THE BROOKINGS INSTITUTION

TAX FILING AND THE AFFORDABLE CARE AC

Washington, D.C.
Tuesday, February 24, 2015

Welcome:

WILLIAM G. GALE
Senior Fellow and Co-Director, Urban-Brookings Tax Policy Center
The Brookings Institution

How ACA Reconciliation Will Affect Tax Filers in 2014:

LEN BURMAN
Director, Urban-Brookings Tax Policy Center

Using Tax Preparation Services to Help Consumers Participate in Insurance Affordability Programs:

STAN DORN
Senior Fellow, Health Policy Center, Urban Institute

H&R Block's Experience in Helping Customers Navigate the ACA:

MARK CIARAMITARO
Vice President, Healthcare, H&R Block

Presentation - Report from the Trenches: ACA and the Volunteer Income Tax Assistance Program:

TARA STRAW
Senior Policy Analyst, Health Policy Department
Center on Budget and Policy Priorities

Discussion:

HOWARD GLECKMAN, Moderator
Senior Fellow, Urban Institute

MARK CIARAMITARO
Vice President, Healthcare, H&R Block

LEN BURMAN
Director, Urban-Brookings Tax Policy Center

STAN DORN
Senior Fellow, Health Policy Center, Urban Institute

TARA STRAW
Senior Policy Analyst, Health Policy Department
Center on Budget and Policy Priorities

* * * * *

P R O C E E D I N G S

MR. GALE: We welcome you to this morning's event on the Affordable Care Act and Income Tax Filing. We're fortunate enough that of the three things that severely complicate D.C. life, we're only addressing two of them this morning -- the Affordable Care Act and income tax filing. There is no weather-related delay, although that would have been perfectly in the spirit of today's event. When you think about healthcare reform and the tax system and you wonder what possibly could go wrong. And it turns out there are several things that are becoming issues now that ACA has been enacted and now that we've gotten to tax season and people have to reconcile their health insurance with their tax forms.

The first is penalties. As of a few weeks ago, people -- as of last week, people who had not signed up for a healthcare plan by February 15th would be subject to a penalty. Urban Institute scholar Stan Dorn released a paper saying that this should be extended, and perhaps by coincidence, perhaps it was a causal effect, the administration later that day extended the deadline through tax policy season. So there is one potential calamity avoided as people would have otherwise faced penalties they didn't know existed, but we're certain not to be out of the woods on that and we'll talk about why.

A second issue is the subsidies that people received, the people who did sign up for health insurance. The subsidies are based on income. They were paid directly to the insurance company, not to the individual, and people whose income ended up being higher or lower in 2014 than was expected will in turn face subsidies that are lower or higher than expected, and therefore, will pay either higher or lower taxes that they may not have anticipated. This is complicated by the fact that the administration acknowledges it sent out 800,000 pieces of information last week with incorrect information, which will only complicate the situation. And just to add to that, there's a new tax form that many people will have to fill out that has dozens of lines on it and is sure to attract attention.

So the one thing that seems certain is that at this point the Health Care Act is a full employment act for tax preparers, and we're going to hear about all these related issues this morning. We have a very nice lineup of speakers. Our first -- I'm going to introduce them very quickly. You have bios in your packet.

Len Berman, my good and great friend, is the director of the Urban-Brookings Tax Policy Center. He'll be followed by Stan Dorn, who is a senior fellow in the Health Policy Center at the Urban Institute. He'll be followed by Mark Ciaramitaro, who is the VP of Tax and Healthcare Services at H&R Block. And lastly, Tara Straw, who is a senior policy analyst at the Center on Budget, will present her results. After that, Harold Gleckman will lead a panel discussion among the speakers, and then we'll take questions from the audience also.

So without further ado, let me turn it over to Lynn, and thank you all for attending.

MR. BERMAN: Thank you, Bill. And welcome to Syracuse. I walked in this morning and I thought, "I thought I moved far enough south to avoid this," but apparently not.

I'm going to give a very brief overview of the reconciliation process and particularly look at a question that we had, which is how many people were going to be in a situation where they owed more tax than they had refund coming to them and others had to write a net payment to the Treasury.

As Bill mentioned, when people are filing their taxes this year, participants in the Affordable Care Act who got health insurance last year and claimed credits in advance to subsidize their premiums will find out whether they got too much of a credit or too little, and it's based on whether their income went up or down over the course of the year and also whether they reported that change in time.

The subsidies are based on premiums in a particular area, which are a function of family size and situation. And the subsidies are based on income level. So the idea of the Affordable Care Act maybe is to make health insurance affordable. So the premiums are capped at a percentage of income that rises with income from 100 percent of poverty to people in states that didn't expand Medicaid and therefore were not eligible for health insurance through Medicaid, up to 9-1/2 percent of the poverty level, up to 400 percent -- 9-1/2 percent of income, up to 400 percent of the federal poverty level. At that point, the subsidies disappear and individuals who get insurance from an exchange are subject -- have to pay the entire premium out of pocket.

You can see that the maximum premium grows pretty dramatically, especially for a family of four. The maximum premium will be $477, right at the poverty level. For somebody just below the threshold where they're not eligible for subsidies anymore, the maximum premium would be $9,040. The actual premium depends on the cost of the plan purchased.

So the subsidies are based on a projection of income at the time people apply for coverage, and people are supposed to report income changes because the actual subsidy you're eligible for depends on your actual income in a year. Unlike other programs, the subsidy is based on annual income. So you could report income changes reliably over the course of the year, but if your income grows very substantially at the end of the year, you could actually still owe a substantial reconciliation payment, basically the difference between the advance credit that you claimed and the amount that you're eligible for over the course of the year. And I think Tara actually has an example where this has occurred in real life.

This chart just shows that the size of the premium tax credit that somebody is eligible for based on their income level -- and this is for a family of four in the District of Columbia -- 100 percent of poverty for this family is a little bit over $20,000. And as income increases, the maximum premium credit declines until right at 400 percent of poverty level, almost $100,000 of income for this family. The subsidy would be about $1,500 and then it would disappear. The maximum reconciliation payment, which is based on the actual income in the year is capped for people with incomes below 400 percent of poverty.

So -- actually, I'm going to pull up the next slide which shows -- sorry. I'm actually going to pull up the previous slide. No, sorry.

The maximum reconciliation payment for a family with less than 200 percent of poverty is $600. Between two and three times poverty, the maximum reconciliation payment is $1,500, and three and four times poverty is $2,500. So even if income goes up pretty substantially over the course of the year, as long as income is below 400 percent of poverty, the maximum reconciliation payment is capped.

The question we wanted to look at was how many people would have refunds big enough to pay the maximum reconciliation payment. Low-income people have very volatile incomes. The IRS did a study where they looked at who would be subject -- who would actually owe additional tax or be eligible for a bigger credit if they didn't change their reporting over the course of the year just based on year to year fluctuations in income, and maybe not too surprisingly, about half of people would owe additional tax and half of people would get a credit.

There was a study in California where they looked at the size of people's income changes from year to year based on the survey of income and program participation, and they found that 38 percent of people who were likely to be eligible for credits under the Affordable Care Act actually had large income increases, more than 10 percent of income, and 19 percent had income increases that were more than 40 percent of income. So there's a substantial percentage of people who might owe substantial reconciliation payments.

What this chart shows is that based on income tax filing data, that most people likely have refunds large enough to cover the reconciliation payment. For married filing joint returns, about 77 percent of people with incomes below 200 percent of poverty, people with lower incomes, would have refunds large enough to pay back the credits even if they had taken the maximum credit based on prior year income. For people with incomes between two and three times the poverty level, about 59 percent have refunds large enough to cover it. But the other side of that, and it's particularly for people with higher incomes, a lot of people will not have refunds large enough to cover the reconciliation payment.

The other issue, of course, is that even if people do have refunds large enough to cover reconciliation, it can be a substantial hardship for them because a lot of low-income people basically treat withholding as a kind of saving and they count on their refunds as a way to pay for, you know, pay off bills or maybe make a purchase of a car or an appliance that's broken down, and that would be an issue.

But at any rate, the primary concern, which is that people would owe a substantial tax bill and wouldn't have enough money to pay for it appears to be something that would only apply to a fraction of the people who claim the Affordable Care Act credits.

