



Advance Payments of the Premium Tax Credit (APTC) and Federally-facilitated Exchange (FFE) User Fee Program Assessment Report

for

Blue Cross and Blue Shield of Alabama

March 22, 2023

I. EXECUTIVE SUMMARY

Sections 1401 and 1412 of the Affordable Care Act (ACA) established the advance payments of the premium tax credit (APTC) program to support the provision of affordable health care coverage to individuals. Additionally, section 1311 of the ACA allows the Federally-facilitated Exchanges (FFE) to charge participating issuers user fees to support FFE operations.

Under title 45 of the Code of Federal Regulations (CFR), sections 156.480 and 156.705, the Department of Health and Human Services (HHS) may audit issuers that offer a Qualified Health Plan (QHP) in the individual market through an Exchange to assess the degree of compliance with the APTC and FFE user fee program requirements. The Centers for Medicare & Medicaid Services (CMS) established an audit protocol to assess health insurance issuers' compliance with the following regulations governing APTC and FFE user fee programs and other related applicable Exchange operational standards:

- 45 CFR § 155.400: Enrollment of qualified individuals into QHPs;
- 45 CFR § 155.430: Termination of Exchange enrollment or coverage;
- 45 CFR § 156.50: Financial support;
- 45 CFR § 156.270: Termination of coverage or enrollment for qualified individuals;
- 45 CFR § 156.460: Reduction of enrollee's share of premium to account for advance payments of the premium tax credit;
- 45 CFR § 156.480: Oversight of the administration of the cost-sharing reductions and advance payments of the premium tax credit programs; and
- 45 CFR § 156.705: Maintenance of records for Federally-facilitated Exchanges.

This report is an assessment of Blue Cross and Blue Shield of Alabama (BCBSAL)'s compliance with the APTC and FFE user fee programs. BCBSAL is a health insurance issuer that offered QHPs in the individual market on the FFE in Alabama during the 2019 benefit year. The issuer received a total of \$955,607,361.43 in APTC from CMS and paid a total of \$39,176,742.95 in FFE user fees to CMS for the 2019 benefit year. The payment amounts were calculated using CMS's automated payment system, policy-based payments (PBP). Additionally, the issuer paid a total of \$136.50 in FFE user fees for its 2019 benefit year Unaffiliated Issuer Enrollments (UIEs) that could not be resolved through the standard FFE reconciliation and resolution process.

Based on the assessment of BCBSAL's program participation, if CMS found any instances of issuer non-compliance with APTC and FFE user fee program requirements that requires correction to payment, then CMS classified it as a *finding* in section III. If CMS found a deviation from APTC and FFE user fee program requirements that does not require correction to payment, then CMS categorized it as an *observation* in section IV in order to call management's attention to the issue(s) for purposes of improving compliance in future program years.

As noted in the Payment Policy and Financial Management Group (PPFMG) External Audit Communication letter dated July 19, 2019, consistent with the expiration of the good faith policy at 45 CFR § 156.800(c), CMS may begin imposing civil money penalties (CMPs) for observations identified beginning with benefit year 2020 audits.

II. BACKGROUND AND AUDIT METHODOLOGY

A. PBP Background

Starting in 2016, CMS implemented an automated PBP system to support the collection of FFE user fees and to make monthly payments of APTC. The PBP system calculates the payment and charge amounts based on enrollment information at the policy level. CMS and issuers use the X12 standard 834 enrollment transaction in real time to exchange FFE enrollment data. To confirm the accuracy and consistency of the FFE enrollment data that CMS uses to make automated payments, CMS also conducts a monthly enrollment reconciliation process. CMS provides a Pre-Audit File to issuers containing a snapshot of the FFE database for the benefit year, and issuers respond by submitting an Inbound Reconciliation (RCNI) File to CMS that contains the benefit year's enrollment data as reflected in the issuer's systems. As a part of the reconciliation processes, CMS reconciles the RCNI file with the Pre-Audit File using a set of business rules that reflect CMS's enrollment policy to determine whether updates were required. This process implements a complex set of business rules to determine which issuer enrollment updates are accepted or rejected. The output of the comparison, the Outbound Reconciliation (RCNO) File, is sent to issuers to show which records CMS anticipates updating in the FFE database and which records CMS is directing the issuer to update in their systems. CMS conducted this enrollment reconciliation process for the 2019 benefit year from December 2018 through March 2020.

