

July 19, 2019

Dear Issuer,

Thank you for your participation in the 2014 Federally-facilitated Exchange (FFE). The Centers for Medicare & Medicaid Services (CMS) takes the stewardship of taxpayer dollars seriously, and these audits are one part of a robust program integrity framework that CMS uses to ensure accuracy of the advance payments of the premium tax credit (APTC) payments to issuers. This letter also lays out several steps for issuers to take to continue to support the program integrity of APTC payments and collection of user fees (UF).

As part of CMS's continuing efforts to improve data quality and review program operations, this letter aims to share insights from the 2014 benefit year audit, which was the first year of CMS' audit program, and to encourage all issuers to re-examine their 2014 and 2015 benefit years data to confirm the accuracy and integrity of the final issuer-submitted enrollment and payment data reported for the APTC and FFE user fee programs.

### **Background**

For the 2014 and 2015 benefit years, CMS paid and collected payments from issuers in all states via an attestation model whereby issuers submitted manual enrollment and payment data workbooks to CMS and attested to the accuracy of the submission supporting APTC payments made by CMS and the collection of FFE user fees. CMS established an audit program as part of its program integrity framework to validate the enrollment and payment data reported on the final issuer-generated workbook submission, and to analyze controls and policies of selected issuers pursuant to the authority defined in CMS's regulations and guidance.

### **APTC and FFE User Fee Audit Objectives**

CMS's audit program was designed to efficiently use audit resources and minimize industry burden, while providing careful oversight of Federal funds.

The objectives of the APTC and FFE user fee audits were to:

- (1) Evaluate the accuracy and integrity of issuer-generated enrollment and payment workbook data reported for the APTC and FFE user fee programs;
- (2) Identify potential CMS payment errors for the APTC program and FFE user fees resulting from issuer data reporting errors; and
- (3) Test accuracy and integrity of processes for reducing an enrollee's share of premium to account for APTCs.

## Audit Schedule and Results

CMS completed a total of 33 FFE issuer audits as part of our 2014 benefit year FFE APTC/UF audit program. Despite the limitations of the interim manual payment process, in the sample of issuers tested, CMS generally found a high degree of industry compliance with CMS's regulations and guidance governing the APTC and FFE user fee programs for the 2014 benefit year. The net refund to CMS resulting from the 33 audits was approximately \$5 million, representing 0.1% of total payments to the audited issuers. The reports detailing findings from each of these issuer audits are available on the [CCIO web page](#). Additionally, CMS is currently conducting 35 FFE issuer audits for the 2015 benefit year. CMS is also conducting 30 State-based Exchange (SBE) issuer audits as part of our 2014 benefit year audit program as well as 35 SBE issuers for the 2015 benefit year.

As part of CMS's continuing efforts to improve data quality and review program operations, this letter aims to share insights from the 2014 benefit year audit, which was the first year of CMS' audit program, and to encourage all issuers to re-examine their 2014 and 2015 benefit years data to confirm the accuracy and integrity of the final issuer-submitted enrollment and payment data reported for the APTC and FFE user fee programs. As you know, during the 2014 benefit year FFE audit, when the audit resulted in an update to the final enrollment and payment data, CMS adjusted both the APTC payment amount and the FFE user fee amount upwards or downwards, as applicable.

The minor errors in payment identified through the 2014 benefit year audits were typically a result of one of the following findings:

- **Retroactive activity, appeals, and casework enrollment updates that occurred following 2014 restatements:** CMS's final 2014 enrollment and payment workbook restatement opportunity was in November 2016 and issuers were instructed to report any changes after that date via an exceptions process that began in 2017. However, retroactive changes for 2014 coverage were reported and identified (such as Health Insurance Casework System casework) through the audit process.
- **Duplicate records:** Issuers incorrectly received APTC payments and remitted FFE user fees for Exchange-assigned subscriber IDs that were reported with full month payment data twice in the same month.
- **Non-effectuated/cancelled enrollments:** Issuers received APTC payments and remitted FFE user fees for enrollments that were not effectuated or were cancelled.
- **Issuer errors in the application of the grace period:** Issuers received APTC payments and remitted FFE user fees for the second and third months of expired grace periods.
- **Issuers reporting the premium = APTC for the first month of a grace period:** Issuers remitted understated FFE user fees as they lowered the premium in their own systems to equal the amount of APTC in the first month of the grace period to account for the loss of unpaid premium, which resulted in an under-payment of FFE user fees to CMS.

