

Marketplace Eligibility Appeals: Eligibility Appeals Process Overview



September 2024

This information is intended only for the use of entities and individuals certified to serve as Navigators, certified application counselors, or non-Navigator assistance personnel in a Federally-facilitated Marketplace. The terms “Federally-facilitated Marketplace” and “FFM,” as used in this document, include FFMs where the state performs plan management functions. Some information in this manual may also be of interest to individuals helping consumers in State-based Marketplaces and State-based Marketplaces using the Federal Platform. This material was produced and disseminated at U.S. tax filer expense.

Marketplace Eligibility Appeal Rights

- If consumers believe there was a mistake or disagree with certain eligibility determinations made by a Marketplace, they have a right to request an appeal.
- This presentation is about appealing to the Department of Health and Human Services (HHS) Appeals Entity (also known as the Marketplace Appeals Center) about a Marketplace eligibility determination.
- We'll also briefly discuss some consumer appeal rights from State Exchanges appeals entities.



Marketplace Eligibility Appeal Rights: Appointing an Authorized Representative

- Consumers may appoint someone as their authorized representative to file an appeal and communicate with the Marketplace Appeals Center on their behalf.
- Consumers must designate their authorized representative in writing and sign the document or indicate their signature digitally if using the online portal.
- Note that the Marketplace generally considers a consumer's application filer to be their authorized representative without a written designation.



Appealing a Marketplace Eligibility Determination

What determinations can be appealed?

- Eligibility to buy a Marketplace qualified health plan (QHP), including a Catastrophic plan.
- Eligibility for lower costs, including the amount of:
 - Advance payments of the premium tax credit (APTC).*
 - Cost-sharing reductions (CSRs).
- Eligibility for a Special Enrollment Period (SEP) to enroll in a Marketplace QHP outside the regular Open Enrollment Period (OEP).

*Including eligibility for APTC due to the expanded eligibility thresholds under the American Rescue Plan Act of 2021, currently extended to PY 2023 through PY 2025, by the Inflation Reduction Act.



Appealing a Marketplace Eligibility Determination (Cont.)

- Eligibility for Medicaid or the Children's Health Insurance Program (CHIP) for residents of states that have delegated appeals of certain types of Medicaid and CHIP determinations made by the Federally-facilitated Marketplace to the Marketplace Appeals Center.
- Eligibility for a hardship or affordability exemption for consumers age 30 or older who wish to purchase a Catastrophic plan.
- Any SBE's eligibility appeal decision, if final, or its decision denying the consumer's request to vacate the dismissal of their eligibility appeal.
- Instances where the Marketplace did not provide a timely decision.

Marketplace Decisions that Cannot be Appealed

Consumers cannot appeal a Marketplace decision if:

- They disagree with the date the Marketplace ended their coverage
- They disagree with information on their Form 1095-A
- The consumer's health insurance company did not apply their premium tax credit correctly
- They want to change information on their Marketplace application
- They have to pay back some or all of the premium tax credits (PTC) they used during the year when they file their federal income tax return



How to Request a Marketplace Eligibility Appeal

How to request a Marketplace appeal:

- Online: Consumers can log into their Marketplace account, choose the application they want to appeal, then select “Eligibility & appeals” from the menu. They should then follow the instructions to file their appeal.
- By fax or mail: Consumers can visit [How to appeal a Marketplace decision](#) and answer a few questions to get the form they need. They can then print and send their completed paper form or a letter requesting an appeal. They should include their name, address, and the reason for the appeal. If the appeal is for someone else (like their child), they should also include that person’s name. Consumers then fax or mail their paper form or letter to the Marketplace:
 - Fax: 1-877-369-0130
 - Mail:
 - Health Insurance Marketplace®*
 - ATTN: Appeals
 - 465 Industrial Blvd
 - London, KY 40750-0061
- Note: Consumers from Alabama, Alaska, Louisiana, Montana, North Carolina, West Virginia, or Wyoming can also appeal a denial of Medicaid or CHIP eligibility through the state Medicaid or CHIP agency instead of the Marketplace.

