanded Medicaid.

Understating Income. People who are eligible for marketplace subsidies may understate their income to claim a larger advance premium tax credit and gain access to reductions in cost sharing.

Misrepresenting Eligibility. People who do not enroll in marketplace coverage during open enrollment may misstate their income to gain access to a special enrollment period for people whose income is at or below 150 percent of the FPL.

Other and Unintentional Misrepresentation. Misrepresentations can occur in other ways, some of which may be unintentional. For example, some enrollees may not update their income when they are automatically reenrolled in a marketplace plan under current reenrollment procedures.

Rather than being made personally by an enrollee, misrepresentation also may be made by an agent, broker, or others acting on the enrollee's behalf.

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Estimates of Improper Enrollment. CBO has no direct knowledge of the intentions of enrollees or others acting on their behalf, so estimating the number of people who have improperly received subsidies for marketplace coverage is difficult. The agency has, however, specifically estimated that 1.3 million marketplace enrollees improperly claimed the premium tax credit via intentional overstatement of income for 2023; 2.3 million enrollees did so for 2025. CBO is able to estimate the extent of such misrepresentation because it appears in enrollment data as an unusual concentration of enrollees reporting income just above the FPL.

CBO's estimates are informed by statistics from several sources:

- A disproportionate number of enrollees reported income just above the FPL in 2023. Enrollment data from HealthCare.gov analyzed by CBO showed that 1.7 million people reported income between 100 percent and 105 percent of the FPL in states that had not expanded Medicaid in 2023. That group is 2.6 times larger than the group reporting income between 105 percent and 110 percent of the FPL. CBO's analysis of data from the American Community Survey also indicates that there were more enrollees with income between 100 percent and 105 percent of the FPL in states that did not expand Medicaid than there were people with income in that same range who were not enrolled in employment-based coverage or Medicaid and, as such, may have been eligible for the tax credit.⁶
- Using data from the Centers for Medicare & Medicaid Services, CBO estimates that the number of marketplace plan selections for people who reported income between 100 percent and 138 percent of the FPL increased from 4.3 million to 7.1 million between the 2023 and 2025 open enrollment periods.⁷ In CBO's estimates, the number of people reporting income just above the FPL increased proportionally.
- Estimates from the staff of the Joint Committee on Taxation indicate that 1.6 million (39 percent) of the 4.2 million enrollees who initially

6. Census Bureau, "American Community Survey Data" (last updated July 31, 2024), www.census.gov/programs-surveys/acs/data.html.

7. Centers for Medicare & Medicaid Services, "2025 Marketplace Open Enrollment Period Public Use Files" (last updated May 12, 2025), <https://tinyurl.com/4wjp3sck>, and "2023 Marketplace Open Enrollment Period Public Use Files" (last updated March 3, 2025), <https://tinyurl.com/2p3vt6mw>.

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reported income below 150 percent of the FPL and received an advance premium tax credit in 2023 ultimately had income below the FPL.

Those estimates confirm that a large share of enrollees who reported income below 150 percent of the FPL eventually earned income that was below the FPL. The estimates do not identify how many enrollees initially overreported their income.

CBO's baseline projections account for the expiration of the expanded premium tax credit at the end of calendar year 2025. That expansion initially was authorized by the American Rescue Plan Act of 2021 and extended under the 2022 reconciliation act. Because the expiration of the expanded credit will increase enrollees' out-of-pocket costs for premiums, the incentive to enroll in marketplace coverage is expected to abate and, in CBO's January 2025 baseline projections, the number of people who overstate their income declines.

Effects of the 2025 Reconciliation Act. By CBO's estimation, several provisions in the law will reduce the improper receipt of marketplace subsidies.

Beginning in 2028, people must verify their household income, family size, health coverage status, and other information before enrolling in marketplace coverage and becoming eligible for an advance premium tax credit. That requirement will reduce improper receipt of marketplace subsidies among enrollees who, under current reenrollment procedures, would have been automatically reenrolled without updating their information and who, had they done so, would have received a smaller subsidy or none at all.

That provision also makes it less likely that a Medicaid enrollee will simultaneously enroll in subsidized marketplace coverage and makes it more difficult for brokers, agents, or others to enroll people in marketplace coverage without their knowledge.

Beginning in 2026, the act disallows the premium tax credit for people who enroll in marketplace coverage during a special enrollment period for people whose income is at or below 150 percent of the FPL. That provision reduces the incentive for people who do not enroll during open enrollment to misstate their income to gain access to a special enrollment period. It also may reduce the total commissions brokers, agents, or others expect to earn by enrolling people during a special enrollment period without their knowledge.

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Another provision eliminates the limitation on repayment of the advance premium tax credit, which reduces the incentive for people who are eligible for marketplace subsidies to understate their income in order to claim a larger credit. It does not reduce the incentive to understate income in order to receive subsidies that reduce cost sharing.

Effect of the June 2025 Final Rule for Marketplace Enrollments. Several provisions of the final rule published by the Department of Health and Human Services in June 2025 will reduce improper receipt of marketplace subsidies by requiring enrollees to take specific actions to verify their eligibility. As a result, the number of people improperly receiving subsidies is expected to decline.

One provision of the rule, which applies only in 2026, requires enrollees to provide additional income verification when the income they report is above the FPL but other information shows that their income is below that threshold. A similar policy instituted for the 2019 plan year was declared invalid by a March 2021 judicial decision.⁸

In CBO's assessment, if the income verification provision had been in place in 2025, the number of people receiving marketplace subsidies would have been reduced by 500,000. The agency used enrollment under the 2019 income verification requirements as a guide for that estimate.

Additional income verification will not eliminate all improper enrollment in 2026 among people who report income near the FPL, for several reasons:

- Verifying enrollees' future income is difficult.
- Many enrollees who report income near that threshold will not be identified for additional verification because their income was higher in the recent past.
- The documentation requirements of the income verification process do not completely eliminate the ability to overstate income. In some instances, if an enrollee cannot provide other verification of income, for example, a marketplace could accept a signed letter of explanation.

8. *City of Columbus v. Cochran*, 523 F. Supp. 3d 731, 761–763 (D. Md. 2021).

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CBO expects that the income verification processes under the 2025 final rule will lead some otherwise eligible people to forgo claiming the premium tax credit. Specifically, CBO anticipates that people would be identified to provide additional income verification if they expect their future income to be above the FPL but their recent income is below that threshold. In such cases, CBO estimates, fewer than 100,000 people either would be unable to or would choose not to verify their income in order to claim the premium tax credit.

I hope this information is useful to you. Please contact me if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip L. Swagel", with a long, sweeping horizontal line extending to the right.

Phillip L. Swagel
Director

cc: Honorable Brendan F. Boyle
Ranking Member
House Committee on the Budget

Honorable Frank Pallone, Jr.
Ranking Member
House Committee on Energy and Commerce

Honorable Richard E. Neal
Ranking Member
House Committee on Ways and Means