CMS provided a final opportunity for issuers to compare their 2019 FFE individual enrollment data with the current 2019 enrollment data in the FFE database, via an optional off-cycle enrollment reconciliation process. Unlike typical enrollment reconciliation runs, CMS did not update FFE enrollment data based on the off-cycle enrollment reconciliation. Instead, issuers were encouraged to submit disputes for any outstanding discrepancies resulting from the off-cycle enrollment reconciliation processes that required updates to FFE data.

B. Audit Methodology

On January 22, 2021, BCBSAL was notified by CMS that they were selected for audit for the 2019 benefit year. Once selected, CMS required the submission of a new RCNI file that contained the 2019 benefit year individual market enrollment data as currently reflected in the issuer's systems. CMS also required the submission of policies and procedures, policy documentation for selected samples of policies, and a Premium Payment Data Extract containing premium payment data from the issuer's system for a selected sample of policies. Using the issuer provided data files and documentation, the following audit procedures were performed to assess compliance with APTC and FFE user fee program rules and regulations.

Validations of PBP Payments/Charges based on Data Reported in CMS's Systems through Enrollment Reconciliation

For purposes of the audit, the issuer submitted an updated RCNI file that reflected a current snapshot of individual market enrollment data for the 2019 benefit year. During the audit, CMS reconciled the issuer provided RCNI file with the Pre-Audit File representing the most recent FFE data as of the beginning of the audit to identify any data differences and used the output of the comparison (the audit RCNO file) as the basis for performing the checks in its audit procedures to validate PBP payments. CMS executed audit procedures to identify the policies that have a financial impact listed in section III of this report. CMS referred to its enrollment policy and PBP requirements to develop the audit protocols that determine

whether the discrepancies identified through these reviews and comparisons required adjustment to payment¹. Data differences identified between the issuer's enrollment records and the FFE data in the audit RCNO file were reviewed and communicated to the issuer for resolution or confirmation as part of the audit process. Any policies with the following remaining confirmed data differences that required adjustment to payment after the completion of this process are detailed in an Excel file provided to BCBSAL in conjunction with the draft report:

- 1) Coverage status: Policies that were effectuated in CMS's data but not the issuer's data or vice-versa (referred to as "CMS Unreconciled" or "Issuer Unreconciled", respectively);
- 2) Coverage dates: Policies where the dates of coverage did not align between CMS and the issuer (referred to as "CMS Extra Coverage" or "Issuer Extra Coverage"); and/or
- 3) Financial differences: Policies where premium and resulting FFE user fee and/or APTC amounts differed between CMS's data and the issuer's data (referred to as "Financial Differences with/without Coverage Differences").

Validations of the Correct Application of CMS Enrollment Policy

Using the policy documentation, data files, and policies and procedures provided by the issuer, CMS executed audit procedures to identify the observations listed in section IV of this report. The reviews include the Forty-Five (45) Subscriber Sample Policy-level Documentation Review, Premium Payment Data Extract Validation, and Policies and Procedures Review.

CMS conducted a discrepancy phase following execution of the audit procedures detailed above to work with the issuer to resolve or reduce data differences identified. CMS adjudicated the issuer follow-up and, after the analysis, issued this report.

¹ [Enrollment Reconciliation rules](https://regtap.cms.gov) are available on <https://regtap.cms.gov>.

III. SUMMARY OF FINDINGS WITH FINANCIAL IMPACT

A finding is the identification of an instance of issuer non-compliance with APTC and FFE user fee program requirements that requires correction to payment. CMS’s audit procedures identified data differences that resulted in a change to the total APTC payment made to BCBSAL and the total FFE user fees collected from BCBSAL for individual market plans during the 2019 benefit year. The APTC and FFE user fee financial impact is shown in the following table.