The other thing, of course, is that this assumes that people are not reporting changes in income over the year, and the interesting thing will be that when we see the data, how many people did report changes and how big are the actual reconciliation payments, which hopefully will end up being substantially smaller.

Thank you.

MR. DORN: Good morning, everybody. So I understand you're a very intelligent audience, which leads me to think that most of you can figure out that what I'm going to be talking about today is how much tax preparation services could help with ACA enrollment, Affordable Care Act enrollment. And when I talk about tax preparation services, I'm talking about both in-person assisters and also software vendors and others who help do-it-yourself taxpayers do it themselves.

We're going to talk about three things. When I took a public speaking class, I was told you're always supposed to talk about three things. My suspicion is this has its roots in Christian theology, but even though Pooram is around the corner, I'm still going to follow that rule and we're going to talk about the potential contribution of tax prep folks to enrollment into health coverage. We're going to talk about how that might play out during the current special enrollment period that Bill mentioned and how it could play out in future years.

So to begin with, why on earth would one think about tax prep in the context of enrolling the uninsured into coverage? Well, as an exceptionally intelligent audience, you will remember the famous saying attributed to Willie Sutton, the great bank robber when he was asked, "Why do you rob banks?" And his answer was -- oh, gosh, you guys are so smart. Bill, why did you tell me those things earlier? Yeah, it's because that's where the money is. And, so why would you think about tax filing as a point from which to leverage enrollment into the Affordable Care Act because that's where the eligible uninsured are.

If you look at the target audience for the Affordable Care Act, namely uninsured people who qualify for help, people who were uninsured before 2014 when most of the subsidies kicked in, about three out of four of them file federal income taxes. And I'm not aware of any other setting where we can find as many eligible uninsured. Even the doctor's office, the hospital, less than 60 percent of uninsured folks received some health care during the year. So the tax filing moment is an extraordinary opportunity to reach the uninsured. And not just to reach the uninsured in general, but to reach the vaunted, young, healthy adults who are uninsured and eligible for subsidies in marketplaces, health insurance marketplaces. Forty-three percent of uninsured tax filers who are eligible for subsidies in health insurance marketplaces are those young adults under age 35, compared to about one in four who are currently enrolled in the marketplace.

So one of the big concerns around the ACA has been how do we make sure that a healthy mix of people are enrolled in the coverage which would keep premiums down? And if you want to get the young, healthy folks enrolled into coverage, this is a pretty good place to find them.

Not only that, there are many people who help the low and moderate income tax filers do what they need to do come tax season. So, for example, if you look at folks in the general income range for subsidy eligible with AGI between roughly --

excuse me, adjusted gross income.

I'm told we're not supposed to do acronyms. If I do inadvertently say an acronym, somebody should, you know, feel free to throw something at me because it's like hard to break the habit. So, you know, be my friend; throw something if I use an acronym.

With adjusted gross income between $30,000 and $50,000 a year, roughly six in 10 people -- a little bit less than that -- file with the aid of a human being, a tax prep person helping them complete the forms. Most of those folks are for-profit tax preparers, but some are volunteer tax preparers, and this is really, really important.

There is a long line of behavior economics research, way longer than my arm, even longer than Len's arm, that talks about how even minor procedural barriers to enrollment can greatly limit participation. And the flip side is if somebody is helping you fill out the paperwork, you're much more likely to enroll in a benefit program. We saw that play out in the Affordable Care Act in 2014, where among people who were uninsured and went to the marketplace and signed up for coverage, more than half of them had received help from an application assister in enrolling in coverage. And among those who went to the marketplace and did not enroll in coverage, less than a third received help. So the fact that tax preparers are available as human beings or as software, quasi human beings, to help a low-income person complete the forms, could make a big difference in terms of how many actually participate in coverage.

And it's a very large workforce that's available, which is both good and bad. There are nearly 7,000 people who are registered with IRS with tax preparation ID numbers. That's about 20 times the size of the number of people who were certified application assisters during 2014 open enrollment. So put differently, if just one in 10 tax preparers becomes involved in helping the uninsured sign up for coverage, that would roughly triple the workforce of application assisters. Not only are there a lot of people, there's some efficiency advantages that the tax prep industry brings to the table. There's an existing client service infrastructure -- offices, people, training programs, et cetera --

which doesn't need to be built up from scratch. It's in place. And critically important, the tax return has most of the information that you need to apply for insurance affordability programs under the ACA. It takes only five to six minutes of additional questions, according to several tax prep folks I've interviewed. Only five to six additional minutes to get all the information you need to file an application for insurance affordability programs. So there's tremendous potential here.

Now, life is mostly a story of partially realized potential. So the question is, how much of that potential could be realized during the current special enrollment period? Bill mentioned this, it was just recently announced where in the federally facilitated marketplace, the marketplace run by the federal government for the inhabitants of about 35-37 states. So in the federally facilitated marketplace, there will be an enrollment opportunity that starts on March 15th and runs through the end of tax filing season, where people who pay their penalty for being uninsured in 2014 can sign up for coverage in 2015, and thereby, avoid an significant additional penalty. And the question is, in the federally facilitated marketplaces and in states which each need to make their own decision about their marketplaces, what's going to happen during the special enrollment period?

Now, there are some challenges in terms of the ability of the tax prep folks to use the special enrollment period to help low-income people and moderate income people get coverage. The first challenge is that a lot of tax prep folks are brilliant experts at tax but not necessarily at health coverage. Now, some have signed up and become licensed, certified application assisters, but others have not. One arrangement that we've seen in some parts of the country is a partnership where the tax prep folks will help with the financial side of the application, and then they'll partner with a certified application assister or an insurance broker to complete the health enrollment. But we're now done with the expected open enrollment period. It ended on February 15th. How many application assistance resources remain available to partner with the tax prep folks?

Another question involves ethics and competence in tax preparation. Now, this doesn't involve anybody in this room, no doubt. Particularly among the unenrolled tax preparers, it's been a serious problem where we've had sometimes some real mistakes in returns that people file, and sometimes some really egregious ethical problems as well. And so if we were going to try to incorporate the for-profit tax prep industry to help low-income people, which we need to do if we want to leverage this resource to help people get health coverage, we need to think about how to address those issues.

There's also issues about referrals. If somebody comes to me and I say, "Hi, I'm a tax prep person. Go to the marketplace and sign up for coverage or go down the road to the community health center to sign up for coverage," there's a lot of research that shows that in the words of Benjamin Franklin, "There's many a slip twixt cup and lip." People may not make it up the road and people may not sign up for coverage. And we have the timeframe problem, the ticking time -- not a bomb, but it's a clock, that between now and March 15th, there is no enrollment opportunity at the federal level. So you might think, "Well, who cares? It's just a couple of weeks." These few weeks are when during the past two years 20 percent of tax returns that claimed refunds were filed. So what this means is that until March 15th, somebody who comes to the tax preparer's office and is told you owe money for 2014; you'll owe lots more money on next year's return unless you sign up for coverage, that person is going to have to wait before they sign up for coverage, and that presents more opportunities for the slip twixt cup and lip. So there may be fewer people who enroll as a result.

Now, there are some options. The state-based marketplaces don't have to wait, and several have not. California, Minnesota, Washington State, the special enrollment period is up and running right now. New York, they're going to wait until March 1st, but that's a little better than the federal government. But even at the federal level, the marketplace could accept applications for coverage right now. People wouldn't be formally enrolled into insurance until later, but why do you have to force consumers to wait? You could set up a system where people can sign up for coverage. The consumer can do what they need to do while they still have the chance and they can strike while the iron is hot. Educating tax professionals, critically important so they can advise their clients on how to avoid future problems. Marketplaces could work with tax preparation services to establish linkages with brokers and available application assisters. Perhaps portals through which data can be entered into the application process without the tax preparer having to go through the consumer facing web application. And establishing some minimum standards for certification of tax folk who can help with insurance enrollment programs, such as an IRS credential, some requirement of being a certified application assister or partnering with one, et cetera. Now, this may take a while, and we don't have time right now.

