

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201



Date: January 19, 2016

Subject: Special Enrollment Periods No Longer Utilized by the Federally-facilitated Marketplaces and State-based Marketplaces using the Federal Platform and Future CMS Actions

A Qualified Individual (QI) may only enroll in a Qualified Health Plan (QHP) or change QHPs through the Marketplace during the Annual Open Enrollment Period or after qualifying for a Special Enrollment Period (SEP), in accordance with 45 CFR 155.305(b), 155.410, and 155.420. SEPs are provided by the Marketplace when a QI, or, in some cases, his or her dependent(s), experiences a qualifying event, such as marriage or birth, or meets other, often time-limited, circumstances requiring relief, as defined by the Department of Health and Human Services (HHS).

Q1: What instances of existing Special Enrollment Period authority will no longer be utilized by the FFM?

A1. After a review of the SEP policies and associated operations of the Federally-facilitated Marketplaces (FFMs) and State-based Marketplaces using the Federal Platform (SBM-FPs), CMS has identified below seven SEPs that are no longer available to QIs through the FFM and SBM-FPs, effective January 1, 2016. This guidance only applies to FFMs and SBM-FPs. CMS will continue to monitor SEP usage and may make changes to SEP policy and operations in the future. In particular, CMS will continue to monitor SEPs related to Marketplace operations as Marketplace systems and operations continue to improve. CMS will continue to review SEPs and produce similar updates to clarify, streamline, gain efficiencies in, and provide more transparency around SEP policy and operations.

As planned, the FFM and SBM-FPs no longer utilize the following instances of existing SEP authority to allow consumers to enroll in or change QHPs because the specified time period has ended, the situation it addressed has been resolved, or needed system updates have been made:

SEP TYPE	DESCRIPTION
Technical Errors	
Enrolled with surplus APTC as a result of a redundant or duplicate policy	<p>A qualified individual or dependent who qualified for Advance Payments of the Premium Tax Credit (APTC) and was incorrectly auto-reenrolled into a Qualified Health Plan (QHP) for the 2015 benefit year with an amount of APTC that exceeded the amount for which he or she was eligible, due to being associated with more than one policy as a result of an Exchange error.</p> <p>The issue was identified and corrected, where possible, and CMS performed outreach to affected consumers.</p>
Tax Dependents with Social Security Income Error	<p>A qualified individual had a tax dependent who only had Social Security income, which was improperly counted as part of the total household income for determining QHP, APTC, and Cost-sharing Reduction (CSR) eligibility.</p> <p>This issue was identified and the system was fixed to correctly count household income for these households.</p>
Incorrect APTC determination due to a system error for certain lawfully present non-citizens	<p>When more than one lawfully present non-citizen applicant applied for Marketplace and selected “yes” to a question about immigration status (sometimes referred to as the “immigration block question”), only the first person on the list of applicants was determined eligible for APTC.</p> <p>This issue was identified and the system was fixed to apply the correct amount of APTC to these households.</p>
Certain lawfully present non-citizens below 100% FPL with cleared immigration status inconsistency	<p>Certain lawfully present non-citizens with annual household income below 100% of the federal poverty level (FPL) who had an immigration status data-matching issue and, after submitting required documentation to verify that they were lawfully present and were ineligible for Medicaid due to their immigration status, were not able to enroll in QHP coverage with APTC due to a delay in processing.</p> <p>This issue was identified and the problem causing the processing delay was fixed so that these qualified individuals were able to enroll in QHP coverage with APTC.</p>
Insufficient Information/Consumer Confusion	
Individuals Eligible for or Enrolled in COBRA	<p>A qualified individual who was eligible for COBRA or enrolled in COBRA and was not informed or was not sufficiently informed though the former Model COBRA Continuation Coverage Election Notice of the availability of Marketplace coverage or their ability to qualify for an SEP to enroll in Qualified Health Plan coverage through the Marketplace.</p> <p>COBRA Model Notices were updated to provide additional information about QHP coverage.</p>
Tax Season	<p>A qualified individual who was subject to the individual shared responsibility payment on his or her Federal Income Tax Return for 2014 (the first time that this payment was due) and was both 1) unaware of the</p>

	<p>ACA requirement to maintain minimum essential coverage until after February 15, 2015 and 2) not enrolled in Minimum Essential Coverage for 2015.</p> <p>The 2014 Federal Tax season passed.</p>
Special Other Coverage Situation	
Individuals Losing Coverage through PCIP	A qualified individual was enrolled in Pre-Existing Condition Health Insurance Program (PCIP) transitional coverage.

Q2. What actions is CMS pursuing regarding special enrollment periods?

A2. The CMS Center for Program Integrity will conduct an assessment of enrollments that came through certain SEPs to evaluate whether consumers properly accessed coverage. At a minimum, the assessment will include the two frequent SEPs utilized by Marketplace consumers: those related to loss of minimum essential coverage and permanent moves. CPI will sample consumer records nationally and may request additional information from consumers or take other actions to validate that they properly accessed coverage using those SEPs. The findings from the assessment will be used to inform future policy and business process improvements to enhance program integrity. We will announce further details in the coming weeks. Like all information provided by consumers, responses to questions that trigger a special enrollment period are made subject to penalty of perjury. We are reviewing HealthCare.gov and call center scripts to ensure that the existing language and attestation are appropriately clear to consumers, and will make any changes that are needed to further ensure that consumers understand that they may be subject to penalties under federal law if they intentionally provide false or untrue information as part of the enrollment process.