When an Eligibility Appeal is Received

- How does the Marketplace Appeals Center determine if an appeal is valid?
 - Timeliness: the request must be received within:
 - 90 days of the notice of the contested Marketplace eligibility determination;*
 - 30 days of the date of an SBE notice of appeal decision; or
 - 30 days of notice from an SBE declining to reopen the appeal after it was dismissed by the SBE.

*Consumers who miss the 90-day timeframe to file an appeal may be able to request an extension. When the appeal is filed, the consumer should explain why they missed the deadline (§ 155.520(d)(2)(i)(D)).



When an Eligibility Appeal is Received (Cont.)

- The request must be about a matter that's appealable, examples of which are provided on slides 4 and 5.
- The appeal must be requested by a consumer or by an authorized representative appointed in writing by the consumer.
- If the appeal request doesn't meet these requirements, the consumer will get a notice explaining why the request is invalid and how to fix the problem and resubmit the appeal.



After the Consumer Files an Appeal

If the appeal is valid, consumers who appeal (appellants) get a letter from the Marketplace Appeals Center that:

- Acknowledges receipt of their appeal
- Includes their appeal number, which uniquely identifies their case
 - Consumers should write their appeal number on any documents they submit to the Marketplace Appeals Center
- Provides a description of the appeals process
- Includes instructions for submitting additional material for consideration, if necessary



Types of Resolution

- Informal Resolution

- If possible, the Marketplace Appeals Center will try to resolve the appeal based on the available information.
- This decision will be binding if the consumer is satisfied.

- Hearing

- In some cases, the appeal may go straight to a hearing.
- If the consumer is dissatisfied with the informal resolution results, a hearing may be requested.

Informal Resolution of Eligibility Appeals

The Marketplace Appeals Center works with appellants to resolve eligibility appeals informally.

- The Marketplace Appeals Center:
 - Reviews facts and evidence submitted by the appellant and those that are available from the Marketplace
 - Sometimes contacts appellants by phone or mail
 - Sends an Informal Resolution Notice that describes proposed resolution and decision
- If appellant is satisfied, the appeal decision follows.
- Appellants who aren't satisfied may request a hearing.

Marketplace Eligibility Appeal Hearing

Hearings are more formal.

- Consumers will receive notice of the scheduled hearing in writing at least 15 days prior to the hearing date unless:
 - The appellant requests an earlier hearing date (and one is available) and waives their right to 15 days' written notice.
 - A hearing date sooner than 15 days is necessary to process an expedited appeal as agreed to by the appellant.
- Hearings are conducted by telephone.
- Hearings are presided over by a Federal Hearing Officer.
- During the hearing, an appellant may represent himself or herself, or be represented by an authorized representative, legal counsel, a relative, a friend, or another spokesperson.
- Appellants and any witnesses are under oath.

Hearing Decisions

- After the hearing concludes, the Federal Hearing Officer carefully considers all evidence and testimony of the appellant and any witnesses.
- The Federal Hearing Officer issues the eligibility appeal hearing decision.
 - The decision is mailed to the appellant within 90 days from the receipt date of the appeal request, as administratively feasible.
 - Beginning January 1, 2024, consumers can request a Marketplace Administrator Review (MAR) by the CMS Administrator of the eligibility appeal hearing decision.



Hearing Decisions (Cont.)

- If satisfied, the consumer must follow the instructions on the decision letter to ensure implementation.
 - If the decision finds the contested eligibility determination was incorrect when it was made by the Marketplace, the consumer may be able to have the decision implemented retroactively based on the date when the consumer received the incorrect determination.



Hearing Decisions: Retroactive Effectuation

As a part of retroactive effectuation of eligibility appeal decisions:

- A Marketplace plan may owe an appellant a refund if:
 - The appellant had paid Marketplace plan premiums to the plan before the appeal was decided; and
 - They're now eligible for a larger premium tax credit and/or lower copayments, coinsurance, and deductibles as a result of the appeal.*
 - The appellant did not pay premiums because their net APTC was \$0, and they are now eligible for a different amount of CSR.



