

The Honorable Gene L. Dodaro  
Comptroller General of the United States  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

October 5, 2021

Dear Comptroller General Dodaro:

Under the Patient Protection and Affordable Care Act (PPACA, PL 111-148), individuals who enroll in qualifying health plans through federal and state marketplaces may be eligible for the premium tax credit (PTC). Enrollees may elect for the federal government to pay health plan issuers this credit directly in order to offset premium costs. When paid directly to issuers, this credit is referred to as an advance premium tax credit (APTC).

The PTC program represents a significant financial commitment for the federal government. According to the most recent estimates from the Congressional Budget Office, PTCs cost over \$53 billion in 2019 in subsidy outlays and lost tax revenue.<sup>1</sup> The annual expenditures for these tax credits are only projected to increase, as the recent American Rescue Plan Act (ARPA) increases premium tax credits for all recipients through 2022, and raises the income cutoff to qualify for the credit.<sup>2</sup> The reconciliation bill that House Democrats have recently introduced will only increase these expenditures by making the ARPA changes permanent.

Concerns have been raised over the susceptibility of the PTC program to fraud and improper payments. GAO has previously published a number of products on Affordable Care Act marketplaces' eligibility determination processes and indicators of potential fraud in these marketplaces. These reports identified challenges with verifying applicant eligibility, such as verifying Social Security numbers and identifying deceased individuals, in both federal and selected state marketplaces. For example, in its 2017 summary report, GAO concluded that the Centers for Medicare and Medicaid Services (CMS), which operates the PTC program, had failed to properly design control activities to detect and prevent improper APTC payments, such as verifying individuals' eligibility.<sup>3</sup> Further, undercover GAO investigations were able to obtain PTC-subsidized coverage for fictitious applicants using fraudulent documentation.<sup>4</sup> As a result, GAO has recommended CMS take actions to better monitor costs and assist in tax compliance, such as implementing procedures to validate Social Security

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<sup>1</sup> Congressional Budget Office, *Federal Subsidies for Health Insurance Coverage for People Under Age 65: 2019 to 2029* (Washington, D.C.: May 2019).

<sup>2</sup> "American Rescue Plan and the Marketplace," (March 12, 2021), accessed July 16, 2021, <https://www.cms.gov/newsroom/fact-sheets/american-rescue-plan-and-marketplace>.

<sup>3</sup> GAO, *Improper Payments: Improvements Needed in CMS and IRS Controls over Health Insurance Premium Tax Credit*, GAO-17-467 (Washington, D.C.: July 13, 2017).

<sup>4</sup> *Patient Protection and Affordable Care Act: Final Results of Undercover Testing of the Federal Marketplace and Selected State Marketplaces for Coverage Year 2015*, GAO-16-792 (Washington, D.C.: Sept. 9, 2016); GAO, *Patient Protection and Affordable Care Act: Results of Undercover Enrollment Testing for the Federal Marketplace and a Selected State Marketplace for the 2016 Coverage Year*, GAO-16-784 (Washington, D.C.: Sept. 12, 2016); and GAO, *Patient Protection and Affordable Care Act: Results of Enrollment Testing for the 2016 Special Enrollment Period*, GAO-17-78 (Washington, D.C.: Nov. 17, 2016).

numbers.<sup>5</sup> Since issuing these products, CMS has conducted a fraud risk assessment and taken additional steps to address GAO's recommendations.

In its own investigation, the Department of Health and Human Services' Office of Inspector General estimated that \$950 million in authorized APTCs were unallowable because they were made on behalf of enrollees who had not made their required premium payments, and thus did not qualify for ongoing credits.<sup>6</sup> Moreover, the full extent of improper PTC payments is still unknown, as CMS has not yet conducted a full estimate of the problem. So, despite taking some actions in response to GAO's recommendations, CMS has yet to sufficiently protect taxpayer dollars from fraud in the PTC program.

Given the various eligibility and other control vulnerabilities in the PTC program identified by GAO and others, we are interested in additional program oversight to help determine what further controls are required to help CMS establish an effective means to estimate improper payments.

Given our continued concerns, we ask that you determine the extent to which:

- (1) selected states and the federal government have effectively designed internal controls to prevent improper payments with the APTC for the state exchanges; and
- (2) CMS has designed an effective methodology to estimate improper payments, identify root causes and develop corrective actions, and what barriers, if any, are preventing CMS from executing the methodology.

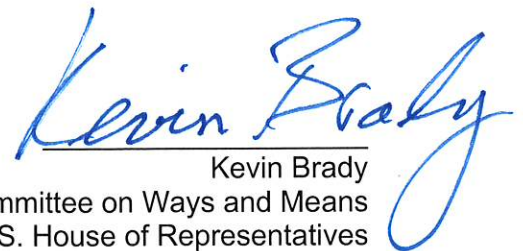
We appreciate your prompt attention to this request and look forward to working with you on this issue of great interest to our committees. As appropriate, please contact Caleb Graff at 202-225-3641 and Nolan Ahern at 202-225-5204 to discuss this request.

Sincerely,



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Mike Crapo  
Ranking Member, Committee on Finance  
U.S. Senate



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Kevin Brady  
Ranking Member, Committee on Ways and Means  
U.S. House of Representatives

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<sup>5</sup> *Patient Protection and Affordable Care Act: CMS Should Act to Strengthen Enrollment Controls and Manage Fraud Risk*, GAO-16-29 (Washington, D.C.: Feb. 24, 2016).

<sup>6</sup> Department of Health and Human Services, Office of Inspector General, *CMS Authorized Hundreds of Millions of Dollars in Advanced Premium Tax Credits on Behalf of Enrollees Who Did Not Make their Required Premium Payments*, A-02-19-02005 (Washington, D.C.: March 2021).