So what about the longer term? Well, anybody here a fan of murder mysteries? Murder mystery fans? Raise your hands. Come on. I've got to get you involved. I'm not a fan of murder mysteries, but I'm told when you want to try to identify a suspect, you look for motive, means, and opportunity. And we could think about tax prep in that way as well. Motive, tax preparers are in the business of filing tax returns. Is there a motive? Is there a business case for getting people enrolled into coverage? Well, maybe. You can get more tax business if you show people that you're able to help them with their health problems. Maybe some revenue possibilities as well, but it's not clear. What about the means? Well, we need to find those relationships between the tax world and the health world. And what about opportunity? In the future, starting in 2016, the open enrollment period is scheduled to run, we just heard, from November 1, 2015, through January 31, 2016. So that gives us about a 10-day overlap maybe with tax filing, better than zero, and that is a base on which states might be able to build; perhaps federal policymakers in further extending open enrollment. Beyond 2016, it's a tabula rasa. Complete blank slate. We don't know what open enrollment is, and it's not clear how much we're going to get investment from the tax prep industry in really gearing up to assume this new role unless they know there is going to be an overlap between enrollment into health coverage and tax filing season.

So in short, there's enormous potential here for tax prep services to make a major contribution to AC enrollment but significant changes would be needed in what tax preparers do. But the big question is how much of the industry is going to transition into playing this new role, how long will that transition take, and policymakers in the health arena have a lot to say about the ground rules that will determine both the speed and the extent of this promising possible transformation.

MR. CIARAMITARO: Good morning.

So what we're going to try to do today is give a little bit of a perspective from H&R Block on what's really happening with the Affordable Care Act and with taxes, and just for those of you who may not be familiar with Block, we are the largest consumer service provider of tax in the U.S. We actually help prepare about one in seven of U.S. tax returns. We have 10,000 offices, about 80,000 tax professionals. We prepared over 20 million tax returns last year, and one of the really interesting things is we actually have a multi-channel perspective. In other words, not only do we help prepare taxes in our offices, but we actually offer software and online solutions as well. So we can share a little bit of a perspective across channels of how tax filers are actually responding to the Affordable Care Act. And lastly, we invested substantially this year in training our tax professionals on the Affordable Care Act because it is one of the biggest changes to the tax code in the last 20 years. People focus on the Affordable Care Act and all the enrollment complications, but this is a really big rock from the standpoint of tax return preparation. So we've invested substantially in that.

Without further ado, I'd like to just give you some headlines from what are really the big changes that the tax code -- really happened to the tax code this year. And of course, we have new tax documents, the 1095-A, which is really a required document for those that enrolled in a marketplace and have to go through the reconciliation process that Len mentioned. The coverage verification question is new this year. For the first time, all taxpayers are being asked whether they and members of their household have minimum essential coverage, and so that is a new question this year. We're going to provide a little bit of insight of how people are actually responding to that question. The advanced -- obviously, the premium tax credit reconciliation process, the tax penalty, shared responsibility payment, what the IRS calls the shared responsibility payment, and the exemption process, which will provide a little bit of insight. And there's over 30-plus exemptions, a pretty complicated and confusing maze for the typical consumer, and so we'll talk about that. And then new form filing requirements, specifically the 8965 and the 8962, which are tied to either the reconciliation and/or the exemption process.

So, let's just give you some headlines on that. We, just so you know, we're talking about figures that are really as of 2/15 -- this is across H&R Block clients. We serve across multiple channels and across the U.S., so we feel it's pretty representative but it's representative of early season information. This information could change by the end of the year, so we view it as directional and a good insight and snapshot as to how the typical consumer is experiencing the Affordable Care Act and its tax implications.

So starting this year for H&R Block clients, because we tend to serve middle to lower income clients. We actually had an estimate that about 20 to 25 percent of our clients would be directly affected by ACA-related impacts. And what I mean by directly affected, are either going through are conciliation, or an exemption process, or penalty, or combination of those, and some clients are actually experiencing combinations. And it's really happening the way we basically forecasted. We're in the range of 20 to 25 percent of our clients year-to-date that are impacted directly. And interestingly, that doesn't really change based on your filing method. So whether you're going assisted or whether you're going DIY, we're still seeing that similar percentage of clients overall impacted.

So let's talk about the shared responsibility payment. This is the payment that folks that are not covered and their household -- don't have coverage and their household has to pay. It's based upon either a flat fee amount of $95 per adult, half that for dependents, or the higher of one percent of really their household income. And so what we found for the current year is that the average shared responsibility payment that people are paying is about $172. That is decreasing their refunds by about five percent. 1040 clients tend to have a higher average penalty. That makes sense because 1040 clients tend to have a higher average income. And a higher proportion right now of our clients who paid -- who filed with a 1040-A are actually paying penalties. That's over about 50 percent. Why would that be? Well, some of that has to do with the mix of clients that we're seeing early in the tax filing season, which tends to be more 1040-A clients. And the EZ clients are seeing their refund decrease by a larger amount. Why is that? Well, the 1040-EZ clients have a lower average refund, so the base is lower and therefore, the percentage is higher. All right?

The interesting thing here is that we are generally seeing people are accurately indicating their coverage level for themselves and their household members. We are not seeing lots of evidence of people really not answering that question accurately, and it's a pretty consistent percentage of cost both DIY channels and assisted. In fact, early season results indicate more DIY clients are actually indicating their lack of coverage than assisted. So the news there is that people appear to be accurately indicating their household coverage level.

Now, for those of you that may not be familiar, at the time of filing, that's nothing to stop someone from indicating their household coverage. That may or may not be the case. What happens later is probably up to the IRS. But we're getting people generally that are accurately indicating their coverage levels.

Let's talk about exemptions. Again, there are really two categories of exemptions. As I mentioned, there's over 30 of them, but there are exemptions that can be claimed in the tax return process, and then there are exemptions that are granted by the marketplace. Those granted by the marketplace tend to be hardship-related exemptions, and they require a separate paper application that has to be -- it's a fivepage application that needs to be filled out and mailed to HHS. They can be claimed on the tax return using a pending code but again, it's a separate process. It's a mailing process. There's no electronic filing of those and they require really approval by HHS ultimately. So if a client were to send in that application and they actually have to send it in for each member of their household for every period of time covered, along with the corroborating documentation, it's a new process. You're going to see in a minute it's a pretty cumbersome process for many people who feel they may qualify for that. But these are the two general ways that people can claim exemptions for that shared responsibility payment.

So what are we seeing? Ninety-six percent of our clients year-to-date are using the tax return exemption process to claim an exemption. And when they claim an exemption, they tend to be covering off -- the vast majority are covering off their full penalty. In fact, 90 percent of the folks who claimed an exemption had no shared responsibility payment associated with it.

Now, what are the most common exemptions people are claiming using the tax return process? Many of them are income-based and time-based. You have the income below the filing requirement, the coverage gap short-term and the coverage by May 1st exemptions. The May 1st exemption I should say is a one-time exemption for this year only. The unaffordable coverage options, and then those that are falling below the 138 percent federal poverty level in those non-expansion Medicaid states are also qualifying.

So the news here is that only four percent of our clients are actually claiming a marketplace exemption, and we have extensively trained our tax professionals to walk clients through that process. Why would that be? Well, we are still investigating that, but our hypothesis has to do with, first of all, many of them are getting their exemptions solved for with the tax return exemption, so they don't need a marketplace exemption.

Secondly, I'll say that for many this is viewed as a very different process, to sit down with a real consumer and got through the process and explain to them the paper form, the documentation required. The reality is that what we're hearing in a lot of our offices is clients, because the penalty isn't significant enough, are just saying, "I'm not going to bother with that. It's not worth it to me right now." That may change in the future as the penalty increases but that is what we're seeing right now. And again, they don't also want to deal with the uncertainty of what happens if my application, you know, gets denied? Do I have to amend my return? Will I get IRS notices? So, again, generally what we're seeing is the vast majority are coming in for tax filing and we're following an exemption process that uses the tax return process.

So the reconciliation process that Len mentioned, overall, percent of our clients that are filing with a reconciliation form -- this is the 8962 -- is actually similar across both DIY and assisted channels. About 38 percent of those that applied for an enrolled in a marketplace and received advance premium tax credits are receiving an additional credit of $366, which is increasing their refund by about 11 percent. In essence, these are people that overestimated their income; therefore, they didn't receive as much of a tax credit as they should have, and when they're filing, they're getting an additional credit.

