

**Updated and New 2021 Special Enrollment Period for COVID-19 Public Health  
Emergency  
Technical Stakeholder Guidance  
Published March 23, 2021**

**Updated Overview of the 2021 SEP for COVID-19**

On January 28, 2021, CMS announced a Special Enrollment Period (SEP) for individuals and families for Marketplace coverage in response to the COVID-19 Public Health Emergency, which has left millions of Americans facing uncertainty and exceptional circumstances while millions of Americans have experienced new health problems during the pandemic. This SEP allows individuals and families in states with Marketplaces served by the HealthCare.gov platform to enroll in 2021 health insurance coverage. Beginning February 15, 2021 and through August 15, 2021, these Marketplaces has operationalized functionality to make a 30 day SEP available to all Marketplace-eligible consumers who are submitting a new application or updating an existing application during this time. Consumers will newly be able to access the SEP through a variety of channels: through HealthCare.gov directly, the Marketplace call center, or direct enrollment channels.

Consumers who enroll under this SEP will be able to select a plan with coverage that starts prospectively the first of the month after plan selection. Consumers will have 30 days after they submit their application to choose a plan. Current enrollees will be able to change to any plan available to them in their area. In order to use this SEP, current enrollees will need to step through their application and make any changes if needed to their current information and submit their application in order to receive an updated eligibility result that provides the SEP before continuing on to enrollment. This SEP opportunity will not involve any new application questions, or require consumers or enrollment partners to provide any new information not otherwise required to determine eligibility and enroll in coverage. In addition, consumers won't need to provide any documentation of a qualifying event (e.g., loss of a job or birth of a child), which is typically required for SEP eligibility.

**Updated Frequently Asked Questions**

- Q1: Updated: What if consumers are eligible for other SEPs, which SEP will they be able to use to sign up for coverage?**
- A1: Updated:** This SEP generally takes precedence over most other SEPs for which consumers might be eligible due to a qualifying life event (such as for loss of coverage, or a move). Consumers who are found eligible for a birth, adoption, or foster care / court order placement SEP, or any other SEP that provides a retroactive coverage effective date, are to enroll under those other SEPs, because their qualifying life event provides them with an earlier SEP effective date, retroactive to the date of the event. Consumers who are qualified for these retroactive effective date SEPs do not need to submit documents to confirm SEP eligibility. Current enrollees who qualify for these retroactive effective date SEPs are able to choose from any plan available to them and will not be restricted based on plan category.
- Q2: Updated: Do consumers still need to send in documents for unresolved SEP verification issues (SVIs)?**
- A2:** No. Consumers do not need to take further action at this time to resolve SVIs. CMS is resolving all existing SVIs at this time, and will notify consumers of the SVI resolution. If consumers have not already selected a plan, they should do so before their Special Enrollment Period ends as

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indicated in their eligibility notice and eligibility results page. After they have selected a plan, they can pay their first month's premium and begin using their coverage.

**Q3: What do issuers need to do in order to appropriately process the individuals through this SEP opportunity?**

**A3:** Issuers should be prepared to support the processing of enrollment transactions for this SEP opportunity. These enrollment transactions are known as “834” transactions and are generally marked as exceptional circumstances SEP in the reason code. The SEP transactions have the correct effective date, which is prospective, with the change effective the first of the month following plan selection. Issuers that are also direct enrollment partners may have had some additional preparation activities. Enrollment transactions that require issuing a new policy require that the issuer collect binder payment from the prospective enrollee, as is standard practice for new enrollments.

**Q4: Can a consumer change plans more than once during this SEP opportunity?**

**A4:** Yes. CMS expects the uncertainty and exceptional circumstances associated with the COVID-19 Public Health Emergency to continue. Therefore, a consumer who enrolls in coverage through this 2021 SEP may return to the Marketplace after their 30-day enrollment window closes to report a change in circumstance, apply for, and trigger another SEP and, if desired, change plans. As a reminder, Marketplace SEPs have always permitted enrollees to change plans during their SEP window (albeit sometimes subject to plan category limitations that do not apply to this SEP opportunity).

