



Life changes that give consumers a Special Enrollment Period

What is a Special Enrollment Period (SEP)?

A Special Enrollment Period is an opportunity to join a qualified health plan (QHP) offered through the Marketplace, or to change to a different plan. The right to use a SEP arises in response to certain events or changes in a person's life, household, or income.

Who may participate in a SEP?

Generally, both an individual, and any of their family members who fit the health plan's definition of 'dependent' can join a plan under an individual's SEP. However in certain specific circumstances, only consumers or dependents who are already enrolled in a health plan can participate in a SEP, and a dependent must sometimes meet certain criteria to be able to enroll.

When can a consumer get a SEP? How long does it last?

In the Marketplace (FFM), a SEP lasts for 60 days. In general, a SEP starts on the day that the individual experiences a life change, or other triggering event. But in some cases, consumer have the option to start their SEP up to 60 days before a life change, so that they can sign up and start their new coverage sooner, preventing a gap in coverage. (See Table.)

Life events or changes in circumstances that trigger a SEP

1. An individual and any of their dependents share a SEP if the individual *gains or becomes a dependent*, through:

- **marriage**
- **birth**
- **adopting**, or placing a child for adoption
- **placement in foster care**
- *(New)* **a medical support order by a court or official agency.**

2. An individual and their dependents share a SEP if the individual becomes *newly eligible for the Marketplace*, due to:

- **A permanent move or relocation to a new area** – so long as 1) the individual moves to a different state, or within a state to an area with access to different QHPs, and 2) the move is intended to be permanent;
- Gaining **new legal status** as a “**citizen, national, or lawfully present individual**” if the person did not have any of these statuses;
- **Release from incarceration** (but not for a person who was only incarcerated or held pending the disposition of charges, such as being held pending bail, or held during trial);
- Living in a state that did not expand **Medicaid**, with a **projected annual income that changes from below 100% of FPL, to an amount above 100% FPL**;
- Either *beginning service* in **VISTA, National Civilian Community Corps (NCCC)**, or **AmeriCorps** State or National programs, *OR concluding such service and losing access to short-term or self-funded coverage under one of these programs*;

- Having a change in income, household status, or other personal circumstances that ends their eligibility for a “**hardship exemption**” that they had received earlier. Such hardship circumstances can be financial or personal, including:
 - becoming homeless; being evicted, or facing eviction or foreclosure;
 - having substantial damage to your property due to fire, flood, or other natural or human caused disaster;
 - filing for bankruptcy in the last 6 months;
 - having medical expenses in the last 24 months that resulted in substantial debt;
 - increased expenses due to caring for an ill, disabled, or aging family member;
 - death of a close family member;
 - domestic violence;
 - winning a Marketplace appeal of a prior denial of the right to enroll, or to receive Advance Premium Tax Credits (APTCs) or Cost Sharing Reductions (CSRs).
 - An individual is a member of a federally recognized **Native American** or **Native Alaskan** tribe. Such an individual may get a SEP once each month.
3. An enrollee (or enrolled dependent) that *has health care coverage but then loses it* due to:
- **job loss, reduction of work hours, or quitting a job**, which ends their eligibility for their employer sponsored insurance (ESI);
 - **a change in an ESI plan’s eligibility rules causing them to lose coverage**;
 - **death, divorce or legal separation** from a family member that ends access to coverage;
 - **a change in either their job location, residence, or in their HMO service area**, that makes the person no longer work or live in the service area of their HMO. Note: special rule for ESI: if the HMO is an ESI plan, there must be no other ESI plan offered that they could enroll in that meets *affordability* and *minimum value* standards.
 - the end of their eligibility and coverage under:
 - **Medicaid or CHIP** (e.g. child ages out of CHIP or a change in income or household status makes an individual or dependent not eligible for Medicaid);
 - **Medicaid for Pregnant Women**;
 - **Medicaid coverage under the CDC National Breast and Cervical Cancer Early Detection Program**;
 - **Medicaid for the Medically Needy (often called Medicaid Spend-Down)** – this SEP is only allowed once per calendar year;
 - **a parent’s plan** if a dependent turns 26 (or older under some state laws) AND is no longer an “eligible dependent” under the plan rules;
 - **expiration of COBRA coverage** (which usually lasts 18 months);
 - **a student health plan**; due to graduation or the plan expiring;
 - **a health plan which has been ‘decertified’** and is no longer a QHP.

Important exceptions concerning some losses of coverage

An individual that loses their health insurance coverage will not get a SEP if:

- they lose employer-sponsored health insurance (ESI) coverage that is a limited benefits plan, such as a vision-only or dental-only plan.
- the loss of coverage is due to a cancellation of a plan, in response to the enrollee committing fraud on their application for coverage to the plan. (However, fraud cannot be a mere mistake or oversight in filling out the application.)

