

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: August 14, 2023

Title: Guidance on Annual Redetermination and Re-enrollment for Marketplace Coverage for 2024 and Later Years

Background

45 CFR 155.335(a)(2) provides that Health Insurance Marketplaces have three options to redetermine on an annual basis eligibility for enrollment in a qualified health plan (QHP) through a Marketplace and for insurance affordability programs. 45 CFR 155.335(a)(2)(ii) provides that one of these options is a set of alternative procedures specified by the Secretary for the applicable benefit year. This guidance describes these alternative procedures for benefit years 2024 and later, replacing earlier guidance.¹ The Marketplaces using the federal eligibility and enrollment platform will follow the approach described in this guidance.² Marketplaces not using the federal eligibility and enrollment platform may also choose to follow these procedures, per 45 CFR 155.335(a)(2)(ii), or may otherwise follow (a)(2)(i) or (iii).

This guidance retains key procedures with some updates to reflect current law and Marketplace operations. As in years past, the alternative procedures for benefit years 2024 and later preserve as a core feature of the annual redetermination and re-enrollment process that, in general, an enrollee may take no action and maintain coverage across benefit years, which is important in promoting continuity of coverage while limiting administrative burden for enrollees, issuers, and Marketplaces.

This guidance uses the terms “current benefit year,” “upcoming benefit year,” and “prior benefit year.” For example, at the time of publishing this guidance, the current benefit year is 2023, the upcoming benefit year is 2024, and the prior benefit year is 2022.

Procedures

Requesting updated data. The Marketplaces on the federal eligibility and enrollment platform will request updated data from the Internal Revenue Service (IRS) for all enrollees on whose behalf advance payments of the premium tax credit (APTC) or income-based cost-sharing reductions (CSR) are being provided, and who have provided authorization to the Marketplace to request such data for purposes of annual redetermination.

Marketplace notices. Prior to Open Enrollment, the Marketplaces on the federal eligibility and enrollment platform will send a Marketplace Open Enrollment Notice (MOEN) that will include general information about the upcoming Open Enrollment Period to enrollees who do not have a future termination transaction on file.³ It will also include information tailored to certain groups for whom the Marketplace will remove APTC or CSR if they do not return to update their information before the last day on which a plan selection may be made for coverage effective January 1 of the upcoming coverage year in accordance with the effective dates specified in 45 CFR 155.410(f) and 155.420(b), as applicable.

The MOEN will include the following basic information:

¹ Guidance on Annual Eligibility Redetermination and Re-enrollment for Exchange Coverage for 2019 and Later Years: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2019-Enrollment-ARR-Guidance.pdf>

² All subsequent references to the Marketplace in this guidance are intended to mean Marketplaces using the federal eligibility and enrollment platform unless otherwise indicated.

³ For example, a MOEN will not be sent to someone who is enrolled on October 1, but has requested that coverage end on October 31.

- A description of the annual redetermination and re-enrollment process;
- The requirement to report changes to information affecting eligibility and the timeframe and channels through which such changes can be reported;
- The last day on which a plan selection may be made for coverage effective January 1 of the applicable coverage year in accordance with the effective dates specified in 45 CFR 155.410(f);
- For applications that include enrollees for whom APTC or income-based CSR are being provided for the current benefit year, an explanation of how APTC amounts and income-based CSR levels will be established for the upcoming benefit year in the event that the enrollees do not contact the Marketplace to obtain an updated eligibility determination and select a QHP by the deadline to make a plan selection for January 1 coverage in accordance with the effective dates specified in 45 CFR 155.410(f) or 155.420(b), as applicable.

Further, the Marketplace will also include specific content for certain groups at risk of losing APTC or income-based CSR for the upcoming benefit year. These groups are:

1. Opt-Out Group: enrollees who did not authorize the Marketplace to request updated tax return information for use in the annual redetermination process.
2. Certain Repeat Passive Re-Enrollee Group: enrollees who authorized the Marketplace to request updated tax return information for use in the annual redetermination process; were automatically re-enrolled by the Marketplace for the current benefit year and the prior benefit year with APTC or income-based CSR; did not submit an updated application that was used as the basis for the enrollment in a QHP for the current benefit year nor prior benefit year; and no income information is available from the IRS, or income information could not be requested from the IRS⁴, for the two prior tax years.

