



CENTER FOR CONSUMER INFORMATION & INSURANCE OVERSIGHT

DATE: September 28, 2017

TO: All Federally-facilitated Exchange (FFE) Qualified Health Plan (QHP) and Stand-alone Dental Plan Issuers

FROM: Randy Pate
Director, Center for Consumer Information and Insurance Oversight

SUBJECT: 2017 Hurricane Disasters – Special Enrollment Periods (SEPs), Termination of Coverage, and Grace Period Flexibilities

Special Enrollment Periods. The FFE offers SEPs outside of the annual Open Enrollment Period to individuals who experience qualifying events. Typically, such individuals have 60 days from the date of the qualifying event to enroll in a QHP. However, all individuals who experience(d) an SEP-qualifying event between 60-days prior to the start date of the incident period designated by Federal Emergency Management Agency (FEMA) and December 31, 2017, but were unable to complete the application and plan selection process because they were affected by a hurricane-related weather event in 2017, will be eligible for an additional 60-day Exceptional Circumstances SEP under 45 CFR §155.420(d)(9) that will allow them to complete their Exchange enrollment.

Individuals will be considered “affected” and eligible for this SEP if they experienced an SEP-qualifying event and attest that they reside, or resided at the time of the hurricane, in any of the counties declared as meeting the level of “individual assistance” or “public assistance” by FEMA.

This SEP will allow these affected individuals to select a new 2017 QHP through the FFE or make changes to their existing 2017 QHP enrollment through the FFE at any time through December 31, 2017. Affected individuals will be able to request a retroactive effective date based on the date of when they would have selected a plan under their original SEP but no earlier than the date that would have applied if the individual had selected a plan on the FEMA-designated incident start date of the service area in which they resided. We will continue to examine the circumstances in the areas affected by hurricanes and will consider taking action that reaches beyond December 31, 2017, if needed. Affected individuals may contact the Marketplace Call Center at 1-800-318-2596 or TTY at 1-855-889-4325 to request enrollment using this SEP.

Additionally, individuals may experience qualifying events due to a hurricane that makes them eligible for other SEPs allowing them to access a new 2017 QHP. For example, an individual who temporarily relocated due to a hurricane and is now residing outside of their current QHP's service area may be eligible for an SEP due to this move. See <https://marketplace.cms.gov/outreach-and-education/special-enrollment-periods-available-to-consumers.pdf> for more information on what circumstances and situations allow for an SEP. Consumers eligible for one of the other SEPs listed at that link can apply for coverage directly through [HealthCare.gov](https://www.healthcare.gov).

The FFE typically requires pre-enrollment verification for new QHP enrollees who are attempting to enroll via certain SEP types. If eligibility for one of these SEPs is not otherwise verified, applicants are directed to send to the FFE documentation proving eligibility for the SEP before the FFE can make a final SEP eligibility determination and send the enrollment to the issuer. The FFE will waive this verification requirement, including by permitting attestation for applicants with pending enrollments who attest to residing in areas affected by hurricanes and who created an application between 60-days prior to the start date of the incident period designated by FEMA and December 31, 2017.

In addition to the above-mentioned SEPs for the 2017 plan year, individuals attesting to residing in or moving from areas affected by a hurricane-related weather event in 2017 will be eligible for an Exceptional Circumstances SEP under 45 CFR §155.420(d)(9) that extends the 2018 Annual Open Enrollment Period through December 31, 2017. Such individuals may contact the Marketplace Call Center at 1-800-318-2596 or TTY at 1-855-889-4325 to request enrollment using this SEP after December 15, 2017. We will continue to examine the circumstances in the areas affected by hurricanes and will consider taking action that reaches beyond December 31, 2017, if needed.

Termination of Enrollment or Coverage. The FFE permits an individual to choose to terminate his or her coverage through the FFE for any reason. Enrollees who terminate their coverage due to hardship from a hurricane may be exempted from associated tax penalties. For more information, see: <https://marketplace.cms.gov/technical-assistance-resources/exemption-general-hardship.pdf>

Consumer Payments and Grace Period Extensions. The FFE has established regulatory parameters at 45 CFR §§155.400(e) and 156.270(g) regarding consumer payment deadlines to effectuate coverage and timelines for payment of premiums under grace periods for consumers receiving advance premium tax credits (APTCs). In response to requests or direction from the applicable state authorities, issuers may consider setting more generous deadlines for payments to effectuate prospective coverage, such as allowing affected enrollees to make a binder payment (1) more than 30 days after the coverage effective date for coverage effectuated under regular coverage effective date rules pursuant to 45 CFR 155.400(e)(1)(i), or, (2) for prospective coverage to be effectuated under special effective date rules pursuant to 45 CFR

155.400(e)(1)(ii), on a date occurring after the later of the date the issuer receives the enrollment transaction or the effective date for such coverage.

CMS will allow QHP issuers to comply with state health insurance authorities' direction or requests to provide extensions for enrollments occurring up to one week before an incident period designated by FEMA through the end of such incident period, but in the absence of specific state guidance relating to the length of such extensions, QHP issuers may allow affected enrollees an extension of no more than 60 days from the original binder payment deadline.

When acting in response to a request or direction from the state health insurance authorities, issuers also may provide a more generous grace period for consumers receiving APTC. Where an affected individual's (as defined above) three-month grace period expires or will expire on or after the date one week prior to the start date of an incident period designated by FEMA, CMS will not take enforcement action against a QHP issuer that does not immediately terminate the affected individual's coverage at the end of the three-month grace period. The qualified health plan issuer may grant such an affected individual an additional 60 days, or an extension period whose length is determined by the request or order of the applicable state authorities, to satisfy past due premium payments.

QHP issuers may implement these grace period extensions from the date one week before the start of an incident period designated by FEMA through the end of such incident period. Issuers must, however, provide to enrollees adequate notice that the enrollees' coverage will not be terminated in accordance with 156.270(g) and how such grace period extensions might affect Guaranteed Availability for the enrollees – especially when an issuer has adopted and correctly implemented the new policy on guaranteed availability in the Market Stabilization Rule which, under certain circumstances, allows QHP issuers to require satisfaction of delinquent payments before issuing or renewing coverage. See 82 Fed. Reg. 18346, 18349 – 53 (Apr. 18, 2017), <https://www.gpo.gov/fdsys/pkg/FR-2017-04-18/pdf/2017-07712.pdf>. Although the length of the grace period may be extended, the basic operations of the grace period for enrollees receiving the benefit of APTC's would remain unchanged. Issuers must pay all appropriate claims for services rendered to the enrollee during the first month of the grace period and may pend claims for services rendered to the enrollee in subsequent months of the grace period; notify HHS of such non-payment of premiums; notify providers of the possibility for denied claims when an enrollee is beyond the first month of the grace period; and return APTC for the subsequent months if the enrollee exhausts the grace period.

Relief from Compliance Standards (e.g. enrollment processing). CMS will consider refraining from taking compliance actions in instances where a QHP issuer's failure to comply was the direct result of the conditions created by recent storms, and the issuer could not have taken reasonable steps in advance to prevent the compliance failure.

Please direct any questions to your CMS Account Manager.