But the other side of this story is that over half, 52 percent, are actually repaying a portion of their refund back. That amounts to about $530 of excess APTC. That's the Advance Premium Tax Credit. That is the tax credit they received, actually was paid to the insurance companies rather than the consumer to reduce the cost of their premiums. Sorry about that. And so on average, they're paying back $530, which decreases their refund by almost 20 percent. We have here about 17 percent.

Now, the other piece of information I'll share here is that without that limitation table that Len mentioned, these people would be paying about $100 more, $630 on average, so the tax limitation table for those owing back on the APTC has actually reduced their liability somewhat. And surprising to us, about 9 to 10 percent of filers have actually hit their income on the button and have no -- are really in the neutral area of tax reconciliation. The average reconciled client is receiving about a $2,800 APTC. So on average, these people are receiving close to $3,000 of government assistance to reduce the cost of their premiums. Right?

So a little bit about the corrected 1095-A's that were mentioned. People, tax filers have pretty limited ways of identifying when they get this new 1095-A, which really includes all the information that they need to reconcile. It's really difficult for them to really look at those, that information and make sure it's accurate. They can look at the names and numbers, but most people aren't looking at a lot of the documentation. So a lot of people that receive these forms wouldn't have known that they were inaccurate. Those clients that have already filed with incorrect forms are going to have to amend their returns and will have to wait to amend their returns until March. Right?

So we're familiar with this process. This is new, but the reality is that in the tax business you're constantly dealing with corrected tax notices and forms, so it's not an unfamiliar process to deal with but there's a substantial number of clients that have never dealt with corrected forms before. These are low to moderate income clients. They're not dealing with 1099s or 1098s typically. So we are going to have to walk our clients through that process of going through either the amendment process or in many cases these clients are being asked to wait to file their tax returns until mid-March, which can be a burden for those that count on that refund to pay for those household expenses.

Again, this is not just the feds but it's also California, so we're approaching a million corrected. We expect there will be other situations in other states as well, but we're going to be working with our clients to make sure that they correctly file their tax returns, and if they do need to amend, we'll work with them on the amendment process.

And then as Stan mentioned, the new special enrollment period -- that's what SEP means here -- announced on March -- I'm going to echo some of the statements that Stan already made. We applaud the effort. We've always said that one of the best opportunities to get folks motivated to enroll in marketplaces is to really do it at the moment that you're delivering a pretty negative message around either the shared responsibility payment this year or next year. We're doing actually both in our offices. It's unfortunate that we're going to lose about a month of momentum here because there are going to be a substantial number of our clients as Stan mentioned who are probably just going to fall between the cracks. They're not going to be able to take advantage of that. We're going to basically have to tell that client you need to wait until the 15th to enroll.

And I want to remind the audience that when a client leaves our audience -- leaves our office, it's difficult for us to communicate with that client about this. We actually are restricted by IRS Regulation 7216 from reaching out to that client and notifying them after the tax event regarding the special enrollment period, so it does create an additional burden for us. We want to let our clients know about it for those that are interested, but we are restricted in that. And we think that there's a number of clients that have been left out of this equation. Those that actually filed for exemptions that normally would have paid a shared responsibility payment we feel would be reasonable candidates for this special enrollment period as well. Many of those exemptions are one-time exemptions, and so we feel that that's a group of clients that need to be considered in the context of this special enrollment period.

Overall, I will say, giving the IRS lots of credit, we have not seen any major processing issues associated with the ACA, and so we give the IRS lots of credit for that. We are seeing many clients who are going through the learning curve of the reconciliation process for the same -- for the first time. They're being caught off guard. Many more will go through it for the first time next year because of the enrollment numbers. Clients appear to be accurately indicating their health status, their insurance coverage status, and are demonstrating a willingness to pay that shared responsibility payment. Of course, we're still at the outset of that. That's going to be interesting to see how that proceeds going forward. The tax return exemption process, tax return exemptions are the most -- by far the most common because they're basically easier to claim, and in the context of tax preparation they make the most sense. And the marketplace exemptions are a whole different ballgame. Very different paper-based process. Probably room for streamlining and technology enhancement on that process.

And overall, the 1095-A's and the special enrollment period, good news but also confusing. As was mentioned, we're not just dealing about -- talking about the 37 states and their special enrollment period, but multiple states now have different open enrollment periods, and so that's just confusing for us, especially, you know, consumers that live in New York, or Minnesota, or Washington, or California, all dealing with different -- slightly different criteria and different special enrollment periods.

Thank you.

MS. STRAW: Good morning. My name is Tara Straw, and I'm with the Center on Budget and Policy Priorities.

So healthcare policy has been my professional career, but in my free time, I've been a volunteer with the VITA program. The IRS's Volunteer Income Tax Assistance program for about a decade. And in that, I help supervise the preparation of tax returns and train locally hundreds of tax preparers who are going to do this as volunteers. So I bring some of that experience into this discussion of the first reconciliation cycle for the ACA.

And at the Center, we, you know, we've been doing all this policy work related to ACA implementation, and then really tried to bring it down to the person level in talking to a lot of healthcare assisters and educating them about the law. And then we did the same for the volunteer tax preparers. You know, let's help them understand the healthcare provisions. So this really gave us sort of unique 360 view of how the enrollment cycle and the reconciliation cycle would work. So we've been getting a lot of stories, a lot of questions, and it really does inform sort of how we look at the policy and where we should go next.

I just want to flag a few issues and then I'll offer a few recommendations. It's really tempting to dive into problems because there are always going to be problems in something this big and this complicated but I'll just offer the reminder that for the majority of taxpayers, for 75 or 80 percent of people, the biggest question they are going to have on their tax return is what color ink to use to check the box to say that they had coverage all year. And for the record, the IRS prefers blue or black ink. But checking a box is going to be all they have to do for 75 to 80 percent of people.

For other people, it's going to be a little more complicated. As other people have said, there's a huge learning curve here. There was a learning care for healthcare assisters. We saw that with some early confusion in the first open enrollment season. We also saw that it got much better in the second enrollment season which just sort of flew by without a lot of attention. That's because it went pretty smoothly.

In September, I had the opportunity to sit in front of some tax -- kind of tax leaders in the volunteer world in D.C., Maryland, and Virginia, and I had an hour to cover the ACA. I never want to do that again. It was really, really hard, because it's a lot of content to throw at people. It's a lot of rules. The jaws drop, the eyes get big, and people get a little sad. But I think what we've seen is that for these people who are learning from the tax side how to help clients navigate the ACA, and for the clients themselves persistence is really rewarded and people have been getting it and are really, you know, latching on to these new rules.

If there is one word that describes the 2014 enrollees that we're helping now through the tax process, it is persistent because this was not an easy process to get a premium tax credit. We made it quite hard. We made it hard with technological hoops. We made it hard with the yellow screen of death that many enrollment assisters saw. So there were a lot of challenges, and yet, eight million people found a way to get through. And so even though the tax return is a little harder than maybe it was last year, these are folk who are valuing the benefit. Valuing it so much that despite the challenges of last year, despite all the complications in trying to get enrolled, not only did they come back for 2015 enrollment, but they brought, you know, almost 3.5 million of their friends with them, you know, a huge increase of enrollment for the next open enrollment season.

So I'm guessing that we have not yet seen the last of the stories about the complications of the tax return as far as ACA. The premium tax code in particular is an inherently difficult calculation because even small changes in income, the differences between what people project their income to be versus what their actual final income can be will move the dial on the credit and may result in small overpayments that will need to be repaid to the Treasury, or perhaps, you know, an extra refund.

It's also very clear that we're going to have some challenges and that some clients are going to have some challenges because there were mistakes in the first open enrollment season from assisters, from the call center. Some people were given bad information about what counts as taxable income. You know, different errors that might have been made that are going to be caught in the tax return cycle. And you know, this is probably one of the biggest challenges but, you know, just like there were problems in the first open enrollment season, we've got to expect that there are going to be some hiccups here and that we're going to push through and that the next tax reconciliation season is going to be that much easier.