**Q5: Can a consumer whose coverage was previously terminated for non-payment of premium enroll in coverage through the 2021 SEP? What about a consumer that already has Marketplace coverage that is in a grace period?**

**A5:** Yes, potentially, as with any SEP enrollment. There is no change to premium payment policy during this SEP opportunity. Any Marketplace-eligible consumer who submits an application from February 15 through August 15 can enroll in coverage through the resulting SEP. Whether an issuer needs to accept a SEP enrollment on behalf of an enrollee whose coverage is being terminated, depends on whether the transaction meets the “continuous enrollment test.” The continuous enrollment test is described at Section 7.3.3 of the 2020 FFE Enrollment Manual ([https://www.regtap.info/uploads/library/ENR\\_FFEFFSHOPENrollmentManual2020\\_5CR\\_090220.pdf](https://www.regtap.info/uploads/library/ENR_FFEFFSHOPENrollmentManual2020_5CR_090220.pdf)). SEP enrollments that don't meet the continuous enrollment test must be effectuated, provided that the required binder payment is made; issuers that have previously adopted a policy of attributing payments first to recent past due premium before attributing them to any required binder payment, and then not effectuating coverage until the binder payment is made may continue to do so.

**Q6: Are Marketplace plan rates available to consumers through the SEP the same as the plan rates offered to consumers during Open Enrollment?**

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- A6: Updated:** Yes, individual market 2021 Marketplace plan rates are set annually for the full plan year. A consumer's age will usually be taken into account in the rate determination process. Consumers who had a birthday since Open Enrollment and enroll in a new policy may have their premium rated to reflect their older age. In addition, any consumer who selects a new plan may have their accumulators, such as deductibles, reset to zero. Similarly, available plan options are generally the same for consumers who enroll through this SEP as they were for consumers who enrolled in 2021 coverage during the most recent OEP. However, the 2021 American Rescue Plan Act will lower premiums for many consumers because it increased eligibility for financial assistance to help pay for Marketplace coverage. For more information, see: <https://www.cms.gov/newsroom/fact-sheets/american-rescue-plan-and-marketplace>.
- Q7: How will existing Marketplace consumers that have not had their 2019 tax returns processed by IRS yet be impacted when they apply during the SEP?**
- A7:** Marketplace consumers whose tax household received APTC in 2019 are required to file a federal income tax return and reconcile APTC received in 2019 using IRS Form 8962. Due to the impact of COVID-19 on the 2019 tax filing season, some Exchange enrollees may have filed a 2019 tax return and reconciled their APTC, but due to IRS' backlog of unprocessed returns, data indicating these consumers filed and reconciled is not available to CMS yet. These consumers need to attest on their application that they have filed and reconciled the APTC they received by checking the box that says, "Yes, I reconciled premium tax credits for past years." Enrollees receiving APTC who attest to filing and reconciling on their application will remain eligible for APTC, even if IRS data still has not updated to reflect their 2019 federal income tax filing status.
- Q8: Is there any change to the Data Matching Inconsistency (DMI) process during this SEP opportunity?**
- A8:** No, DMIs will be created and processed normally during this period. Applications with information that doesn't match the Marketplace's trusted data sources within the established tolerance, or that doesn't match a recently verified application, will open a DMI that must be resolved within the usual timeframe, typically by the enrollee submitting approved documents to the Marketplace.
- Q9: Is this SEP available off-Exchange?**
- A9:** Although this SEP is only available on-Exchange, because it is available pursuant to Exchange regulations described in 155.420(d)(9) regarding exceptional circumstances, states may extend the SEP off-Exchange using their authority under state law. Issuers that wish to offer this SEP with regards to off-Exchange coverage should consult with their state department of insurance. There is nothing in federal law that would prevent an issuer from offering the SEP to consumers seeking off-Exchange coverage, provided that the enrollment is available to all similarly situated individuals and the marketing is not discriminatory.

