



Health Care Reform **Bulletin**

New Exchange Special Enrollment Periods for Certain Individuals

Provided by Montgomery & Graham

Quick Facts

CMS will provide special enrollment periods for:

- Individuals who were “in line” as of March 31
- Individuals who were unable to enroll due to certain limited circumstances

These individuals will have a limited amount of time after March 31 to enroll in a QHP.

Coverage effective dates will vary based on the special enrollment period.

If certain conditions are met, new special enrollment periods will allow individuals to enroll in Exchange coverage after the initial open enrollment period closes.

Under the Affordable Care Act (ACA), individuals may only enroll through an Exchange **during a permitted enrollment period** (such as open enrollment or a special enrollment period). The initial open enrollment period ended on March 31, 2014.

On March 26, 2014, the Centers for Medicare & Medicaid Services (CMS) issued two separate pieces of guidance providing the following **special enrollment periods** (SEPs) in the federally-facilitated Exchange (FFE):

- **SEP for “In Line” Individuals**—those who began the enrollment process but hadn’t finished—as of March 31. CMS also issued an [instructional sheet](#) for assistors.
- **Limited Circumstance SEPs** for individuals who were unable to enroll during the initial open enrollment period due to certain limited circumstances. CMS also issued an [instructional sheet](#) for assistors.

If certain conditions are met, these SEPs allow individuals to enroll in Exchange coverage after the end of the initial open enrollment period.

Overview of Special Enrollment in Exchanges

Individuals may be allowed an SEP in an Exchange following certain triggering events,

such as marriage or birth of a child. SEPs permit individuals to enroll in a qualified health plan (QHP) outside of open enrollment.

The effective date of any coverage elected during an SEP follows rules similar to those applicable during initial enrollment. This means that coverage would generally be effective as of the first day of the month for elections made by the 15th of the preceding month, and on the first day of the second following month for elections made between the 16th and the last day of a given month. However, special rules apply when birth, adoption or placement of a child is the special enrollment triggering event.

For SEPs that are triggered by mistakes, contract violations, exceptional circumstances and misconduct, the Exchange may set an appropriate effective date.

SEPs for “In Line” Individuals

CMS noted that high consumer traffic leading up to the March 31 deadline may have kept consumers from completing the enrollment process, despite efforts to meet the deadline. As a result, CMS will provide an SEP for consumers in the FFE who were “in line” as of March 31. Thus, consumers who tried to enroll during the open enrollment period, but did not

complete the process by March 31, will be allowed a **limited amount of additional time** to finish the application and enrollment process.

For consumers who were **“in line” with paper applications** (or whose applications were pending submission or review of supporting documentation) on March 31, CMS will process applications received by **April 7**. These consumers may select a plan through **April 30**.

Enrollments made in the limited time after March 31 are anticipated to have a **May 1 coverage effective date**, as long as consumers who were “in line” pay their first month’s premium on time. This is the coverage effective date that consumers would have had if they were able to complete enrollment by March 31, and is the normal effective date for enrollments between March 16 and April 15.

To be eligible for the “in line” SEP, individuals must attest that they tried to enroll by March 31, 2014, and didn’t complete enrollment because of a problem that wasn’t their fault.

Effect on the Individual Mandate

Individuals who receive an SEP for being “in line” by March 31, and who select new coverage on time, will be treated as if they had enrolled in coverage by March 31. Thus, under [previous CMS guidance](#), these individuals will be able to claim a **hardship exemption** from the individual mandate for the months prior to their coverage effective date.

Limited Circumstance SEPs

Several systems issues may have prevented timely application submission, produced incorrect eligibility determinations or hindered Exchange enrollment during the initial open enrollment period. As a result, CMS will provide an SEP for individuals in any of the following categories of limited circumstances. Additional categories may be added in the future if other circumstances become known.

In most cases, consumers will have **60 days** to select a plan from the date they are granted the limited circumstance SEP.