We've heard, you know, Mark really covered that there were some 1095-As issued by the federal marketplace that had some problems and will need to be reissued. I think the fact that this error was spotted, I think that that alone is a really good thing because it gives us the opportunity to correct it. It was spotted relatively quickly compared to when forms went out. I will also say that what we have seen is that people who have questions about their premium tax credits may be not getting the best answers from tax folk because tax folks, we're looking at the software; right? We're either looking at the computer screen, trying to learn what we can, but I think that there are a lot of gaps in the tax prep world knowledge about what happened in the healthcare process. So if it isn't captured in the software, maybe my answers aren't so good on what happened.

But the healthcare assisters have really come back in in helping clients with their tax forms. So someone who has been helping with healthcare can look at a 1095-A, and maybe they don't know anything about taxes, but they can look at it and say, "Hmm, that doesn't seem right." And what we've heard is stories about the healthcare assisters getting on the phone with their marketplace and really, you know, staying on the phone for 30-45 minutes, whatever it takes to make sure that a correct 1095-A is reissued. So I think that we're going to keep seeing these stories of where the healthcare worlds and the tax worlds, they don't necessarily need to be the same worlds. I disagree with Stan just a little bit. But they certainly need to work together because that's what it's going to take to sort of get some of these more complicated clients through.

Reconciliation does hit some people particularly hard, and that's -- especially people who edge over 400 percent of the federal poverty line, which is where there's no cap on the amount of repayment. And I'll give you just a quick story from this weekend. A single person normally earns about $12,000 in income, so that's just over the poverty line; qualified for premium tax credits of about $350 a month. Towards the end of the year his mom died, so he got a death benefit, unexpected, of about $34,000. This is taxable income. And so he went from being very poor to being just over 400 percent, the point where he needed to repay all of the premium tax credits he had received during the year. So even though he was really honest and giving the best information sort of all along the process, at the end of the year he got caught up and had income at 402 percent of FPL. We don't have a great answer for him right now, but I think that, you know, some of these stories can shape how we look at some of these policies and maybe some of the improvements we want to make in the coming years.

I'll say one thing about exemptions. There are a lot of them, and this might be confusing for someone who is doing their tax return themselves and looking on this massive list. But I will say I see a tremendous opportunity in this list of exemptions because I know that if I see someone who had a real hardship, who really had trouble affording insurance, who had terrible things happen to them during the year, there is something that I can use to help them avoid penalty. So I see this as a great opportunity. You know, I'm glad that the law was flexible enough and the rules were flexible enough to cover all of these situations that people encounter during the year that can make it hard for them to get coverage.

And there was, you know, a great effort to simplify. So at the beginning of the year there was an exemption for people who were in states that did not expand Medicaid. There were a lot of hoops to get it. And so over the course of 2014, they actually really simplified it and said, you know what, just put this letter code on your tax return, and that's the kind of really common sense things that we need to continue doing.

So briefly, I'll say recommendations, I think that the special enrollment period that others have talked about needs to be broadened to include people who are claiming exemptions. I agree with Mark on that. The first -- as soon as the policy was announced, a tax preparer asked me, "Should I recommend that people just pay the penalty instead of getting an exemption so they can get a special enrollment period for 2015?" And I don't think that was the intent to have people have to pay a penalty in order to get the special enrollment period when they would otherwise be exemption. And we've got to continue our cross training between health and tax folks. You know, people have great teams established, and I think they need to keep doing that.

And finally, I would say it would be really helpful to fund the IRS to do their job. IRS funding has been cut by nearly 20 percent since 2010, and they're being asked to do so much more. So it would be really helpful if they had the resources they need to do it.

Thank you.

MR. GLECKMAN: So thank you, everybody. Four very interesting presentations. I think we've learned a lot from sort of the broad perspective that Len gave us and Stan, and then kind of a real sense of what it's like on the ground from Mark and from Tara.

I'd actually like to start by asking Mark and Tara one question sort of based on Stan's sort of basic idea here that when people file their taxes it's the perfect moment to buy insurance if they don't have it. Obviously, there are constraints with the design, but let me ask Mark and then Tara, were people who did not have insurance asking if they could buy insurance when they were filing returns? What was your experience?

MR. CIARAMITARO: Well, obviously, we had a large group that knew about it in advance, right, and had already enrolled. But for those that are facing the shared responsibility payment, there are still many that didn't understand it. They didn't understand that it would apply to them, and they certainly didn't understand how the penalty would be calculated. And so actually, in our interview, we asked clients, any of the clients that are affected by the Affordable Care Act, whether they need assistance in the enrollment process, and we are getting a significant number of those clients who face shared responsibility payments actually indicating to us that they'd like some assistance in the enrollment process. And it's not just because of the penalty they faced this year; it's because we actually give them a view into what's going to happen next year, and so that's pretty eye opening for a lot of the households, filing households when they see that shared responsibility payment escalate or double next year. So we are absolutely seeing clients that operate in the moment. You know, there are those that wait for the pain and then respond to it. There are those that plan ahead, and we are seeing those clients that are facing that express interest in getting enrollment assistance.

MR. GLECKMAN: Can you give us a sense of the percentage?

MR. CIARAMITARO: Well, overall, as I said, I can't share a specific number on how many people are experiencing shared responsibility payments, but of those that are, about half of those are indicating to us that they'd like assistance.

MR. GLECKMAN: Tara, what's your experience?

MS. STRAW: Well, my experience is a little different because a lot of my direct client interaction comes in the District of Columbia, which, of course, has a very generous Medicaid program. So I don't see as many people who are low income who don't have coverage. Just about everyone has coverage, which is the really good news.

However, with the work that we've done with folks across the country, we've definitely heard a lot of interest among people who are not enrolled. We were really worried about what people were going to tell them once the open enrollment season ended because then you're saying, "Okay, well, you paid a penalty in 2014 and you're going to pay an even bigger one next year because you can't enroll." And so I'm glad that there's going to be this opportunity for people to enroll.

We have seen some of these relationships develop. There was a person who -- an assister. A lot of assisters, healthcare assisters are volunteers. And they were set up at a library in South Carolina, and the tax people come into that same library in South Carolina in January, so they had this period where they were overlapping and they were just sending people. The tax people were sending people over to the healthcare table. And they said everyone was eligible. Because these are low-income workers who don't have other offers of coverage. So it's a good opportunity to see those relationships continue.

MR. GLECKMAN: Another element of the law I'm curious about, Mark, it was possible for people to change their subsidies during the course of the year if their incomes changed. Did you find very many people did that?

MR. CIARAMITARO: Well, of course, we've never seen the official figure for how many people have actually gone in, but virtually everyone -- every client that I've spoken to and every tax professional I've spoken to, people that enrolled never went back in and updated their income.

MR. GLECKMAN: They never did.

MR. CIARAMITARO: And so it's just not -- and it happened with the tax return process as well. When people get their taxes done, they tend to move on with their lives. It's hard to get them to revisit it. And I think generally, when people go through the enrollment process, even though HHS I know has sent out reminders and really made a reach-out effort, people aren't really going in and updating their income. And those that are increasing their income are seeing an immediate impact on their premium. And so there's kind of an incentive built into the system at least to put off that pain, right, until tax time.

MR. GLECKMAN: Tara, same question. What were you hearing as far as that, anybody doing it?

MS. STRAW: Yes. Yes. I think that there were some people who really tried to keep up with the income. I think like in the example that I gave, some of these income changes can happen very suddenly. If someone has a change in job, you know, they might take that reporting effort, but there was no amount or timing of reporting that this particular man who ended up with income over 400 percent, that he could have done because he got the income in one lump sum right away at the end of the year. So the premium tax credit had already been disbursed. So reporting was not going to help him.

Reporting also is difficult when the question is whether a certain dependent is going to be -- or whether a certain person will be a dependent on your tax return because these are things that are often based on sort of year-end circumstances. You can't lock that in. And so when the number of people on your tax return changes, then a lot of the other numbers changes and might change where you fit on the federal poverty line, which then changes all the repayment calculations and such.

