

CAPITOL STREET

November 6, 2025

Shutdown Deal Terms Likely To Be Reached for Votes Next Week

1-2 Year EPTC Extension, Guardrails Likely As Senate ACA Subsidy Fraud Hearing Is Today

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State of play: ACA subsidies & fraud will be under a microscope today as a shutdown resolution likely comes over the next few days (though votes may not occur until next week). This is the 6th week of the shutdown. The government has been shut down since October 1, with Democrats pushing for an EPTC extension and Republicans attempting to persuade them to approve a Continuing Resolution (CR) without the expiring subsidies (our take [here](#)). We expect lawmakers to resolve the logjam through a clean CR to Jan/Feb 2026 or even a full year. We have said the Obamacare subsidy agreement is likely to be 1- year or 2-years, with income caps for higher-income enrollees, as a creative solution to blanket subsidies for those up to 600% FPL. The CMS Marketplace program integrity rule is partially halted, as a federal judge blocked many provisions that would have tightened eligibility, verification and SEPs.

»» Key Points

A bipartisan compromise around ACA tax credits from moderate House members is beginning to move Leadership to break the logjam. Reps. Bacon (R-NE), Suozzi (D-NY), Hurd (R-CO), Gottheimer (D-NJ) proposed a “statement of principles” for a temporary extension of EPTCs, serving as one of the only public bipartisan proposals throughout the entire shutdown period. Proposals include (1) a two-year extension of EPTCs (2) income cap phased out between \$200,000 - \$400,000 (3) guardrails to prevent improper payments of EPTCs.

The House could return early next week for votes. If that proves true, we may see the contours of a deal begin to emerge within the next 24-48 hours.

The EPTC extension may come with various program integrity guardrails. A [proposal](#) unveiled this week includes certain program integrity guidelines such as: (1) Requiring ACA marketplaces to cross-check enrollee data with the death master file to prevent improper payments to deceased individuals (2) Applying a “preponderance of evidence” standard to determine whether agents or brokers may continue operating within

ACA marketplaces, ensuring stronger fraud prevention (3) Mandating that marketplaces clearly notify recipients of the dollar value of the APTCs they receive from the federal government.

Today, the Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations (Chair Ron Johnson, R-WI) will hold a hearing on the widely discussed Obamacare tax credits. The hearing titled "Assessing the Damage Done by Obamacare" will take place at 1:00 PM. Witnesses include Brian Blase of Paragon Health, along with Joel White from Council for Affordable Health Coverage, Tarren Bragdon from Foundation for Government accountability, and Shana Versteegen a small business employee and marketplace enrollee. The hearing will likely focus primarily on exposing fraudulent subsidy payments, particularly given Brian Blase's testimony.

Paragon's Brian Blase, a longtime critic of the *Affordable Care Act* (see our past take here), argues that allowing subsidies to expire would curb waste, fraud and abuse. Blase has examined the rise of "phantom Obamacare enrollees," referring to individuals who receive coverage and subsidies but do not use healthcare services or generate any claims. In Paragon's latest policy brief today, he contends that the subsidies, especially the temporary *ARPA* COVID credits, create financial inequities for those with employer-based coverage, discourage work and incentivize employers to drop coverage. He also notes that ACA premiums have increased twice as fast as employer-sponsored premiums since 2014.

BACKGROUND

As a reminder, the Marketplace program integrity rule finalized in June (our take here), tightens eligibility and verification, shortens open enrollment, and pauses certain SEPs though many provisions were blocked by a federal judge. The rule was partially halted, as the court blocked several key provisions in August based on an *APA* (*Administrative Procedure Act*) challenge, citing likely harm to coverage and insufficient justification for the changes. Some changes took effect earlier this fall including removal of the 150% FPL SEP (special enrollment period) and reversing DACA eligibility, which was allowed to proceed. CMS also set a Dec. 31, 2026 sunset for several policies, including income verification, annual eligibility redetermination for \$0 premium enrollees, and termination of EPTCs for inaccurate income reporting – meaning enrollees who fail to file taxes and reconcile their ACA premium credits within a year may lose their subsidies.

We have said that income thresholds were likely to play a central role in negotiations (see our earlier take), with discussions focused on limiting eligibility for wealthier enrollees. However, the new bipartisan proposal's use of fixed dollar caps between \$200,000-\$400,000 represents a switch from the traditional FPL-based framework. As a reminder, EPTCs currently vary by income: (1) households below 150% FPL receive the largest subsidies, including \$0 premium plans; (2) those between 150–400% FPL receive sliding-scale subsidies capped at 8.5% of income; and (3) those above 400% FPL qualify if premiums exceed 8.5% of income. Allowing only the most needy to obtain cash for insurance could allow a cap eligibility at 200% FPL, ending credits for higher-income enrollees (200-600% FPL). Currently, there is no subsidy limit because the *American Rescue Plan Act (ARPA)* eliminated the 400% FPL "subsidy cliff" in 2021, instead capping premiums for higher income households at 8.5% of their income.

Scaled-back subsidies with new limits, including minimum on out-of-pocket requirements and grandfathering provisions may be in a deal. Along with eligibility changes, there are discussions of requiring a minimum out-of-pocket premium, or grandfathering current enrollees, but cutting off new ones.

2026 premium impacts would be steeper; once fixed, marketplace insurance shoppers will see lower rates via Healthcare.gov as well as state-based exchanges. As a reminder, expiration of subsidies could leave 4-5 million people without coverage (our take here). Commonwealth fund reported individuals could see premiums double and quadruple, and KFF estimates the average out-of-pocket premium increase to be 114-115%.

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