



Written Statement for the Record by
Families USA
For the U.S. House of Representatives
Committee on Ways and Means
Hearing on the Verification of Income and Insurance Information Under the Affordable
Care Act
Tuesday, June 10th, 2014

Since 1982, Families USA has worked to promote access to affordable, high-quality health care for all Americans. The Affordable Care Act took an enormous step forward to provide that care to people who were previously shut out of the health insurance market.

Background on the Application System

The Affordable Care Act envisioned a modern, streamlined application system for health insurance and premium tax credits that would avoid the need for people to bring shoeboxes full of documents into government offices. As with any large new program, it took a while to make that new system a reality. But the marketplace succeeded in reaching its enrollment targets by the close of the enrollment period and allowed millions of Americans to complete the application process online, with help from trusted community assisters.

Generally, the online application confirms eligibility using the follow process:

- 1) An applicant answers a series of questions about who is applying for coverage, his or her address, whether he or she wants financial help, whether the applicant is a citizen or lawful resident, the income of members of the tax household, and whether the members of the household who want financial help with marketplace insurance have offers of employer-sponsored coverage. The applicant signs that, under penalty of perjury, he or she has provided true information to the best of his or her knowledge.
- 2) The marketplace searches a data hub to confirm the accuracy of the information. If documents that are already available to the government match the applicant's attestation,¹ the

¹ Rules define an inconsistency that has to be reconciled as a discrepancy in income of 10 percent or more that would make a difference as to eligibility. If a person is not income-eligible for premium tax credits and would not be found eligible regardless of which data source was used, the difference does not need to be reconciled.

application is confirmed. If information in the data hub does not match the applicant's attestation, the applicant has 90 days to provide additional documents.ⁱ For example, the applicant might provide a W-2 form, paystub, or letter from an employer to verify his or her current income. (Healthcare.gov provides a list of acceptable verification documents here: <https://www.healthcare.gov/help/how-do-i-resolve-an-inconsistency/>.) The applicant can do this by uploading the documents or by mailing them to the marketplace processing center. This period for "resolving inconsistencies" provides a critical due process protection to consumers while ensuring that the marketplace obtains the necessary verification.

Meanwhile, the initial assessment of eligibility is based on the applicant's attestation. If the applicant's identity has been verified and the person appears to be eligible for advance premium tax credits, the person can enroll in a plan with those tax credits. The applicant is also warned that he or she may have to pay back money at tax time, or may be able to get more assistance at tax time, if the amount that he or she receives in advance is not correct.

3) After the marketplace reviews any further documentation that the applicant sends, if documents show that the person is not receiving the correct amount of advance premium tax credits, the marketplace will adjust the amount of those tax credit payments for the remainder of the year.

Inconsistencies Are Not a Big Deal

Reports have shown that, for about 2 million enrollees, the marketplace is in the process of resolving inconsistencies between the documentation previously on file with government agencies and the information applicants provided.ⁱⁱ We expect that, in the overwhelming majority of these cases, the marketplace will ultimately determine that enrollees are entitled to about the same amount of assistance as they currently receive.

Here is why.

Income inconsistencies: CMS reports that the federal marketplace is still reconciling income inconsistencies for 1.2 million enrollees. *Because the income data that are readily available to the government are old, we expect that the information people record on their applications will generally be more accurate and up-to-date than the information that marketplaces find in the data hub.*

Applicants must project their 2014 adjusted gross income on their application forms. In fact, they are *supposed to* guess their future income.ⁱⁱⁱ They are told that their final premium tax credits will be adjusted based on their actual 2014 incomes when they file their taxes, and they have the option of taking less than the full amount of tax credits in advance if they do not want to risk repayment. (Some state marketplaces, such as the District of Columbia's HealthLink, help applicants decide whether to take less than the full amount of tax credits in advance. The District's website provides as a default option that applicants will take 85 percent of their tax credit in advance.)

The federal data hub provides information from a 2012 tax return and from Social Security records. Marketplaces can also check wage information from employers that is provided by Equifax, an employment verification service, but not all employers provide information to Equifax. Therefore, in many cases, the information that applicants mail or upload in response to a request to resolve an inconsistency will be better, more recent income information that more closely matches their applications than information previously available to the government through electronic databases.

Income inconsistencies may also arise for people with irregular income. For example, a construction worker is paid by the job. This year, he may not have gotten much work during the snowy winter, but he guesses he'll have more income for the remainder of the year. He may therefore project a higher total income for 2014 on his application than the available databases indicate and may therefore take a lower amount in advance premium tax credits.

Citizenship and immigration inconsistencies: CMS reports that it is still reconciling 461,000 inconsistencies about citizenship information and 505,000 inconsistencies about immigration information. This is due to ongoing technical problems: The electronic verification system is still not working properly. These problems are not the fault of the applicants, who have provided the information they were asked to provide. Many of the current inconsistencies simply reflect that the documentation provided by applicants has not yet been processed by the agency. Due to the nature of these inconsistencies, it is highly likely that, once processed, eligibility will be confirmed for these cases.

People are eligible for marketplace coverage if they are citizens, nationals, or lawfully present in the United States. This information must be verified.

For individuals who attest to being a U.S. citizen, the system first attempts to verify citizenship using the applicant's Social Security number and querying the Social Security Administration (SSA). However, because of deficiencies in the SSA database (which is not updated when an individual naturalizes), many naturalized citizens cannot be verified through SSA. If SSA cannot verify citizenship, the system attempts to verify the individual's citizenship with U.S. Citizenship and Immigration Services (USCIS) using their SAVE system.

Lawfully present individuals must provide information from immigration documentation they've received from the Department of Homeland Security. Using this information, the system attempts to verify immigration status with USCIS using SAVE. There are many transfers of data throughout this process: the marketplace → federal data services hub → SAVE → the federal data hub → the marketplace. At any of these transfer points, there may be a problem with the electronic interface and the exchange of information that results in a glitch that creates a problem in the verification process.