MR. CIARAMITARO: I think there's some good advice that Tara will probably agree with. When we talk to clients who are really uncertain about their income, we tell them, you know, you don't have to take your full advance premium tax credit. Take a percentage of it. Take 50 percent. Take 80 percent. And that is good advice if people follow it, but generally, people are going for the lowest possible premium they possibly can.

MS. STRAW: And so part of this, I mean, I think economists would understand that part of it is sort of what your set point is. And I think that D.C. was, I believe, the only marketplace that said your starting point is going to be 85 percent of the subsidy that you're eligible for. You can decide to take more, but we're going to give you that initial set point of 85 percent. Everyone else sort of started everyone at 100 percent of their maximum subsidy and then let them decide to move it down. D.C. started at 85 percent and decided to let them move it however they wanted.

MR. BERMAN: It's not always so straightforward, as I'm sure everybody would agree, because if you want to enroll in health coverage, the more of the premium tax subsidy you take, as Mark indicated, the lower your premium costs are. And we found after the end of the first open enrollment period, if you looked at people who examined their marketplace options and chose not to enroll, the number one reason people made that decision was they found coverage unaffordable, despite the availability of subsidies. So if somebody has to cut back on their claim of an advance payment of tax credit, that raises their premium costs, and for many low and moderate uninsured, that can make it difficult or impossible for them to enroll in coverage. And it also changes their coverage choices because the less expensive the plan in which you enroll, the lower your costs. And if you want to lower your premium costs, that means you pick a plan that has less generous coverage. Well, you may end of having deductibles that are $4,000. You know, if you're a low -- or even more. If you're a low and moderate income household and your insurance doesn't begin covering you for most services until you've incurred $4,000 or $5,000 worth of expenses, that's a huge affordability barrier to accessing care. So, you know, so really, low and moderate income households need the full measure of their subsidies if they're going to get the coverage of the ACA. But on the other hand, to protect themselves from reconciliation, there are advantages to forgoing part of your advance payment of tax credits, so it's not an easy situation.

MR. GLECKMAN: So those of us who live mostly in the tax world, kind of live with the challenge of trying to balance simplicity and fairness, and it seems like this law is also struggling with this balance. And listening to the balance this morning, reading the papers, to somebody who is more of a tax buy than a health buy, this is kind of amazing. I mean, Stan's paper has a list at the beginning of 20 different acronyms. It reminds me of War and Peace, you know, then they tell you in the beginning who all the characters are. You know, we talked about 30 different exemptions. Enormously complex. Tara was talking about just the challenge of getting people trained. Mark was talking about the challenges of getting people trained.

Is there a way to make this simpler while retaining the necessary fairness? Is there an easy way to do this? Stan, let's start with you.

MR. DORN: Sure. There are two big ways you can make this simpler if Congress was willing to actually legislate and come together across party lines. One way would cost money; another way would not. A way that would cost money would be to run the premium tax credit program the way we run other need-based benefits that use an annual accounting period. That is, you'd say this year's benefit is based on last year's tax income. If your income goes down this year, you can come in and claim additional assistance. If your income goes up this year, that will be reflected in future years' benefits. You're not going to have to -- we're not going to claw back at the end of the year if this year's income is lower than last year's income. That's the approach that we take for Medicare Parts B and D. That's the approach that we take for many people who get federal assistance in college, student aid, and it was the approach that we took in 2008 with stimulus payments through the tax code. But if you do that, it's going to cost you money because that means that a client can qualify for the largest tax credit. In other words, if your income last year was lower, you use that to claim a higher tax credit. If your income this year is lower, you can use that to claim a higher tax credit. So CBO would say that that costs a lot of money.

The second approach you could take would be to say let's not use the tax system to delivery subsidies. Let's delivery subsidies through payments from the Department of Health and Human Services or through states, and let's change the accounting period from an annual period to a more pointed time -- a monthly period or quarterly period, because the big dilemma that we face right now is low-income people need help enrolling into coverage in real time when the premiums are due in that particular month. And if my income is low in that month, I need help that month. It's of cold comfort to me that by the end of the year my income may be higher.

So at the heart of our current situation are several sort of absurdities. One is the absurdity of expecting people to have a perfect crystal ball and project their income for the year accurately. And second is the absurdity of a subsidy system that really needs to be based on point-in-time circumstances, yet because we're using the tax code we use an annual accounting period. Instead, we could do what we do with Medicaid, what we do with CHIP (Children's Health Insurance Program), what the pre-ACA state-based health coverage expansions did, including Massachusetts 2006 reform on which a lot of the other ACA provisions are based, which is we don't go through the tax code. We deliver subsidies to you this month based on current income, and you have to report changes. The agency administering the program taps into all kinds of data sources about income, so there could be those sort of changes as well. I think that would make a lot more sense and it would not increase the federal deficit. It would, however, require policymakers to give up what they may perceive -- what some may perceive as the political benefits of the optics of saying it's a tax credit instead of a subsidy.

MR. GLECKMAN: Mark?

MR. CIARAMITARO: Well, I'm going to say I'm not a tax policy expert like the other folks on this panel.

MR. DORN: Oh, please.

MR. CIARAMITARO: But what I will say is I can speak to the areas that our clients and our tax preparers are seeing that there's areas of opportunity to both simplify, and certainly, the reconciliation process and the estimating of income, however we do that, whether we benchmark that off a client's modified adjusted gross income from the filing period this year or whatever. But a simpler way of both starting with an adjustment period or the right income level and then helping people make ongoing adjustments so that they don't face the variability on their refund.

And I do want to give credit to the authors of the law. The limitation table is making a difference, as I mentioned, so those that are surprised, there's a little bit of that pain that's being reduced. So reconciliation and the estimating of income, certainly an area of opportunity. The exemption process is very confusing and enormously complicated, and having two different types of ways of claiming exemptions is complicated, and so the streamlining and simplification of the marketplace and tax return exemption process seems to be a ripe area of opportunity for simplification.

There needs to be education as well. We've already talked about the importance that tax preparers can play in helping people understand what their shared responsibility payment is and then giving them an opportunity to enroll at that time because as much as we want to say people are planners, there are those that will only respond. So making sure that we have policy that addresses the opportunity for tax preparers to help the government educate clients about the enrollment opportunities would be, I think, an important area of focus.

MR. GLECKMAN: Len?

MR. BERMAN: I mean, there are a few things that I think would help. One thing that nobody has talked about is actually figuring out whether you have qualifying insurance through an employer, and whether you have qualifying insurance is based on the actuarial value of the insurance for somebody with I think average health expenses, which is something no individual could really determine. My son has really, really crummy insurance offered through his employer, and I have no idea whether he qualifies or not. And as far as I know, the only way you can find out if it does is you can ask your employer how crummy is this insurance and does it qualify. And there should at least be a requirement that the employer report before you would be applying for coverage whether the insurance qualifies. And by the way, it would make sense to require insurers -- employers to provide insurance that is actually decent.

The second thing is there could be a de minimums exception for owing a reconciliation payment. If your income was within a couple thousand dollars of what you had projected, you could say that you don't have to make any adjustment at all at the end of the year.

It would make sense to try to queue people to report their income to the exchanges when their income is likely to be changing. So one thing is you could modify the W-4 form that people file when they start a new job to automatically have that link in to the health insurance exchange information, at least for employers that aren't providing health insurance. And actually, for employers that are providing health insurance, that would make sure that people stop their insurance coverage once they had qualifying insurance through their employer and try to figure out a way to automate that process.

And then actually I have one suggestion that will make things more complicated but might be warranted, and that is to allow people the option for a monthly reconciliation at the end of the year, particularly the example that Tara gave, that if you got a big chunk of income at the end of the year, you could say, well, for that one month you weren't qualified but for the rest of the year you actually were qualified for the subsidies that you claimed. That would be complex and I assume most people wouldn't opt for it, but in a particular case like that, it might be worth going through the complexity of reporting your income on a monthly basis.

MS. STRAW: Well, and that, essentially, is what Medicaid does because there is an exception for lump sum income which is what would be in that example. So, I mean, I agree with much of what people have said, so I really don't have much to add. I think that we need to consider some kind of hold harmless on reconciliation, whether it's sort of a more complicated formula of looking at these sort of lump sum amounts that might come in in a month unexpected, or looking at what -- I think there's some kind of provision in Social Security to have some kind of appeal process or hold harmless if you have an issue with your benefits. So I think that there are probably some things like that we can look at. I think there are ways to streamline some of the exemptions but I think more than anything we just need to learn them and apply them and not have this like kaleidoscope of exemptions where they keep changing, and that would help a lot. But let's maintain a little bit of complexity there because I like having those options for clients.