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**NEW Frequently Asked Questions**

**Q10: NEW: Is the Marketplace using 2020 federal poverty levels (FPL) to determine APTC eligibility for individuals who apply for coverage through this SEP?**

**A10:** Yes, the FPL for computing the advance payments of the premium tax credit for a taxable year is the FPL that is in effect on the first day of the annual open enrollment period preceding that taxable year. The Department of Health and Human Services' Assistant Secretary for Planning and Evaluation released 2020 FPL information in January of 2020, so the Marketplace used 2020 FPL information during the open enrollment period for 2021 coverage, and will continue to do so for APTC eligibility determinations for 2021 coverage throughout the year. However, the 2021 American Rescue Plan Act will lower premiums for many consumers because it increased eligibility for financial assistance to help pay for Marketplace coverage. For more information on how the American Rescue Plan Act of 2021 may impact tax credit eligibility, see: <https://www.cms.gov/newsroom/fact-sheets/american-rescue-plan-and-marketplace>.

**Q11: NEW: Do people who apply on the last day that access to the SEP is available - August 15, still have 30 days to pick a plan? If a consumer selects a plan on or after August 1, the plan would start September 1, correct?**

**A11:** Yes – the opportunity to access a 30 day SEP is available to consumers who apply no later than August 15. Consumers will have 30 days after they submit their application to choose a plan, and those who choose a plan on or after August 1, 2021 will have coverage that starts the first of the following month, September 1.

**Q12: NEW: Can a consumer who has COBRA coverage use this new SEP to enroll in a Marketplace plan, and qualify for APTC if they are otherwise eligible?**

**A12:** Consumers who are enrolled in COBRA can drop COBRA and enroll in Marketplace coverage during the year if they qualify for a SEP. Because the 2021 SEP is available to all Marketplace-eligible consumers, a COBRA enrollee who is otherwise Marketplace-eligible may choose to enroll in a Marketplace plan during the period of time when they can access the SEP. They may also qualify for APTC if they terminate their COBRA coverage.

**Q13: NEW: Can a consumer add a dental plan to their existing medical plan without making any changes to their medical plan during this SEP? Can a consumer change their dental plan through this SEP?**

**A13:** Yes – a consumer can newly add a standalone dental plan (SADP) to their current Marketplace coverage, or make a change to their current SADP. To do so, they should sign in and select their current application, select the option to report a life change, and then click the option for “change to my household’s income.” If they do not need to update any information, the enrollee can step through the application, confirming pre-populated information, and then re-submit the application in order to newly select or change their current SADP. They should also re-select their current medical plan. Similarly, consumers who change their medical coverage should re-select their

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SADP if they do not wish to change it. Consumers newly enrolling in Marketplace coverage through this SEP may also newly enroll in an SADP.

**Q14: NEW: Can consumers who have an offer of coverage from an employer apply for Marketplace coverage instead through this SEP? What about consumers who had an offer that they did not accept, and now it's too late to enroll?**

**A14:** This SEP is available to all Marketplace-eligible consumers who are submitting a new application or updating an existing application, and consumers with an offer of coverage through an employer, or through a family member's employer, may be eligible for Marketplace coverage. However, these consumers won't qualify for a premium tax credit or other savings if their offer of coverage through an employer is considered affordable and meets the minimum value standard, or if they are enrolled in the employer coverage.

More information is available here for consumers with an offer of coverage through an employer who are interested in changing to Marketplace coverage: <https://www.healthcare.gov/have-job-based-coverage/>. Finally, consumers who have an offer of coverage through an employer must include information about the offer when they submit a HealthCare.gov application, in order to receive an accurate eligibility determination.

Additionally, an employee or related individual is considered eligible for MEC under an eligible employer-sponsored plan for a month during a plan year if the employee or related individual could have enrolled in the plan for that month during an open or special enrollment period for the plan year. Therefore, a consumer who could have enrolled in an employer's offer of coverage, but did not, may only qualify for the premium tax credit if the offer of coverage is not considered affordable or does not meet the minimum value standard.

**Q15: NEW: Can a current Marketplace enrollee add a dependent to their coverage through this SEP, regardless of whether they also qualify for a SEP based on newly gaining or becoming a dependent?**

**A15:** Yes - this SEP is available to qualified individuals and to their dependents, regardless of whether they have experienced another SEP triggering event such as newly gaining or becoming a dependent. Consumers who have gained a new dependent within the past 60 days should update their applications to include this information to ensure they receive a correct eligibility determination, including an earlier SEP effective date, retroactive to the date of the event, for consumers who are found eligible for a SEP due to a birth, adoption, or foster care / court order placement.

