CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

Complex Cases Review: Calculating Past-Due Premium Payments and Resolving Data Matching Issues

Consumer Information & Insurance Oversight (CCIIO)

October 23, 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

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

Complex Cases: Calculating Past-Due Premium Payments and Resolving Data Matching Issues

Calculating Past-Due Premium Payments

Guaranteed Issue and Renewability

- Under the guaranteed issue and renewability provisions of the Affordable Care Act, issuers generally must:
  - Offer all of their non-grandfathered individual market and group market plans to any applicant in the state.
  - Accept any employer and individual who applies for those policies, subject to certain exceptions.
  - Renew or continue in force coverage at the option of the policyholder.
- Individuals are typically required to pay the first month's premium (referred to as a binder payment) to have coverage effectuated.

NEW
Effective June 19, 2017

Consumers Who Owe Past-Due Plan Premiums

- Subject to state law, an issuer meeting certain requirements may
  - Apply an individual's binder payment made for new coverage to past-due premiums owed to that issuer (or to an issuer in the same controlled group*) for coverage within the prior 12 months, and
  - Refuse to effectuate the new coverage based on failure to pay the initial premium payment.
- Notice of premium payment policy: Issuers adopting this policy must describe in any enrollment application materials, and in any notice regarding non-payment of premiums, the consequences of non-payment on future enrollment.
- Effective for individuals to whom notice was provided prior to their failure to pay premiums that become past-due.
- An issuer may only condition the effectuation of new coverage on payment of past-due premiums for the individual contractually responsible for the past-due premium.

*A controlled group is a group of two or more related entities that is treated as a single employer under the Internal Revenue Code. For example, a parent company and its subsidiaries may be considered to be within the same controlled group.

How are Past-Due Premiums Calculated?

- Individuals who are receiving advance payments of the premium tax credit (APTC) whose coverage is terminated at the conclusion of the three-month grace period for nonpayment of premium would owe at most one month of premiums, net of any APTC paid on their behalf to the issuer.
- Individuals who attempt to enroll in new coverage while in a grace period (and whose coverage has not yet been terminated for nonpayment of premium) could owe up to three months of premium, net of any APTC paid on their behalf to the issuer.
- In either case, the issuer can only demand payment for previous coverage during the 12-month period preceding the effective date of the desired new coverage.

Past-due premiums are the net premium the consumer owes (i.e., subtract APTC from the base premium).

Scenario 1: No Binder Payment

In December 2016, you assisted Annabelle to enroll in a qualified health plan (QHP) for plan year 2017 coverage. However, Annabelle never paid the issuer the initial plan premium binder for this coverage.

Does Annabelle owe past-due premiums before she can enroll in plan year 2018 coverage with the same issuer?

A. Yes

B. No

C. It Depends

Scenario 1: No Binder Payment Answer

In December 2016, you assisted Annabelle to enroll in a qualified health plan for plan year 2017 coverage. However, Annabelle never paid the issuer the initial plan premium binder for this coverage.

Does Annabelle owe past-due premiums before she can enroll in plan year 2018 coverage with the same issuer?

A. Yes

✓ **B. No**

C. It Depends

If Annabelle never paid the initial premium binder for the previous coverage, that coverage would never have been effectuated, so there would not be any coverage for which past-due premium is due.

Scenario 2: Mid-Year Loss of APTC

Your client, Carla, qualified for a special enrollment period (SEP) and enrolled in a Marketplace QHP during plan year 2017, but she became ineligible for APTC due to her inability to resolve an income data matching issue. She stopped paying premiums once her issuer billed her for the full monthly premium amount, which she could not afford.

You recently helped Carla complete a plan year 2018 enrollment selection with the same issuer. Carla calls you in late December because she received a letter from the issuer demanding payment for past-due premiums for her plan year 2017 coverage before it will effectuate her plan year 2018 coverage.

What options does Carla have to resolve this and effectuate her plan year 2018 coverage?