*Note: The appeal does NOT consider or resolve any of these monetary amounts.

Hearing Decisions: Retroactive Effectuation (Cont.)

OR

- An appellant may owe money to their Marketplace plan if:
 - They're now enrolling in Marketplace coverage for an earlier date;
 - They haven't paid their past premium balance(s); or
 - There has been a change in the amount of CSR the appellant is eligible for.



Post-Appeal:

Marketplace Administrator Review

- Per the Notice of Benefit Payment parameters for 2024 final rule, there is a new post-appeal process for appellants.
- If an appellant is dissatisfied with the result of their eligibility appeal hearing decision, they can request a Marketplace Administrator Review (MAR). The MAR process is separate, independent, and distinct from the Marketplace eligibility appeals process.
- Appellants can request a MAR by following the instructions in their eligibility appeal hearing decision notice. Requests for MAR must be made within 14 calendar days from the date of the hearing decision. Appellants requesting a MAR are encouraged to provide new information (verbal or written) that was not considered during their appeal hearing. The CMS Administrator conducts reviews within 30 calendar days from the appellant's request.
- MAR may also be initiated by the CMS Administrator within 14 days of the eligibility appeal decision. The CMS Administrator has 30 days from the date they initiate review to make a decision.
- MAR decisions are final and binding, although judicial review may be an option.

Getting Help with Appeals and MAR Requests

Consumers can get help with Marketplace eligibility appeals and MAR.

- The Marketplace Call Center can help explain how to request an appeal and MAR.
 - Call 1-800-318-2596. TTY users should call 1-855-889-4325.
- After appeals are submitted, the Marketplace Appeals Center can answer appellants' questions about their appeal.
- After a hearing decision is issued, the Marketplace Appeal Center can explain how to request a MAR.
 - Call 1-855-231-1751. TTY users can call 711.



Getting Help with Appeals and MAR Requests (Cont.)

- Navigators can help consumers understand the process for requesting a Marketplace eligibility appeal and MAR. Navigators are required to provide information on and assistance with understanding the process of filing Marketplace eligibility appeals and requesting a MAR.
- Certified Application Counselors in FFM's are permitted but not required to assist consumers with Marketplace appeals and/or requests for MAR.
 - Enrollment Assistance Personnel are permitted, but not required to provide assistance with appeals and other “post-enrollment” activities.
- The appellant may appoint an authorized representative to request a Marketplace eligibility appeal and/or MAR. This representative may speak for them during the appeal hearing.
 - Generally, must be designated in writing and signed by the appellant.
 - Contact the Marketplace Appeals Center for more information.
 - Call 1-855-231-1751. TTY users can call 711.

Key Points to Remember

- To request an eligibility appeal with the Marketplace, consumers or their authorized representatives can:
 - Complete an appeal request form; or
 - Write a letter explaining the reason for the request.
- The completed request form or letter can be submitted electronically, faxed, or mailed.
- The Marketplace Appeals Center will try to resolve eligibility appeals informally.
- Consumers can ask for a faster appeal if their health is at risk.
- Appellants can request MAR by contacting the Marketplace Appeals Center.

Key Points to Remember (Cont.)

- Appellants with a valid appeal request have a right to a hearing, including when they are dissatisfied with their informal resolution results.
- Appellants should stay enrolled in and pay their premiums for their existing coverage during their appeal, until it is resolved.
- Decisions are in writing and mailed within 90 days of receipt of the appeals request, as administratively feasible.
- The outcome of an appeal could impact coverage for other members of an appellant's household.

Resources

- [Marketplace Appeals job aid](#)
- [Coverage Appeals job aid](#)
- HealthCare.gov: [How to Appeal a Marketplace Decision](#)
- Marketplace Administrator Review (MAR) factsheet

