



# FORM 8962

## URGENT UPDATE - TAX YEAR 2021

**ATTENTION: INDIVIDUAL TAX AND HEALTH INSURANCE PROFESSIONALS, AND CONSUMERS WHO WERE ENROLLED IN AN INDIVIDUAL HEALTH INSURANCE PLAN IN 2021**

**PLEASE FORWARD TO ANYONE YOU BELIEVE MAY BENEFIT FROM THIS NOTICE.**

**IMPACT: 1.3 MILLION CONSUMERS NATIONALLY<sup>1</sup>**

### BACKGROUND

On March 11<sup>th</sup>, 2021 the American Rescue Plan Act of 2021 (ARP) was signed into law. Section 2305<sup>2</sup> of the law states:

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in the case of an individual who has received, or has been approved to receive, unemployment compensation for any week beginning during 2021, for the plan year in which such week begins--  
    ``(1) such individual shall be treated as meeting the requirements of subsection (b)(2), and  
    ``(2) for purposes of subsections (c) and (d), there shall not be taken into account any household income of the individual in excess of 133 percent of the poverty line for a family of the size involved.''.
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Effectively, in the event that the primary tax filer or their spouse is found ELIGIBLE for Unemployment Compensation benefits for as little as one week in 2021, they are eligible to receive the MAXIMUM amount of premium tax credits to enroll in qualified coverage through the Affordable Care Act.

### DEPARTMENT OF HEALTH (DHS) - IMPLEMENTATION

The Centers for Medicare and Medicaid Services (CMS) is the agency under the DHS that oversees the individual health insurance markets, including Healthcare.gov and state-based systems such as Pennie, Covered California, etc.

Upon passage of the ARP, the CMS and State systems kicked into high gear to add a dedicated question on the health insurance application that asked, "Did you get (or will you get) Unemployment Compensation in 2021?" If this question was answered yes, the application would then ignore the actual income reported, and offer premium tax credits as if the consumer was at 133% of the federal poverty limit.



## HEALTH ADVOCATES

### INTERNAL REVENUE SERVICE (IRS) - IMPLEMENTATION

**The reason for this notice relates to the limited IRS implementation of these provisions.**

For Tax Year 2021, the only mention of Unemployment Compensation benefits on IRS Form 8962 is on Line 5 where there is a note to “see instructions”. There is no line that expressly asks, “Were you found ELIGIBLE for Unemployment Compensation benefits in 2021?” This is not necessarily just for consumers who *received* benefits, but also for those who have been *approved to receive* benefits. So, if a preparer processes a return but doesn’t expressly ask about Unemployment Compensation benefits, and doesn’t MANUALLY override Line 5 on Form 8962, then the consumer could be in trouble.

What if a tax preparer’s software doesn’t highlight this issue? Or what if this isn’t a topic in the annual training? The VITA/TCE annual preparer certification, which has a 247-page document guiding changes, doesn’t notify preparers of this change! The document addresses the need to report Unemployment Compensation benefits as income, but not the APTC implications.

The IRS does have the following listed on their website, in the event you do attempt to “see instructions”:

**Line 5 instructions change:**

If you, or your spouse (if filing a joint return), received, or were approved to receive, unemployment compensation for any week beginning in 2021, enter 133 on line 5. For all others, figure your household income as a percentage of the federal poverty line using Worksheet 2.

**Ultimately, our concern is the impact on consumers.** If tax preparers don’t know about this update to Form 8962, or they don’t ask EVERY consumer with a 1095-A to confirm if they were eligible for Unemployment Compensation benefits at any point in 2021, then:

1. Some consumers may present as owing the IRS (in some cases five-figure sums!), for tax credits that are rightfully theirs to receive.
2. Some consumers may NOT receive the right amount of premium tax credits.

Impact Example 1: An individual received Unemployment Compensation benefits through the first quarter of 2021, at which point they started a consulting agency; making a total of \$300,000 during the year. Because of ARP, the IRS ignores ALL income pertaining to the Form 8962. In this case, a family was eligible for over \$21,000 in premium tax credits due to ARP and was initially told by their accountant that they would owe this back since the accountant wasn’t didn’t override Line 5.

Impact Example 2: A consumer receives Unemployment Compensation through the September extension and during this time period paid \$300 per month in net premiums, because they DIDN’T update their status in healthcare.gov. Properly filling out Form 8962 can potentially reimburse them up to \$3,600 assuming they are eligible for more Premium Tax Credits than they actually received.



**HEALTH**  
ADVOCATES

## Resources

### BACKGROUND

- 1| 1.3 Million - <https://www.healthaffairs.org/doi/10.1377/forefront.20210311.725837/full/>
- 2| Section 2305 - [https://www.congress.gov/bill/117th-congress/house-bill/1319/text#:~:text=new%20%0Asubsection%3A%0A%20%20%20%20%60%60\(f\)-,Special%20Rule%20for%20Individuals%20Who%20Receive%20Unemployment%20%0ACompensation%20During%202021](https://www.congress.gov/bill/117th-congress/house-bill/1319/text#:~:text=new%20%0Asubsection%3A%0A%20%20%20%20%60%60(f)-,Special%20Rule%20for%20Individuals%20Who%20Receive%20Unemployment%20%0ACompensation%20During%202021)

### DHS IMPLEMENTATION

CMS Guide when ARP was introduced <https://www.cms.gov/newsroom/fact-sheets/american-rescue-plan-and-marketplace>

### IRS IMPLEMENTATION

Form 8962 Line 5 Guidance - <https://www.irs.gov/forms-pubs/changes-to-the-instructions-form-8962-2021>

VITA/TCE Certification - <https://www.irs.gov/pub/irs-pdf/f6744.pdf>

## Transparency

**About the Author:** This document was prepared by Joshua Brooker, REBC®, Principal of Pennsylvania-based brokerage firm PA Health Advocates. When he was double-billed for the birth of his son in 2013, he used his background in insurance, individual taxation, and finance to focus on the individual health insurance market. He currently holds Series 7 and 66 licenses with FINRA, and insurance licenses in 11 states. Additionally, he sits on policy and legal workgroups within government agencies at both federal and state levels, and externally with trade groups.

Any request for clarification on this document can be sent to [info@pahealthadvocates.com](mailto:info@pahealthadvocates.com)

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NPN: 16120334  
CRD: 6596992