MR. GLECKMAN: Tara, Stan suggested sort of his nuclear option here is just get this out of the tax code entirely. Just do this as a direct subsidy. What do you think?

MS. STRAW: I don't know. I mean, I think that there are probably -- I'm very reality-based.

MR. DORN: Unlike the rest of us.

MS. STRAW: It would be a huge change, and I'm so mired right now in the implementation muck that it is difficult for me to conceive of what that change would entail or whether it would really be possible. I think there would certainly be advantages of not having your health insurance ebb and flow with your income in quite this dramatic a way. So I can definitely see the advantages of it.

MR. DORN: Yeah. In terms of the reality basis, I just want to make clear that I am not on drugs, except for caffeine, which is a good drug. And I'm aware that the odds of Congress changing this law are slim to none.

MR. CIARAMITARO: They repeal it every week.

MR. DORN: Oh, what am I thinking?

But come 2017, states are in a position to do major changes to the law. There's an option -- there's a special waiver provided in the Affordable Care Act that says starting in 2017, a state can basically say let's take the amount of federal subsidies that people in our state would have received for the marketplace and let's rearrange how we provide the subsidies, as long as -- sort of to oversimplify, as long as the federal deficit doesn't get worse and as long as consumers are at least as well off, a state can do that kind of change. And that may open the door for states to say maybe there's something we can do to eliminate this sort of silly reconciliation process that, you know, is based on what's truly a fantasy, which is that everybody has an infallible Ouija board and can accurately predict what their income is going to wind up being at the end of the year.

Now, we don't know the rules for this special waiver. CMS, the Centers for Medicare and Medicaid Services, which sort of run this part of the show, they have said here's the processes it needs to go through if it wants to get this kind of waiver. We don't know the substantive criteria, so I'm sort of guessing that this might furnish an avenue for real world relief in some states, but we really need to see regulations before we know for sure.

MR. CIARAMITARO: I would just like to add there's one more complexity that's going to be coming next year that we didn't experience this year on the scale, and I think Tara mentioned that 75 to 80 percent of the people really just had to check the box. There wasn't really a lot of documentation needed to be provided. That changes next year. Every filing person will have to indicate their coverage status through a 1095-B or -C. These are new documents that will be required next year, and so from a tax preparer perspective, the due diligence required to verify that everybody in their household was covered with a qualified health plan next year is going to be a new wrinkle. In other words, many more people are going to be involved in this process of documentation. That's a new thing that's going to happen next year. That's something we haven't really faced this year, so.

MR. GLECKMAN: And Mark, you forgot to mention they're going to have to do it in red pen.

MR. CIARAMITARO: Or pencil.

MR. GLECKMAN: Let's give you all a chance to ask some questions. Sarah has got a microphone, so wait for a mic, and please introduce yourself. And also because our time is fairly limited, just ask a question; don't give a speech.

Kim, we'll start with you.

MS. RUEBEN: I'm going to make a comment and then ask a question but it'll be short, I promise.

MR. GLECKMAN: First, you're going to introduce yourself.

MS. RUEBEN: Hi, I'm Kim Rueben from the Tax Policy Center.

First, I think the whole idea of moving it out of the tax system is the opposite of what people are trying to do with financial aid; right? So in all the discussion about simplifying the FAFSA and how we make higher education easier, it's making it more and more dependent on the tax system. So it seems like there might be wrinkles you're missing by trying to move in that opposite direction.

The second is, and this is mainly, I think, for Mark, I work with Tara doing taxes in D.C. on a volunteer basis, and I was sort of amazed and happy that it hasn't been more complicated than it is, but I think a lot of that has to do with the fact that Medicaid is so high.

Can you talk a little bit about how this varies across states and like places that are more complicated because of the fact that they haven't expanded Medicaid or things like that?

MR. CIARAMITARO: Right. So those states that haven't expanded Medicaid, those tax filers who have 138 percent automatically qualify for an exemption. Those that are in the expansion states tend to have filers that are actually covered under Medicaid. So they're checking the box. So in that situation there's not that much of a complexity difference. They're either checking the box "I'm covered with Medicaid" or "I get an automatic exemption." Right? So there's not a lot of complexity impact in what I would call Medicaid expansion states.

MR. BERMAN: If I could address the mini speech about how simplification is enhanced by linkages with tax prep, it's possible -- I mean, if a state wants to go forward with this change in 2017, it's possible to get the best of both worlds. You need to have a limited open enrollment period into marketplace coverage. It has to be limited in duration. If you say you can enroll at any time, then people can wait until they get sick before they enroll. So you could say let's have the open enrollment period aligned with tax filing season. Let's use data on the tax return to expedite the initial determination of eligibility, but let's leave the door open during the year for people to come in and say my circumstances have changed. This month I need more help, this month I need less help, and that way you don't have to go through the claw back of reconciliation. And indeed, in the FAFSA context, there's no reconciliation there.

MS. STRAW: Actually, can I just add to what Mark just said about the coverage gap exemption and how easy it is? I think the unfortunate thing is that it won't be so easy in 2015. You know, right now when people are in states that didn't expand Medicaid, they can -- and they would have been eligible had the state expanded, so with really low-income adults, generally, they can claim an exemption code on their tax return.

It's pretty easy this year, but next year, next filing season, we'll be in the position of telling -- asking them, well, did you apply for Medicaid last year even though you weren't eligible for it? Because that's what they will need to have done in order to claim the same exemption, which won't be available on the tax return next year unless that's changed. So unfortunately, that's going to be another instance when, you know, it's going to sound as bureaucratic as it is when a tax preparer delivers the news that, you know, people needed to jump through a few hoops in the prior year in order to claim that same exemption.

MR. BERMAN: So you have to apply and be rejected to prove that you're not eligible.

MR. CIARAMITARO: Not this year.

MS. STRAW: Not in 2014, but for 2015, yes. So next tax season that's what we'll be explaining to people at 50 percent of the poverty line.

MR. GLECKMAN: Other questions? Yes, ma'am.

MS. LUCERO: I'm Kat Lucero from Tax Analysts.

Just to follow up for next year's tax filing season with regards to the employer mandate, have any of you or has there been a standard created to help employers and the tax professionals helping them prepare with these taxes and all these forms, has there been a standard to make sure that their operations can handle this new workload? Or if there's not, what advice would you give these groups?

MR. CIARAMITARO: Well, there are new forms that employers are supposed to fill out this year. If you're an employer with 50 or more employees, you're therefore potentially subject to your own shared responsibility payments, and so you need to provide information about whether you offer coverage or not, and if you do offer coverage, you have to provide information about whether it meets various criteria in the Affordable Care Act. If you're a smaller firm with under 50 and you provide insurance, then either you or your insurance carrier has to complete forms that you send to the IRS that describe each month who received coverage. And so, you know, the employer community complained bitterly about these forms, and therefore, there was a delay in having them completed. But it's happening right now. It's happening for 2015. Employers are supposed to fill out forms and file them with the IRS early in 2016.

MR. GLECKMAN: Other questions?

MS. WHEATON: Hi, I'm Laura Wheaton from the Urban Institute.

I was curious about whether the ACA is -- how it's affecting incentives for whether a person is claimed as a dependent and who might choose to claim a person as a dependent? Because I think you'd mentioned that there was mention that having that additional dependent makes the family poorer. On the other hand, you have to make sure that the dependent has coverage. And I was just wondering if this is affecting people's behavior in terms of claiming dependents.

MR. GLECKMAN: Mark, what do you say?

MR. CIARAMITARO: I'll say two things about claiming of dependents. The first is just going back to the reconciliation process, many people don't quite understand that if they have dependents over the filing threshold, that that income actually has to be added to their household income. And that's one of the considerations people don't think about. When they claim a dependent, it actually could raise their income -- their end-of-year income.