The MOEN will explain that if these enrollees do not contact the Marketplace to obtain an updated eligibility determination and select a QHP by the deadline to make a plan selection for January 1 of the upcoming coverage year, the Marketplace will discontinue their eligibility for APTC and income-based CSR at the end of the current coverage year and re-enroll the enrollee in a QHP through the Marketplace for the upcoming benefit year without APTC and income-based CSR, to the extent that the person can be re-enrolled in accordance with 45 CFR 155.335(j). The MOEN will include specific information about the steps enrollees in each group should take to ensure they receive an updated eligibility determination to maintain APTC or CSR, if eligible.

Failure to File and Reconcile (FTR). In the Notice of Benefit and Payment Parameters for 2024 Final Rule (CMS-9899-F),⁵ CMS revised 155.305(f)(4) such that it requires the Marketplace to determine enrollees ineligible for APTC when the enrollee received APTC and the applicable tax filer did not file an income tax return and reconcile past APTC (*i.e.* have an “FTR status”) for two consecutive tax years, rather than one tax year. Under this revised approach, the Marketplace will receive information from IRS for enrollees with two consecutive tax years of FTR status through the process described in the “Requesting updated data” section above, notify these enrollees in the MOEN as described in the “Marketplace notices” section above, which will give enrollees appropriate instructions on how to demonstrate compliance with the filing and reconciling requirement, and discontinue APTC for enrollees who do not contact the Marketplace to obtain an updated eligibility determination and select a QHP by the deadline to make a plan selection for January 1 of the upcoming coverage year in accordance with the effective dates specified in 45 CFR 155.410(f) or 155.420(b), as applicable, as described in the “Individuals Who Don’t Contact the Marketplace” section below.⁶

⁴ The Marketplaces cannot request IRS information for enrollees who do not provide an SSN.

⁵ 88 FR 25740 (Apr. 27, 2023).

⁶ As of the publication of this guidance, the IRS is working to implement this functionality. As such, it will be implemented for the first benefit year for which the functionality (along with supporting Marketplace functionality) is available. CMS will provide Marketplaces and other stakeholders at least three months’ notice prior to initiating FTR operations as described in this guidance.

Special Notice Group. For annual redeterminations for coverage years 2015 through 2021, the Marketplaces on the federal eligibility and enrollment platform identified enrollees who had updated income information from tax return data that, when evaluated together with the family size used for enrollees' most recent eligibility determination for the current benefit year and updated federal poverty level (FPL) tables⁷, reflected household income that was in excess of 500% FPL. The Marketplaces notified this group with targeted messaging in the MOEN as described above, and, for enrollees in this group who did not contact the Marketplace to obtain an updated eligibility determination and select a QHP by the deadline to make a plan selection for January 1 of the upcoming coverage year in accordance with the effective dates specified in 45 CFR 155.410(f) or 155.420(b), as applicable, discontinued APTC and income-based CSR as described in the "Individuals Who Don't Contact the Marketplace" section below. This process was designed to identify enrollees with APTC or CSR who were at the highest risk of having household income for the upcoming benefit year that would make them ineligible for APTC and CSR based on the prior statutory APTC eligibility limit of 400% FPL that applied for benefit years 2014 through 2020. Per the American Rescue Plan Act of 2021 (P.L. 117-2) and the Inflation Reduction Act of 2022 (P.L. 117-169), the statutory APTC eligibility limit was eliminated for benefit years 2021 through 2025, meaning that enrollees with household income in excess of 500% FPL may qualify for APTC for benefit years 2024 and 2025. As such, the Marketplaces on the federal eligibility and enrollment platform will not implement this Special Notice Group for annual redeterminations for benefit years 2024 and 2025, or any subsequent year in which there is no statutory limit on income eligibility for APTC.

Issuer notices. Issuers will send notices to current enrollees before open enrollment that comply with regulations specified at 45 CFR 147.106 and 45 CFR 156.1255.

Requirement to Report Changes. Consistent with 45 CFR 155.335(e) and (f), under these alternative procedures, Marketplaces must require a qualified individual to report changes with respect to eligibility standards within 30 days from the date of the change; must allow a qualified individual, or an application filer on behalf of the qualified individual, to report changes, and must verify any changes reported by a qualified individual using the verification processes specified at 45 CFR 155.315 and 155.320, which are also used for initial applications.