To ensure accurate payment, we ask that you:

- Investigate your 2014 benefit year enrollment and payment data in your system to determine whether the minor payment errors listed above, or any other issues or changes

that impacted your organization's enrollment and payment data submission to CMS. If your 2015 benefit year enrollment and payment data is not currently being audited by CMS, please investigate your 2015 data in the same manner.

- Pursuant to [45 CFR § 156.1210](#), issuers may identify payment discrepancies and submit their requests through this process. If any enrollment, APTC or FFE user fee variances for the 2015 (or 2014) benefit year are identified as a result of your investigation, please submit a request for a payment adjustment through the exceptions process by emailing the required information to [marketplacepayments@cms.hhs.gov](mailto:marketplacepayments@cms.hhs.gov) with a subject line of "Request for Exceptions Process" by November 30, 2019 for 2014 benefit year results; and November 30, 2020 for 2015 benefit year changes. Please review the attached guidance for CMS's exceptions process for more information.
- If no enrollment, APTC or FFE user fee variances for the 2014 or 2015 benefit year are identified as a result of your investigation, please email us at [marketplacepayments@cms.hhs.gov](mailto:marketplacepayments@cms.hhs.gov) by November 30, 2019 noting that you have no changes to your 2014 and 2015 user fee collections and APTC payments.

### **Compliance with CMS Enrollment Regulation and Guidance**

In its 2014 benefit year audits, CMS did not penalize issuers for non-compliance with its enrollment and premium collection policies laid out in [45 CFR § 155.400\(e\)](#), and [45 CFR § 155.400\(g\)](#), and [45 CFR § 156.270\(g\)](#) and the [FFE Enrollment Manual](#), provided the issuer acted in good faith. **Please note that, consistent with the expiration of the good faith policy at [45 CFR § 156.800\(c\)](#), CMS may begin imposing civil money penalties for violations of these and other policies identified through audit, particularly in connection with audits of the 2020 and future benefit years.** To assist issuers in identifying and correcting instances of non-compliance with CMS enrollment policy, CMS will collect and retain information regarding issuer non-compliance with [45 CFR § 155.400\(e\)](#), [45 CFR § 155.400\(g\)](#), and [45 CFR § 156.270\(g\)](#) and the [FFE Enrollment Manual](#) found during audits of APTC and UF payment for each benefit year.

### **2016 Audits under Policy-based Payments**

Later this year, CMS will begin audits of 2016 benefit year's APTC payments and user fees. In preparation for and to minimize potential financial impacts of these audits, CMS is providing an opportunity for issuers to compare their 2016 benefit year FFE individual market enrollment data with the current state of 2016 benefit year enrollment data on the FFE via an off-cycle enrollment reconciliation process. Issuers will also be able to submit any 2016 benefit year discrepancies to Enrollment Resolution and Reconciliation (ER&R) without an account manager approval during this timeframe.

Although these off-cycle runs are optional, all issuers that were active on an FFE in 2016 are strongly encouraged to participate to identify any outstanding discrepancies between issuer and FFE enrollment data. CMS will be reviewing discrepancy statistics on issuers' reconciliation data as one risk factor for 2016 benefit year audit selection.

Please use these findings to update your periodic data monitoring activities, as applicable, and contact CMS directly at [marketplacepayments@cms.hhs.gov](mailto:marketplacepayments@cms.hhs.gov) with any questions or concerns. We appreciate your continued cooperation throughout this audit process.

Sincerely,

Elizabeth Parish  
Acting Director, Payment Policy & Financial Management Group  
Centers for Medicare & Medicaid Services