- the loss of coverage is due to the individual’s failure to pay their premiums for ESI, CHIP, COBRA or a QHP, or for voluntarily cancelling their plan.
 - Important exception – if an employee voluntarily cancelled their plan, or voluntarily removed a spouse or dependent from coverage under that plan, then the spouse or dependent that lost coverage would be eligible for a SEP.
4. An enrollee (or enrolled dependent) has existing coverage which changes as follows:
- A change to an ESI plan, such as an increase in the employee contributions, that makes **ESI no longer affordable (i.e. greater than 9.66% of household income)** or a change in benefits that means the ESI plan **no longer meets the “minimum value” standards**, resulting in the enrollee (and their dependents) becoming newly eligible for APTCs.
 - Becoming newly eligible for **CSRs, or for different amounts of CSRs**, or becoming eligible for APTCs, due to a **change in income, or household status**. The *individual must already be enrolled in ESI or in a QHP and likewise their dependents must be enrolled in the ESI plan, or in the same QHP as the enrollee*.
 - The plan year ends for a **non-calendar year plan** sold in the individual or group market. This SEP allows any enrollee and their enrolled dependents to participate in the SEP.
 - The Marketplace makes a determination that a **QHP substantially violated an important part of their contract** with an enrollee or their dependent.
 - A failure to pay for covered services for an enrollee would be a clear substantial violation of a contract, but other situations may be less clear. For instance, if a QHP’s provider or pharmacy listings were inaccurate, or changed substantially mid-year, resulting in the enrollee having no reasonable access to needed providers, then assisters should help consumers document and describe such a circumstance as a substantial contract violation, and request this SEP.

Special circumstances that can allow a SEP

5. An individual or dependent will get a SEP if *the Marketplace determines that*:
- An **error, misrepresentation, misconduct, or inaction by the Marketplace, or by enrollment assisters** (such as a Navigators, CACs, agents, or brokers) **resulted in** an individual or their dependent: 1) not being enrolled, 2) not being enrolled in the QHP that they selected, or 3) not receiving APTCs or CSRs for which they are eligible.
 - The person’s **exceptional circumstances**, such as domestic violence, medical emergencies, or other circumstances warrant a SEP because they prevented the person from enrolling during Open Enrollment or during another SEP.

Future SEP pending Marketplace implementation

The following new SEP will be available by Jan. 1, 2017, or perhaps earlier, at the option of the Marketplace:

An enrollee **loses a dependent, *or* ceases to be a dependent**, due to **divorce, death, or legal separation**, including legal termination of a domestic partnership or civil union in accordance with state law.

Table: SEP start dates and coverage start dates.

Unless listed below, a SEP starts on the date of the triggering event, and the coverage starts according to *regular enrollment dates*.* This includes many types of SEPs, such as those for leaving the Medicaid Gap, changes in immigrant status, being Native American, etc.

Type of SEP (triggering event)	The 60-day SEP starts...	Coverage in the QHP starts...
Losing existing coverage (e.g. losing MEC, ESI, CHIP, Medicaid programs, etc.)	On the date of the triggering event, or any day up to 60 days before the event	If plan selection is <i>on or before</i> the day of the triggering event, the QHP coverage starts the first day of the month following the event If plan selection is made after the triggering event, the QHP coverage will start on regular enrollment dates* (<i>Future CMS guidance could allow accelerated start on first day of the following month.</i>)
Non-calendar year plan ends		
A change to an ESI plan makes enrollee(s) newly eligible for APTCs or eligible for new/different CSRs		
A permanent move, or release from incarceration	On the date of the triggering event	-Retroactive to effective date of the order, or; - <i>Exchange may permit**</i> regular enrollment dates
Gaining a dependent via medical support order		-Retroactive to the date of the event, or; - <i>Exchange may permit**</i> consumer choice of: -- regular enrollment dates, or -- coverage starting on the first day of the month after the triggering event.
Gaining a dependent via birth, adoption, or foster care		On the first day of the month following plan selection
Marriage	On an appropriate date based on the circumstances, as determined by the Marketplace	
Enrollment error or misconduct by Marketplace or assister entity		
Substantial contract violation by a QHP		
Exceptional circumstances		

*The term “regular enrollment dates” means that a plan selected between the 1st and 15th of a month starts on the 1st of the following month; a plan selected on or after the 16th of a month starts providing coverage on the 1st of the second following month.

** In such cases, the Marketplace may grant a consumer’s selection of this coverage start date.

Authored By

Wells Wilkinson, Staff Attorney wwilkinson@communitycatalyst.org