APTC Payment and FFE User Fee Collection Financial Impact

	Number of Policies Impacted	APTC Payment	FFE User Fee Payment	Total
Policies where CMS owes the Issuer APTC	370	\$1,175,927.71	\$(40,583.08)	\$1,135,344.63
Policies where the Issuer owes CMS APTC	188	\$(607,894.94)	\$24,091.12	\$(583,803.82)
User Fee Only Policies where CMS owes the Issuer FFE UF	157	N/A	\$8,709.13	\$8,709.13
User Fee Only Policies where the Issuer owes CMS FFE UF	681	N/A	\$(5,392.29)	\$(5,392.29)
Total Impact	1,396	\$568,032.77	\$(13,175.12)	\$554,857.65

Note: Positive values indicate funds owed to the issuer; negative values indicate amounts owed to CMS.

The net financial impact is a payment to BCBSAL of \$554,857.65, which consists of \$568,032.77 in APTC to be paid to BCBSAL and \$13,175.12 in FFE user fees to be paid to CMS. The policies impacted and the associated financial impact are detailed in an Excel file provided to BCBSAL in conjunction with the draft report.

The APTC payment and user fee payment adjustments will be processed in the monthly payment cycle and netted against any other payments or charges as indicated by CMS’s netting rules.²

² For more information on CMS’s payment and collections processes, please visit <https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-B/part-156/subpart-M/section-156.1215>.

IV. SUMMARY OF OBSERVATIONS

An observation is a deviation from APTC and FFE user fee program requirements that is called to the attention of management for purposes of improving compliance in future program years but that does not require correction to payment. While CMS is not adjusting APTC payment or imposing CMPs for observations for the audit of the 2019 benefit year, we note issuer deviations from CMS's enrollment regulations or guidance where applicable. As noted in the PPFMG External Audit Communication letter dated July 19, 2019, consistent with the expiration of the good faith policy at 45 CFR § 156.800(c), CMS may begin imposing CMPs for observations identified beginning with benefit year 2020 audits. CMS's audit procedures identified the following three (3) observations:

- BCBSAL provided coverage despite not receiving the binder payment within the issuer's threshold of 95% within thirty (30) calendar days from the coverage effective date for five (5) of the one thousand and thirty-four (1,034) policies reviewed in the Premium Payment Data Extract Validation. The issuer indicated the following explanations for the five (5) policies:
 - For three (3) policies with binder payments received on the first of the month following the first month of enrollment, the issuer indicated that "Cancellation was based on when our system ran the cancellation process." However, pursuant to the issuer provided internal policies, "premium payment deadlines must be no earlier than the coverage effective date, but no later than 30 calendar days from the coverage effective date." CMS noted the system-based application of cancellations based on the dates of system runs is inconsistent with CMS requirements and issuer provided internal policies surrounding binder payment deadlines and could impact additional enrollments in the issuer's systems.
 - For two (2) policies, the issuer indicated the contract fell within the issuer's standard reinstatement policy. Pursuant to the issuer's internal reinstatement policy, the issuer will reinstate for both ON and OFF Marketplace plans, including APTC participants, if all established criteria are met (the request for reinstatement occurs no later than the 10th of the month following the cancellation and the member immediately pays the past balance due or the request for restatement is at the direction of a Divisional Officer or Enrollment Services Department Manager, is a result of an error caused by BCBSAL, is a result of a natural disaster, or CMS gives direction to reinstate the policy). CMS noted that the issuer's allowance for reinstatements following cancellations due to non-payment across all Marketplace enrollments is inconsistent with CMS requirements surrounding binder premium payment deadlines and could impact additional enrollments in the issuer's systems. Pursuant to 45 CFR § 155.400(e), for first month (or binder payment) premiums, premium payment deadlines must be no earlier than the coverage effective date, but no later than thirty (30) calendar days from the coverage effective date.
- BCBSAL continued to provide coverage despite not receiving the full outstanding premium balance within the three (3) month grace period for eighteen (18) of the one thousand and thirty-four (1,034) policies reviewed in the Premium Payment Data Extract Validation and for one (1) of the ninety (90) policies reviewed in the Issuer Extra Coverage Policy Review. The issuer indicated the following for the nineteen (19) policies:
 - For eighteen (18) policies, the issuer indicated the policy was terminated due to non-payment but reinstated per the issuer's standard reinstatement policy. Pursuant to the issuer's internal reinstatement policy, the issuer will reinstate for both ON and OFF Marketplace