Consumers who have not newly gained a dependent within the last 60 days or experienced any other qualifying event, but who wish to add a current dependent to their coverage, may also do so during the period of time they can access the 2021 SEP. To add their dependent, current enrollees will need to return to their application, select the option to submit a change, add their dependent, and submit their application to receive an updated eligibility result. Once they update and re-submit their application, they can access the SEP and continue on to enrollment.

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**Q16: NEW: If a consumer applies directly to their state Medicaid Agency during this SEP and then they are denied Medicaid or CHIP after August 15, will they be eligible for an SEP?**

**A16:** No: A SEP is not available to consumers who originally applied for coverage at their State Medicaid or CHIP agency during an SEP, including the 2021 SEP.

However, consumers who apply for coverage through the Marketplace during an SEP, who are referred to their State Medicaid or CHIP agency, and who then are determined ineligible for Medicaid or CHIP by the State Medicaid or CHIP agency after the SEP has ended, may qualify for a SEP to enroll in Marketplace coverage. These consumers' coverage will take effect on the first of the month following plan selection, or they can call the Marketplace Call Center to request that their coverage start retroactive to when it would have started if they had been able to enroll in Marketplace coverage through their original SEP.

Note that the rules regarding the SEP for consumers denied Medicaid or CHIP eligibility outside of an enrollment period differ for the annual OEP. Consumers who apply for coverage through the Marketplace *or* at their State Medicaid or CHIP agency during the annual OEP, and are determined ineligible for Medicaid or CHIP after the OEP has ended, may qualify for an SEP.

**Q17: NEW: If a consumer is currently enrolled in coverage, will they need to terminate that plan first, or will the existing plan be terminated automatically when the new plan is chosen?**

**A17:** If the consumer who is changing plans is enrolled in Marketplace coverage, then their current coverage will end based on the date that their new plan will start. Consumers enrolled in other types of coverage, such as coverage outside of the Exchange, should apply for Marketplace coverage, select a plan, and then request to end their current coverage based on when their Marketplace coverage will start. For example, a consumer whose Marketplace coverage will start on May 1, 2021 should request that their current coverage end on April 30, 2021.

**Q18: NEW: To update an application during the SEP, should a consumer select "Report A Life Change" or something else?**

**A18:** In order to use this SEP, current enrollees will need to step through their application and make any changes if needed to their current information and submit their application in order to receive an updated eligibility result that provides the SEP before continuing on to enrollment. This SEP opportunity will not involve any new application questions, or require consumers or enrollment partners to provide any new information not otherwise required to determine eligibility and enroll in coverage.

To resubmit their application, current enrollees should sign in and select their current application, select the option to report a life change, and then click the option for "change to my household's income." This option will take them to the start of the application. If they do not need to update any information, the enrollee can step through the application, confirming pre-populated information, and then re-submit the application in order to access the SEP. Enrollees who have

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experienced a change should make sure to include updated information to ensure they receive an up to date eligibility determination.

**Q19: NEW: If a current enrollee goes through their application and decides not to change plans, do they have to re-select their current plan to stay enrolled?**

**A19:** If a consumer updates their application to reflect new information, then yes – they will need to re-select their current plan in order to apply their new, updated eligibility determination.

**Q20: NEW: Does updating an application during this SEP result in a resetting of deductibles and other accumulators if the consumer remains enrolled in the same plan? For example, if a consumer wants to change their address or update their household income?**

**A20:** No, if a consumer updates their application to reflect up to date information such as a new address or household income change, and then re-selects the same plan, their deductible and other accumulator will not re-set.

**Q21: NEW: How long must insurers allow for consumer payment of their first premium? Do consumers have to pay before the end of the month to get coverage effective on the first of the next month? For example, if they select a plan on March 25, 2021, but pay their first premium after April 1, 2021, will their coverage still be effective on April 1, 2021?**

**A21:** The Marketplace generally requires issuers to have a deadline for making the binder payment for prospective coverage that is no earlier than the coverage effective date, and no later than 30 calendar days from the date the issuer receives the enrollment transaction from the Marketplace or the coverage effective date, whichever is later.

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