A. Pay all past-due premiums owed to the issuer and the initial plan premium binder for plan year 2018 coverage

B. File an appeal of her plan year 2017 APTC eligibility determination (if the appeal is requested within 90 days of the date of the Marketplace's final eligibility determination)

C. Do nothing; the Affordable Care Act requires the issuer to renew Carla's coverage

Scenario 2: Mid-Year Loss of APTC Answer

Your client, Carla, qualified for an SEP and enrolled in a Marketplace QHP during plan year 2017, but she became ineligible for APTC due to her inability to resolve an income data matching issue. She stopped paying premiums once her issuer billed her for the full monthly premium amount, which she could not afford.

You recently helped Carla complete a plan year 2018 enrollment selection with the same issuer. Carla calls you in late December because she received a letter from the issuer demanding payment for past-due premiums for her plan year 2017 coverage before it will effectuate her plan year 2018 coverage.

What options does Carla have resolve this and effectuate her plan year 2018 coverage?

- ✓ **A. Pay all past-due premiums owed to the issuer and the initial plan premium binder for plan year 2018 coverage**
- ✓ **B. File an appeal of her plan year 2017 APTC eligibility determination (if the appeal is requested within 90 days of the date of the Marketplace's final eligibility determination)**
- C. Do nothing; the Affordable Care Act requires the issuer to renew Carla's coverage

Scenario 2: Mid-Year Loss of APTC Answer (Continued)

- If the issuer demands payment of past-due premiums for months in which Carla did not qualify for APTC, the amount of past-due premium due for such months would be the full premium (i.e., not reduced by any amount of APTC).
- However, if the Marketplace determines, through an eligibility appeal requested within 90 days of the date of the Marketplace's final eligibility determination, that Carla should have been eligible for APTC for previous months, she can choose to have the APTC applied retroactively for those months.

Scenario 3: Nonpayment for October, November, & December

Justin is enrolled in a Marketplace QHP and qualifies for APTC, but he does not pay his portion of October, November, and December 2017 premiums. He is counting on the three-month grace period to maintain coverage through the end of the year.

Will Justin have to pay all the past-due premiums for those three months before he can re-enroll in plan year 2018 coverage with the same issuer?

A. Yes
B. No
C. It Depends

Scenario 3: Nonpayment for October, November, & December Answer

Justin is enrolled in a Marketplace QHP and qualifies for APTC, but he does not pay his portion of October, November, and December 2017 premiums. He is counting on the three-month grace period to maintain coverage through the end of the year.

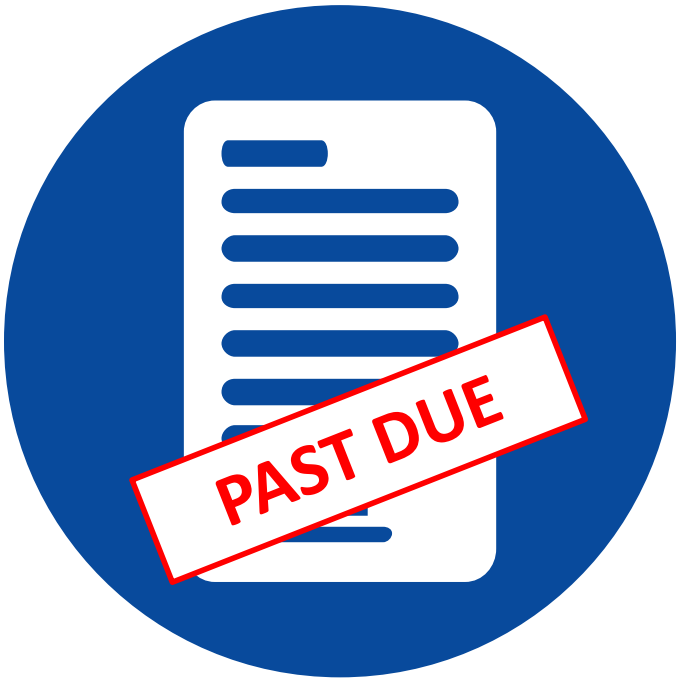
Will Justin have to pay all the past-due premiums for those three months before he can re-enroll in plan year 2018 coverage with the same issuer?