Eligibility redeterminations for APTC and income-based CSR

Individuals Who Contact the Marketplace

If an enrollee contacts a Marketplace on the federal eligibility and enrollment platform during the open enrollment period for the upcoming benefit year to 1) update eligibility information; 2) authorize the Marketplace to request updated tax return information for use in the annual redetermination process; 3) adjust the level of APTC being provided; or 4) select a new QHP, the Marketplace will redetermine their eligibility in accordance with the standard specified at 45 CFR 155.305, including using updated FPL tables, the applicable benchmark plan as defined at 26 CFR 1.36B-3(f), which is based on premium data for the upcoming year, and applicable percentages that are indexed for the upcoming year, in accordance with 26 CFR 1.36B-3(g). If an enrollee who contacts a Marketplace on the federal eligibility and enrollment platform continues to be eligible to enroll in a QHP through the Marketplace, and selects a QHP⁸ for the upcoming benefit year by the last day on which a plan selection may be made for coverage effective to make a plan selection for coverage effective January 1 in accordance with the effective dates

⁷ Throughout this document, "updated FPL tables" refer to the table released each January prior to the applicable coverage year. For example, the 2023 table released in January 2023 is the applicable table for the 2024 benefit year:

<https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

⁸ If an enrollee returns to a Marketplace on the federal eligibility and enrollment platform and obtains an updated eligibility determination by the last day on which a plan selection may be made for coverage effective January 1, in accordance with the effective dates specified at 45 CFR 155.410(f), but does not select a plan, and does not add or remove QHP-eligible individuals to the application or change their zip code or county of residence, the Marketplace will use the updated eligibility determination as the basis for auto re-enrollment.

specified at 45 CFR 155.410(f) or 155.420(b), as applicable, this updated eligibility determination will be implemented as part of the enrollment.

As described in 45 CFR 155.302 and 155.305, enrollees who contact a Marketplace on the federal eligibility and enrollment platform may receive a redetermination that includes an assessment or determination⁹, as applicable, of eligibility for Medicaid or CHIP. If an enrollee contacts a Marketplace on the federal eligibility and enrollment platform and is assessed or determined eligible for Medicaid or CHIP, but does not cancel¹⁰ their QHP enrollment for the upcoming benefit year by December 31 of the current benefit year, the Marketplace will automatically re-enroll them in a QHP for the upcoming benefit year to prevent a gap in coverage. The Marketplace will automatically discontinue APTC/CSR for the upcoming benefit year for those enrollees who contact the Marketplace and are *determined* eligible for Medicaid or CHIP with verified eligibility information. The Marketplace will not automatically discontinue APTC/CSR for enrollees who contact the Marketplace and are *assessed* eligible for Medicaid or CHIP or determined eligible for Medicaid or CHIP with inconsistent or pending verifications.

Individuals Who Do Not Contact the Marketplace

For an enrollee who does not contact a Marketplace on the federal eligibility and enrollment platform to obtain an updated eligibility determination and select a QHP by the last day on which a plan selection may be made for coverage effective January 1 in accordance with the effective dates specified at 45 CFR 155.410(f) or 155.420(b), as applicable, the Marketplace will establish eligibility for the upcoming benefit year as follows:

- First, where an enrollee was in the opt-out group or certain repeat-passive-re-enrollee group, the Marketplace will discontinue APTC and income-based CSR. This also applies to enrollees in the special notice group for years in which it exists and enrollees in the failure to file and reconcile group when that group is in operation, as discussed above. As with all of the below options, this eligibility determination will be used in the enrollee's re-enrollment, to the extent the enrollee can be re-enrolled in accordance with 45 CFR 155.335(j).
- Second, where an enrollee with APTC or income-based CSR 1) does not fall into the opt-out group or repeat passive re-enrollee group; and 2) provided the Marketplace with household income information for the current benefit year by creating or updating an application for the current year that is associated with an enrollment, the Marketplace will use the projected annual household income and family size from the most recent application that is associated with an enrollment adjusted to the upcoming coverage year¹¹, updated FPL tables, and upcoming benefit year benchmark plan premium information to calculate APTC and determine eligibility for income-based CSR for the upcoming benefit year.
- Third, where an enrollee with APTC or income-based CSR 1) does not fall into the opt-out group or repeat passive re-enrollee group; 2) was automatically re-enrolled for the current benefit year and did not submit an updated application and apply the update to their enrollment during the current benefit year, and 3) where income information available from