What we are seeing is quite a few instances of people who claimed a dependent but another household is actually paying for the insurance, so there is a provision on the 8962 reconciliation form for sharing. The impact of the reconciliation process across two tax-filing households, that's proving to be a pretty complicated explanation, but it's one of the things that we're seeing. Especially, an example is a divorced household where one spouse takes the child and the other pays for the insurance. There has to be a provision for sharing. If the households can agree on it, there's a way to do that; if they can't, there's a default percent. But that's a pretty complicated aspect of the reconciliation process, but it's one of the topics where dependents come in that we see.

MR. GLECKMAN: Tara, have you got a perspective on this?

MS. STRAW: I haven't seen a big sort of debate in families about whether to claim someone. It sort of works both ways, as you explained that having the extra dependent can lower your federal poverty level and thus make you potentially eligible for a greater subsidy if you're in a subsidy category. On the other hand, you have to ensure that there's insurance for that extra dependent. But in general, the IRS rules for dependency are the IRS rules for dependency, and so people will generally claim the dependent they can claim. You know, whether at some point in the future, if there is some gaming of it, I think it would be very, very marginal. And frankly, people don't understand the rules well enough on any of this yet to think about how to manipulate them. So I haven't seen that.

MR. GLECKMAN: Well, I have a question maybe for somebody in the audience. Is there anybody here from an insurance company or from the insurance industry? I don't want to put you on the spot, but I'm curious, the movable enrollment periods, what does this all mean for you? Tell us who you are, if you're welling.

MR. MAGNUSON: Sure. So my name is Rachel Manguson. I work for -- I'm director of Federal Affairs for Humana. We're one of the largest health insurers in the country. Last year we enrolled about a million individuals through the states that we cover, primarily on the federal marketplace. We are strongly supportive of moving to an enrollment period that aligns with tax season for many of the reasons that were mentioned here. As an insurer, our goal is to have as many people covered with insurance as possible. So when we look at sort of the marketplace that we're in, and in particularly for Humana, we're in many of the states that where we see high enrollment numbers, some of our marketplace -- for example, Florida taxes other states where people are looking for coverage, and the challenges that they face at end of the year, cost between Christmas shopping or just end of the year expenses, higher heating bills, et cetera, really limits people. By and large, the main driver for individuals buying health coverage is the cost, so anything that can be done to ensure that individuals have an option for additional funds to be able to purchase coverage would be something that we would be very supportive of. Different insurers fall into different categories. It depends from a business marketplace how individuals have lined up their sales and marketing teams. So some of the insurers would prefer to stay consistently with when it is.

I would say we were pleasantly pleased when CMS came out with their most recent rate notice, that they only talked about 2016; that they did not address future years of 2017. We were anxious to see that they would leave 2017 open for discussion. I think that there was a strong push just for continually the rules have changed so much that there was a strong push to go beyond 2016 when the open enrollment period was. So to see that it moved without leaving 2017 open is something that we were very supportive of.

I would also say we're supportive of the fact that the government has moved to a special open enrollment period for individuals, but we share your concerns about the gap in coverage and what that will mean for individuals. But I would be happy to talk more.

MR. GLECKMAN: Great. We have time probably for one more question. Yes, sir. Wait for the mic and tell us who you are.

MR. HAYNE: Good morning. Patrick Hayne from the Annie E. Casey Foundation. Thank you all for this presentation this morning.

This is a question for multiple folks on the panel. I'm particularly interested, in Stan's presentation he talked about kind of, you know, the complications that are coming and then also some suggestions as far as trainings and regulations of those folks that are doing this work or could be doing this work.

Mark, if you could talk about -- I know in your presentation you lifted up the number of hours that Block is doing as far as making sure that their folks are -- your folks are prepared. If you could talk about maybe your industry.

And then Tara, if you could talk about what the IRS is or isn't doing.

And then Stan, if you have any suggestions or comments on that particular training piece given the lack of opportunity within Congress to move anything on that.

MR. GLECKMAN: That's about four questions. We have about three minutes. Real quick.

Stan, go for it.

MR. DORN: Well, I'm going to wait for the other two people.

MR. CIARAMITARO: So we do extensively train our tax professionals. Most of that training is focused on the tax implications of the Affordable Care Act. H&R Block has a relationship with a web-based broker entity, and so those clients have indicated an interest to us. We made a decision pretty quickly for those who want assistance. We actually pass them off to a state licensed insurance broker that can help them through the enrollment process. That keeps our tax professionals focused on the tax implications and then allows us to pass it on to an expert in the insurance enrollment process. So that's our current model for helping our clients in those places. Where we can't provide broker assistance, we actually try to help these clients understand whether they qualify for Medicaid, whether their kids qualify for CHIP, and what the state-based marketplace kind of contact information would be. So we're trying to do everything we can to cover all of it, but generally, our approach is to keep our tax professionals focused on the tax implications and then put them in a position to hand off the client to an insurance broker who can help them, enroll them for free. There's no additional cost for that service.

MR. GLECKMAN: Tara?

MS. STRAW: I think that the IRS has really done amazing work in putting together the form instructions. You don't often hear a lot of applause for instructions to tax forms. But they had this, you know, awesome responsibility of taking all of these special rules and special carve outs and exceptions and circumstances that had been sort of created sometimes ad hoc by CMS as needed throughout the open enrollment system, and then they had to write it all down in a way that people could understand without sort of knowing all the back story. That's a pretty serious amount of work.

As far as training, the VITA or TCE volunteers, they don't really do a lot of training, and I think that's really been something that's been sacrificed in the budget cuts that they've faced. So they didn't have the money to, you know, really do a full-scale training. I mean, you know, we've been able to reach, we think, maybe up to 10 percent of the volunteers nationwide, which is pretty incredible, but a lot of that happens through word of mouth, which, you know, isn't the best way to get people directed into a training program.

MR. GLECKMAN: Stan?

MR. DORN: So I guess what I would say is that there are several different models that we've seen for helping tax professionals work with client and enroll them into coverage. One is the model that Mark mentioned where a tax professional remains focused on tax issues and partners with somebody else to do the health work. That's what H&R Block has done. It's also what Jackson-Hewitt has done. Jackson-Hewitt also took an additional -- they're sort of one of the big three for-profit tax prep folks, but nobody is anywhere near as big as H&R Block. They've taken the additional step when a client appears to be eligible for Medicaid of using the tax information, getting the client's permission to use it for other purposes, asking an additional five minutes of questions, and printing out a Medicaid application and mailing it in to the state. And then the way most Medicaid programs work, the consumer is given a chance to pick a managed care plan in Medicaid. If the consumer doesn't make a choice, one is assigned for the consumer. So that, in essence, represents a partnership between the tax person and the Medicaid program. So that's one model.

A second model that we've heard about in some VITA programs is co-location where you have, you know, the example that Tara gave in South Carolina. In one library, you have the tax prep folks, the volunteer tax prep folks, and the nonprofit health application assisters. So someone can come in and get both of those needs met.

The third model involves tax prep folks who decide to bite the bullet and become certified application assisters. So that's a model that Liberty is using in some places. So in California, for example -- Liberty is the third of the big three. And so in California, for example, they have a lot of tax prep folks who have seen the ACA as a chance to build their tax business. And they've gone on parades, and they've gone into consumer outreach efforts. And their experience has been that when they help a client solve a complicated health insurance problem, that makes the client more likely to come to them for tax preparation services as well. So there are all these different models for dealing with, you know, taking two insanely complicated worlds -- the tax world and the health insurance world. And what happens when worlds collide? Well, you would expect confusion, but the big news I think is that there hasn't been more confusion and mix-ups. The big news is that despite the collision of these complicated worlds, we have, you know, according to CBO, 12 million more people with health insurance now than would have otherwise been the case. It's quite an accomplishment.

MR. GLECKMAN: And that's the last word. Thank you all for coming. Thanks to Stan and Mark and to Len and to Tara. And maybe we'll be back next year and see how it's going a year from now. Thank you.

(Applause)

* * * * *

CERTIFICATE OF NOTARY PUBLIC

I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Carleton J. Anderson, III

(Signature and Seal on File)

Notary Public in and for the Commonwealth of Virginia

Commission No. 351998

Expires: November 30, 2016