CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

2017 Hurricane Guidance to Federally-facilitated Exchange (FFE) Issuers

Consumer Information & Insurance Oversight (CCIIO)

October 16, 2017

https://www.regtap.info/FFENR.php

The information provided in this presentation is not intended to take the place of the statutes, regulations, and formal policy guidance that it is based upon. This material summarizes current policy and operations as of the date it was uploaded to RegTap. Links to certain source documents may have been provided for your reference. We encourage persons taking the course to refer to the applicable statutes, regulations, and other interpretive materials for complete and current information

2017 Hurricane Guidance 2017 to Federally-facilitated Exchange (FFE) Issuers – Overview

- On Thursday, September 28, 2017, CCIIO issued a memo to all Federally-facilitated Exchange (FFE) Qualified Health Plan (QHP) and Stand-alone Dental Plan Issuers regarding flexibilities available to consumers and issuers in areas affected by certain hurricane-related weather events.
- Topics covered by the memo include Special Enrollment Periods (SEPs), Termination of Coverage, and Grace Period Flexibilities.
- The memo is available at the following link: https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2017-Hurricane-Disasters-Guidance.pdf

2017 Hurricane Guidance 2017 to Federally-facilitated Exchange (FFE) Issuers – New SEP for 2017 Coverage

- The September 28, 2017 guidance advises that any individual who experienced a SEP-qualifying event between 60-days prior to the start date of the incident period designated by the Federal Emergency Management Agency (FEMA) and December 31, 2017, but was unable to complete the application and plan selection process prior to the end of their SEP-window because he or she was affected by a 2017 hurricane-related event will be eligible for an SEP.
- 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.

2017 Hurricane Guidance 2017 to Federally-facilitated Exchange (FFE) Issuers – Additional 2017 SEP Information & New SEP for 2018 Coverage

- ***Reminder regarding existing SEPs.*** The September 28, 2017 guidance notes that existing SEPs may also be available to individuals who experience qualifying events due to a hurricane that makes them eligible 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.
- ***Waiver of SEP verification for individuals in affected areas.*** The FFE will waive the SEP pre-enrollment verification requirement, including by permitting attestation for applicants with pended 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.
- ***New SEP for 2018 coverage.*** Individuals attesting to residing in or moving from areas affected by a hurricane-related weather event in 2017 will be eligible for a SEP that extends the 2018 Annual Open Enrollment Period through December 31, 2017.

2017 Hurricane Guidance 2017 to Federally-facilitated Exchange (FFE) Issuers – Termination of Enrollment

- ***Termination of Enrollment or Coverage.*** The September 28, 2017 guidance reiterates that the FFE permits an individual to choose to terminate his or her coverage through the FFE for any reason. It further clarifies that 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/exemptiongeneral-hardship.pdf

2017 Hurricane Guidance 2017 to Federally-facilitated Exchange (FFE) Issuers – Binder Payment Flexibility

- In response to requests or direction from the applicable state authorities, CMS advised that 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 3 155.400(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.

2017 Hurricane Guidance 2017 to Federally-facilitated Exchange (FFE) Issuers – Grace Period Flexibility

- When acting in response to direction from state regulators, issuers also may provide a more generous grace period for consumers receiving APTC. Where an affected individual's three-month grace period expired 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 QHP 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.

2017 Hurricane Guidance 2017 to Federally-facilitated Exchange (FFE) Issuers – Grace Period Flexibility (Continued)

- 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.