Initially, additional technical problems included an application glitch in the federal marketplace: Even when all the information from an individual's immigration document was entered, the system didn't recognize it and wasn't able to process the information. In some cases, slight misspellings of names or the inclusion of a middle initial or hyphenated name may have thrown off a search.

Workarounds were developed and have evolved. For example, sometimes it helped to enter the information in all capital letters, and sometimes it helped to leave off hyphens or to leave out certain information. Therefore, the marketplace asked many applicants to submit additional documentary evidence of their immigration status simply because the marketplace's electronic interfaces were not working. Applicants responded (and continue to respond) by uploading documents or by mailing copies of their immigration documents to the federal processing center. [Here's a [link](#) to a list of accepted immigration documents: Permanent Resident Card or green card, Employment Authorization Document and Arrival/Departure Record or I-94 are probably the most common.]

We know from assisters and immigration advocacy organizations that many consumers who have submitted these documents are still awaiting notice that their documents have been received and processed. This accounts for a large number of the "inconsistencies" that are currently being resolved. In fact, inconsistency is a misnomer for these situations—the government is simply trying to obtain or process documentation for cases in which it had problems accessing electronic data.

Verification of Employer-Based Coverage

The Affordable Care Act makes premium tax credits available to people in the individual market who have financial need for premium assistance and who do not have an affordable offer of minimum-value coverage through their employers. We support this aspect of the law: It does not supplant employer-based coverage, rather, it makes coverage available to people who previously could not get coverage either through their employers or through the individual market due to cost or their health conditions. With the protections of the Affordable Care Act, people no longer are locked into jobs to get health insurance—they can work for themselves or start a new business. Workers in small firms that did not provide coverage before can also buy coverage, and low- and middle-wage workers whose employers do not offer coverage can get premium tax credits.

Applications for premium assistance therefore require applicants to provide information about any available employer-sponsored coverage. They can use an "employer coverage tool" to get the relevant information from their employers. Unless the marketplace receives contradictory information (for example, through data on coverage that is offered to federal employees), it generally accepts the applicants' attestation about available coverage. Rules require the marketplace to conduct further verification of employer-sponsored coverage offers for a random sample of enrollees.

Going forward, we believe that some aspects of the rules pertaining to employer-sponsored coverage should be improved. We know from assisters that some applicants tried, in good faith, to provide information about their employer-sponsored coverage, but they or their employers did not understand some of the requirements.

In particular, if dependents can be covered on the employer's plan, and the employee's share of premiums is affordable, the rules ban the entire family from getting premium tax credits—even if the employer contributes little or nothing to dependents' coverage and the dependents do not enroll in the employer's plan. This "family glitch" defies logic and fairness, and we know that applicants may not have

understood or provided correct information about employers' offers of dependent coverage. This was not anticipated^{iv} and should be fixed through regulation or legislation.

In addition, some applicants had difficulty getting their employers to complete the coverage tool at all. Applicants would be able to provide more accurate information if, during open enrollment season, they automatically received relevant information from their employers about available employer-sponsored coverage. Enhancements to the Summary of Benefits and Coverage could help with this in future years.

Reconciliation

The Affordable Care Act distinguishes advance premium tax credits from final premium tax credits. When people file their taxes, they list their actual income for the year, and if that differs from the income they predicted, they may get more in premium tax credits than they took in advance, or they may have to pay back a portion of the premium tax credits that they took in advance. Thus, as CMS resolves inconsistencies between documents and applications, if people actually did get more or less assistance than they should have, two mechanisms will resolve any over- or underpayments: First, the marketplace will adjust premium tax credits for the remainder of the year. Second, discrepancies will be corrected through reconciliation.

As noted, we believe that, once all verification is complete, the marketplace will not find major discrepancies in the amounts *most* consumers should receive in premium tax credits. But we share concerns that the longer the process of verifying and resolving inconsistencies takes, the more *some* consumers will owe when they reconcile their tax returns.

Congress can work in a bipartisan way to minimize the effects of reconciliation on consumers who tried, in good faith, to maintain health insurance and obtain the proper amount of premium assistance. When the Affordable Care Act was passed, repayments for families with income below 400 percent of the federal poverty line were capped at \$400 annually.^v In later years, Congress revised the reconciliation caps so that they were scaled to income but increased to \$2,500 for a family with income below 400 percent of poverty.

Congress should again consider providing more protective caps on reconciliation, either on a temporary or permanent basis; disregarding inconsistencies that were resolved within a few months; or disregarding certain types of inconsistencies, such as those that reflect minor mistakes in an employer coverage tool. We would be glad to work with you on such an initiative.

ⁱ 45 CFR 155.315.

ⁱⁱ June 5, 2014, compilation of news stories on Kaiser Health News, <http://www.kaiserhealthnews.org/Daily-Reports/2014/June/05/health-law-application-vexation.aspx>.

ⁱⁱⁱ The application asks the following questions about income:

“Wages/tips (before taxes) Hourly Weekly Twice a month Monthly Yearly

In the past year, did you Change jobs Stop working Start working fewer hours None of these

If self employed, answer the following questions: a) Type of work; b) How much net income (profits once business expenses are paid) will you get from self-employment this month?

Other income this month [a list of options includes unemployment, social security, etc.]

Yearly income: Complete only if your income changes from month to month: Your total income this year; your total income next year (if you think it will be different).”

^{iv} Letter from Members Levin, Waxman, Miller, Stark, Pallone, Andrews and Dingell to Secretary Timothy Geithner, December 6, 2011.

^v Patient Protection and Affordable Care Act Section 1401(f)(2)(B).