⁹ States have flexibility to decide whether the Marketplace or the state will make the final income-based Medicaid and CHIP eligibility determination for applicants who apply at the Marketplace. For assessment states, the Marketplace makes a preliminary assessment of eligibility and the state makes the final determination. For determination states, the Marketplace makes the final determination of eligibility, which the state accepts if the information is fully verified.

¹⁰ Where an application contains some individuals, who are determined eligible for enrollment in a QHP and other individuals who are assessed or determined eligible for Medicaid or CHIP, and the QHP-eligible individuals select a QHP for the upcoming year, the Marketplace will not re-enroll the individuals who were assessed or determined eligible for Medicaid or CHIP in a QHP for the upcoming year.

¹¹ In order to adjust for expected income growth between the prior coverage year, current coverage year, and upcoming coverage year, the annual household income will be adjusted by the percentage change in updated FPL for the applicable family size from the year for which annual household income information is used for redetermination to the current coverage year. For example, for enrollees in the second group with a family size of one, 2023 projected annual household income will be adjusted to 2024 according to the rate of growth in the FPL used to determine eligibility for APTC for 2023 to the FPL used to determine eligibility for APTC for 2024.

IRS, when evaluated with the family size from the most recent application that is associated with an enrollment and compared to updated FPL tables, shows that projected annual household income is above the applicable lower income threshold for APTC eligibility, the Marketplace will use the income data from IRS adjusted to the upcoming benefit year, the family size from the most recent application that is associated with an enrollment, updated FPL tables, and benchmark plan premium information for the upcoming benefit year to calculate APTC and determine eligibility for income-based CSR for the upcoming benefit year.

Accordingly, if projected annual household income calculated using this method is greater than the applicable upper household income limit for APTC¹², APTC and income-based CSR¹³ will be discontinued. If the projected annual household income calculated using this method is under the applicable lower household income threshold for APTC eligibility, the Marketplace will use the fourth method listed below to calculate APTC and determine eligibility for income-based CSR for the upcoming benefit year.

- Fourth, where an enrollee with APTC or income-based CSR does not fall into the opt-out group or repeat passive re-enrollee group, and either 1) was automatically re-enrolled for the current benefit year and did not submit an updated application and apply the update to their enrollment for the current benefit year, and has no income information available from IRS or 2) was evaluated using the third method described above and is under the applicable lower household income threshold for APTC based on that analysis¹⁴, the Marketplace will use the projected annual household income (adjusted to the upcoming benefit year) and family size from the most recent application that is associated with an enrollment, updated FPL tables, and benchmark plan premium information for the upcoming year to calculate APTC and determine eligibility for income-based CSR for the upcoming benefit year.

Re-enrollment. The Marketplaces on the federal eligibility and enrollment platform will automatically re-enroll current benefit year enrollees who do not select a QHP by the last day on which a plan may be selected for coverage effective January 1 of the upcoming benefit year in accordance with the effective dates specified in 45 CFR 155.410(f) or 155.420(b), as applicable, to the extent the enrollee can be re-enrolled, consistent with 45 CFR 155.335(j). It is important to note that enrollees who do not contact the Marketplace to obtain an updated eligibility determination and select a QHP by the last day on which a plan selection may be made for coverage effective January 1 of the upcoming benefit year will still be able to obtain an updated eligibility determination and select a QHP for prospective coverage through the end of the open enrollment period. Further, all re-enrollees will receive an eligibility determination notice and an enrollment confirmation message at the point of re-enrollment that explains the results of the annual eligibility and re-enrollment process.

¹² As previously noted, there is no upper limit on household income to be eligible for APTC for benefit years 2024 and 2025.

¹³ The upper limit for income-based CSR for enrollees who are not members of federally-recognized tribes or shareholders in Alaska Native corporations is 250% FPL.

¹⁴ To clarify, this group includes all enrollees with APTC or income-based CSR who are not included in the first three groups described in this section.