A. Yes

B. No

✔ **C. It Depends**

Scenario 3: Nonpayment for October, November, & December Answer (Continued)



- If the consumer's coverage is terminated at the end of a grace period, it would be terminated effective at the end of the first month of the grace period, and he or she would owe one month of premiums. Consumers whose coverage has not yet been terminated and who attempt to enroll in new coverage while in a grace period could owe up to three months of premiums.
- The requirement for Justin to pay all the past-due premiums depends on if his issuer has:
  - Adopted the past-due payment policy as permitted by state law, and
  - Provided Justin the required notice of the consequences of non-payment on future enrollment.

- If both of those conditions are met and Justin submits an application for coverage during the Open Enrollment period, the issuer should inform him, before the effective date of the coverage (January 1, 2018), of the amount of past-due premium he must pay for that coverage to be effectuated.

Scenario 4: Failure to Cancel Marketplace Coverage

Tom obtained employer-sponsored coverage during plan year 2017, but since he did not actively cancel his Marketplace plan, his issuer terminated coverage for nonpayment of premium.

If Tom loses his employer-sponsored coverage in the future and wishes to re-enroll in his previous Marketplace plan under a special enrollment period, will he first have to pay past-due premiums?

A. Yes
B. No
C. It Depends

Scenario 4: Failure to Cancel Marketplace Coverage Answer

Tom obtained employer-sponsored coverage during plan year 2017, but since he did not actively cancel his Marketplace plan, his issuer terminated coverage for nonpayment of premium.

If Tom loses his employer-sponsored coverage in the future and wishes to re-enroll in his previous Marketplace plan under a special enrollment period, will he first have to pay past-due premiums?

A. Yes

B. No

✓ **C. It Depends**

Scenario 4: Failure to Cancel Marketplace Coverage Answer (Continued)

- As in the previous scenario, the requirement for Tom to pay past-due premiums depends on if his issuer has:
  - Adopted the past-due payment policy as permitted by state law, and
  - Provided Tom the required notice of the consequences of non-payment on future enrollment.
- However, issuers may, if permitted by federal and state law, permit termination of coverage retroactive to the last day of the period for which premiums were paid, if they do so without regard to consumers' health status and in accordance with applicable non-discrimination requirements. This could result in the consumer not owing past-due premiums.

- You should educate your clients about how to properly terminate Marketplace coverage so they will not owe past-due premiums.

Summary

- Subject to state law, if it meets certain requirements, an issuer may require consumers to pay past-due premiums for plan year 2017 coverage before their issuers will effectuate plan year 2018 coverage.
- Past-due premiums are the net premium the consumer owes (i.e., subtract APTC from the base premium).

Complex Cases: Calculating Past-Due Premium Payments and Resolving Data Matching Issues