To receive a limited circumstance SEP, a consumer must generally call the Exchange Call Center (1-800-318-2596) and ask the Call Center to request the SEP. In certain circumstances, however, the Exchange or issuer may contact the consumer to inform them of the potential SEP.

Generally, these SEPs will result in prospective coverage effective dates. Coverage effective dates may be based on either the date of the SEP triggering event or the regular prospective effective dates described in HHS guidelines. If the date a consumer would have effectuated coverage is unknown, the regular effective dates should apply.

Exceptional Circumstances

An SEP will be provided in cases where a consumer faces exceptional circumstances, as determined by CMS, that occur on or around plan selection deadlines. Exceptional circumstances may include a natural disaster, a serious medical condition or a planned Exchange system outage.

Misinformation, Misrepresentation or Inaction

An SEP will be provided if misconduct by entities or individuals providing formal enrollment assistance (like an issuer, Navigator, certified application counselor, Call Center Representative, or agent or broker) resulted in one of the following:

- A failure to enroll the consumer in a plan;
- Consumers being enrolled in the wrong plan against their wishes; or
- Consumers not receiving subsidies for which they were eligible.

Enrollment Error

An SEP will be provided if consumers enrolled through the Exchange, but the issuer didn’t get their information due to technical issues. For example, this may occur if:

- The issuer received and may process the consumer’s information, but the enrollment



file has defective or missing data so that the issuer is unable to enroll the consumer; or

- The issuer's system rejected the application because of errors in reading the data.

System Errors Related to Immigration Status

An SEP will be provided in cases where an error in processing an immigrant's application resulted in an incorrect eligibility result when the consumer tried to apply for coverage. For example, an SEP would be provided for immigrants who are eligible for subsidies, but who did not receive the proper determination.

Display Errors on Exchange Website

An SEP will be provided if incorrect plan data was displayed at the time the consumer selected the QHP. Display errors may include:

- Data errors on premiums, benefits or copay/deductibles;
- Errors that resulted in the display of a QHP to applicants who were outside of the QHP's service area or who were in ineligible enrollment groups; or
- Errors that didn't allow consumers with certain categories of family relationships to enroll together in a single plan with their family members.

Medicaid/CHIP—Exchange Transfer

An SEP will be provided for consumers who were found ineligible for Medicaid or CHIP, but their applications weren't transferred between the state agency and the Exchange in time to enroll in a plan during open enrollment. For example, an SEP would be provided for:

- Consumers who applied at the FFE, were assessed to be eligible for Medicaid or CHIP, were found ineligible for Medicaid or CHIP by the state agency and then weren't transferred back in time for an FFE determination during open enrollment; or
- Consumers who applied at the state Medicaid or CHIP agency during open enrollment and ended up having their cases

referred to the Exchange after a denial of Medicaid or CHIP.

Error Messages

An SEP will be provided for a consumer who is unable to complete enrollment due to error messages (for example, a consumer could not enroll because an error or box screen appeared indicating that the data sources were down).

Unresolved Casework

An SEP will be provided for consumers who are working with a caseworker on an enrollment issue that is not resolved prior to March 31.

Victims of Domestic Abuse

An SEP will be provided for married victims of domestic abuse. This SEP will be available for a period of 60 days, through **May 30, 2014**.

On March 31, 2014, CMS issued [guidance](#) clarifying that this SEP allows domestic violence victims to apply for and enroll in coverage (with premium tax credits, if applicable) for themselves and their **dependents**. For this purpose, a "dependent" is any individual who is or may become eligible for coverage under the terms of a QHP because of a relationship to a qualified individual or enrollee.

For example, an SEP would be provided if, prior to clarifying guidance, the domestic abuse victim assumed or was informed that premium tax credits were unavailable to consumers who are married and not filing a joint tax return. This is the case regardless of whether the individual attempted to apply through the FFE.

Other System Errors

Finally, an SEP will also be provided for other system errors, as determined by CMS, which hindered enrollment completion.

More Information

Please contact Montgomery & Graham for more information on Exchange enrollment periods.



*Source: Centers for Medicare & Medicaid
Services*