- plans, including APTC participants, if all established criteria are met (the request for reinstatement occurs no later than the 10th of the month following the termination and the member immediately pays the past balance due or the request for restatement is at the direction of a Divisional Officer or Enrollment Services Department Manager, is a result of an error caused by BCBSAL, is a result of a natural disaster, or CMS gives direction to reinstate the policy). CMS noted that the issuer's allowance for reinstatements following terminations due to non-payment across all Marketplace enrollments is inconsistent with CMS requirements surrounding terminations following exhaustion of the three (3) month grace period and could impact additional enrollments in the issuer's systems.
- For one (1) policy, the issuer indicated, "We corrected the contract in our system causing the member to be rebilled. It is our standard policy to allow 30 days from any billing/rebill date for member to make payment." The issuer's failure to bill accurately prevented the issuer from complying with 45 CFR § 156.270(g).

Pursuant to 45 CFR § 156.270(g), if an enrollee receiving APTC exhausts the three (3) month grace period without paying all outstanding premiums, the QHP issuer must terminate the enrollee's enrollment through the Exchange on the last day of the first month of the three (3) month grace period.

- BCBSAL incorrectly enrolled and provided a gap in coverage for fifty-one (51) policies reviewed in the Issuer Unreconciled Policy Review who were in the three (3) month grace period when the issuer received an update to a continuous original enrollment (the enrollment's transaction effective date came before the end of the three (3) month grace period). The issuer indicated, "Re-enrollment with a gap occurs when CMS sends us a new 834 record for an effective date later than the date of a cancelation or a termination for non-pay. Gaps in coverage are granted based on CMS's continuous enrollment test as outlined in the Enrollment Manual (Section 7.3.3, page 93, Update to a Continuous Enrollment or Potential New Enrollment)." The issuer indicated, "We reviewed the enrollment data for the policies listed. Based on our review, all policies met the continuous enrollment criteria. Note that these contracts were not subject to the reinstatement policy as these were re-enrollments." However, CMS noted that the issuer's application of re-enrollments with a gap in coverage was based on an effective date that is later than the date of termination for non-payment instead of based on an effective date that is later than the date of the three (3) month grace period ends is therefore inconsistent with CMS guidance and requirements and could impact additional enrollments. Pursuant to CMS guidance outlined in the CMS FFE Enrollment Manual for the 2019 benefit year, the primary method of determining whether the change to the enrollment reflects a new or continuous enrollment is whether there would be a gap in coverage between the termination of the current coverage (meaning the date the APTC grace period ends, if applicable) and the effective date of the change requested by the M834 transaction. If the enrollment effective date is before the grace period expired, the M834 is an update to a continuous enrollment and the issuer should not effectuate the change to the enrollment and should maintain the termination date for non-payment.

Appendix 1 – Issuer Management Response to Net Financial Adjustment

Issuer HIOS ID: 46944

Issuer Name: Blue Cross and Blue Shield of Alabama (BCBSAL)

The undersigned Chief Executive Officer (CEO), Chief Financial Officer (CFO) or other authorized official who can legally and financially bind this issuer has reviewed the information included in the audit report of the issuer’s 2019 benefit year APTC and FFE user fee program, resulting in a payment due to BCBSAL of \$554,857.65, consisting of \$568,032.77 in APTC to be paid to BCBSAL and \$13,175.12 in FFE user fees to be paid to CMS, and:

(INITIAL) JHD Agrees with the audit net adjustment amount above, confirming the audit financial impact and observation(s), if applicable, and as such this report will be considered final and published.

Or

(INITIAL) _____ Disagrees and requests a review of additional information that may impact the audit net adjustment amount resulting from the audit. As you requested a review, CMS will consider this draft only a preliminary audit report. As the review option was selected, you must provide a written explanation with any additional documentation when you return this response within thirty (30) calendar days of the date of this draft audit report. CMS will review the written explanation and any supporting documentation to determine if the report can be amended in a mutually acceptable manner. If you and CMS are unable to come to a mutually acceptable result, your response to this report will be included in the final published audit report.

Signed: Jennifer DeLawrence
(Signature of authorized official acting on behalf of the Issuer)

Printed Name: Jennifer DeLawrence
(Print name of signature)

Position Title: VP Controller
(Title of authorized official acting on behalf of the Issuer)

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Date: 4/19/23