Data Matching Issues

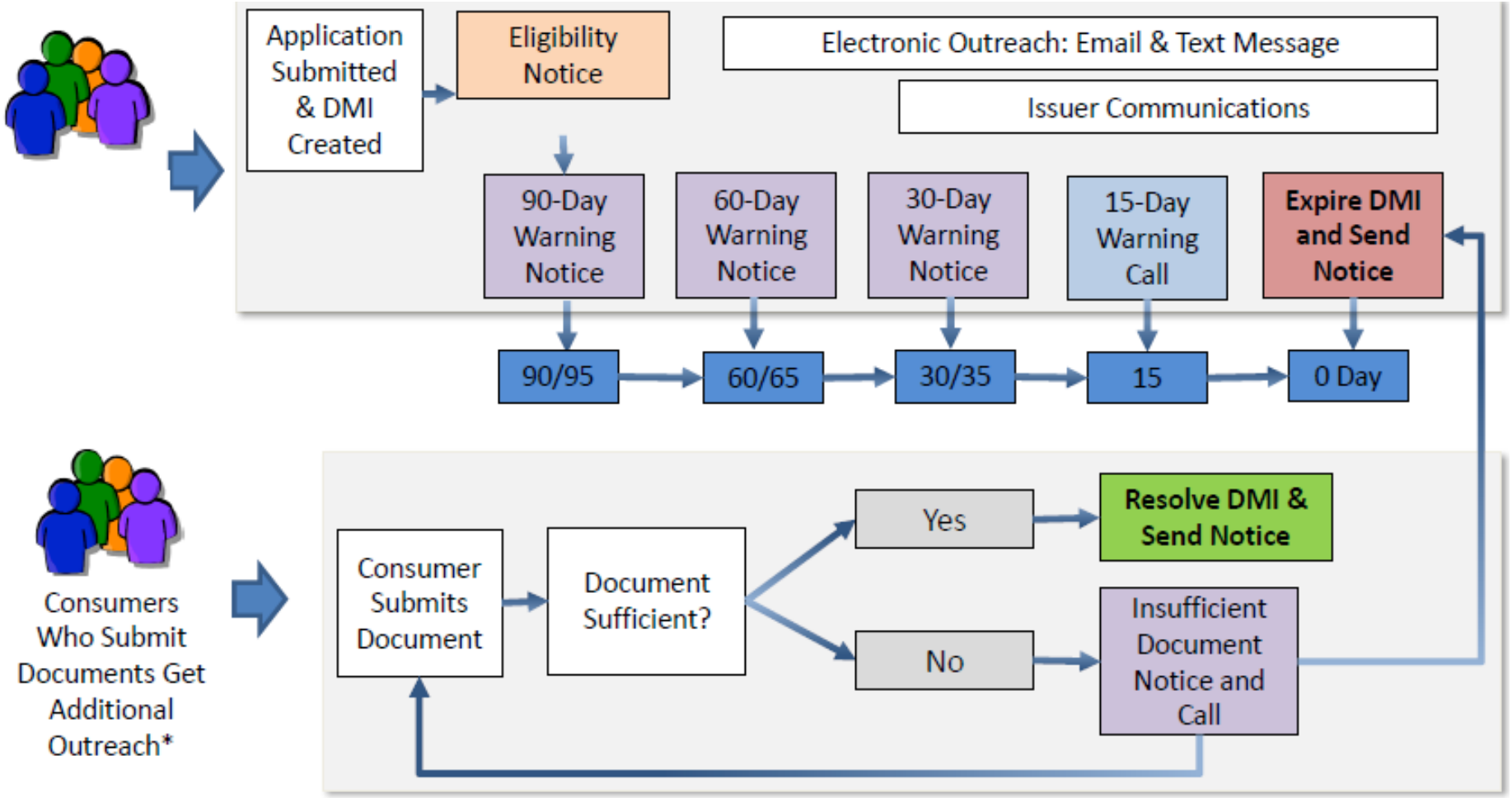
What is a Data Matching Issue?

- To determine eligibility, the Marketplace verifies applicant information using data from key federal agencies and other sources.
- If there are inconsistencies between the consumer's application and the information contained in the approved electronic sources, the Marketplace produces an initial eligibility notice that includes a list of any data matching issues (DMIs), along with instructions regarding how they can be resolved.
- The most common types of DMIs are related to income, citizenship, and immigration status.

Marketplace Establishes 90-day Eligibility Based on Consumer Attestation

- If the Marketplace needs additional information regarding a consumer's eligibility, it establishes eligibility based on the individual's attestation for a period of 90 days.
- Applicants who are otherwise eligible for a Marketplace QHP:
  - Can enroll and obtain coverage and, if applicable, help paying for coverage during the 90-day period.
  - Must resolve the DMI by the close of the 90-day period to continue eligibility for health coverage through the Marketplace and maintain the help paying for coverage, if applicable, as stated in the initial eligibility notice.
- Applicants with income and other eligibility information consistent with eligibility for Medicaid or the Children's Health Insurance Program (CHIP) but who have a DMI that involves citizenship or immigration status:
  - Can access Medicaid or CHIP coverage while within the "reasonable opportunity period" allowed to resolve the open verification items.

Consumer Outreach



* Consumers who submit documents can get additional notices and calls, which do not replace the notices and calls that all consumers receive.

DMI Summary

- Consumers will receive 90, 60, and 30 day notices, advising them to submit requested information to resolve their DMIs.
- Consumers who do not resolve their DMIs will lose their Marketplace coverage or risk having their financial assistance adjusted or terminated.