

United States Senate

WASHINGTON, DC 20510

October 23, 2019

Hon. Seema Verma
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Administrator Verma:

I write to share my concern regarding an Advance Premium Tax Credit (“APTC”) issue that threatens the payment of APTCs due to nearly 1,000 taxpayers per year. CMS has the ability to fix this issue, and I urge you to do so with all possible speed.

For a taxpayer who chooses to receive her APTC as part of her income tax refund, CMS may generate information incorrectly informing the IRS that the taxpayer’s second-lowest cost silver premium (“SLCSP”) is zero. A taxpayer who receives her APTC as part of her refund depends on CMS to report an accurate SLCSP to the IRS. By reporting a taxpayer’s SLCSP as zero, CMS incorrectly informs the IRS that the taxpayer is not entitled to an APTC. Through communications between my staff and CMS, I understand that an underlying data issue causes this problem.

Taxpayers who choose to receive their APTCs as part of their income tax refund are as entitled to receive the credits as taxpayers who elect to receive their APTCs up front are. Yet, CMS has failed to correct a known error that may deprive nearly 1,000 taxpayers per year of their credit. Taxpayers who do not receive their APTCs automatically often must engage with the IRS in an arduous, time-consuming, and costly process to prove that they are, in fact, entitled to the credits. These hard-working families can ill afford what can be a years-long delay in receiving the credits to which they are entitled.

I understand that the IRS has posted information on its website to help taxpayers determine their correct SLCSP premiums. The instructions that the IRS has posted are complicated and are buried within a 20-page document. Simply finding the instructions likely would require the assistance of a tax professional – assistance that many APTC claimants cannot afford. Taxpayers cannot fix the SLCSP data issue if they do not know that a solution exists.

Accordingly, I urge you to fix the underlying data issue that causes SLCSP misreporting immediately. I also ask that you answer the following questions within 30 days:

1. When can taxpayers expect CMS to fix the SLCSP misreporting issue?
2. After CMS fixes the SLCSP misreporting issue, does CMS intend to send corrected 1095-A forms to all affected taxpayers? If CMS does not intend to do so, then why does it not?
3. Does CMS widely inform citizens about the SLCSP misreporting issue? If not, when can potentially affected citizens expect CMS to inform them about the problem and about how affected citizens can fix it today?

Please direct your staff to contact Megan DesCamps (202-228-1466) or Alex Porter (202-228-1467) in my office with any questions. I look forward to your response.

Sincerely,



ANGUS S. KING, JR.
United States Senator