Refresher M834 Guidance: Handling M834s Received During Termination for Non-Payment (4/22/2019)

Consumer Information & Insurance Oversight (CCIIO)

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

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M834 Guidance: The Continuous Enrollment Test

If a consumer is terminated for non-payment in issuer records, and the issuer subsequently receives an M834 transaction, the following guidance applies:

- **If there would be a gap in coverage** between the termination of the current coverage (meaning the date the APTC grace period ends, if applicable) and the effective date of the change requested by the M834 transaction, the issuer should <u>accept the M834 as a new enrollment subject to binder</u> (and any past due premium, if the issuer has adopted the policy requiring an enrollee to pay all past-due premiums owed to that issuer for coverage in the 12 months preceding the new coverage's effective date, and previously noticed the enrollee).
- **If there would be no gap in coverage**, the M834 transaction is an update to continuous enrollment and the issuer should <u>not effectuate the change</u> and maintain the termination date.
- The continuous enrollment test is the same for active reenrollments during OE as for SEP transactions outside of OE.

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The Continuous Enrollment Test: Example 1

Example 1: Open Enrollment – continuous enrollment; do not enroll

- Enrollee enters 3 month APTC grace in November, and has until end of January to pay all outstanding premium.
- The enrollee is auto-renewed for 2020 coverage.
- During the OEP, on December 4, 2019, the enrollee logs into HealthCare.gov, updates her application for the upcoming plan year, and actively renews the same coverage for January 1, 2019 which is sent to the issuer as an M834 transaction updating the passive reenrollment previously sent by the Exchange.
- The enrollee pays the first month's premium by the due date; however, the issuer applies the January payment to the November receivable.
- The enrollee does not pay all outstanding premiums by January 31, 2020, the QHP must retroactively terminate the enrollee's coverage, effective November 30, 2019.

The continuous enrollment test is met because the January 1 active enrollment effective date is before the original policy's grace period expired (January 1 < January 31); the policy stays terminated effective November 30.

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The Continuous Enrollment Test: Example 2

Example 2: Open Enrollment – not a continuous enrollment; enroll subject to binder

Same as Example 1, except:

- The enrollee enters the 3 month APTC grace in October and must pay all outstanding premiums by the last day of December 2019.
- During OE, on December 4, 2019, the enrollee logs into HealthCare.gov, updates her application for the upcoming plan year, and actively enrolls in the same coverage for January 1, 2020, which is sent as an M834 transaction to the issuer updating the passive reenrollment previously sent by the Exchange.
- Since the enrollee selected the same QHP (and thus the same product as the reenrollment plan), the QHP may apply the January premium payment to the October non-payment if payment is received before the grace period ends December 31.
- However, if the enrollee pays the January binder after the grace period ends but before the January due date (such as on January 1), the issuer must effectuate the new coverage.

The continuous enrollment test is <u>not</u> met as the active January 1 reenrollment is after the grace period end date of December 31; the issuer must treat as a potential new enrollment subject to binder payment requirement.

Since the enrollee made no more payments on the original policy, the QHP issuer must retroactively terminate the enrollee's coverage, effective October 31, 2019. The enrollee's new coverage begins January 1, with a gap in coverage for November and December. Because the FFM policy ID for the 2020 coverage is already different than the 2019 policy, the issuer need not use ER&R to get a new FFE Policy ID.

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The Continuous Enrollment Test: Example 3

Example 3: SEP transaction outside of Open Enrollment – continuous enrollment; do not enroll

- An enrollee receiving the benefit of APTC is in good standing until she fails to pay the July 2019 premium and enters a 3 month grace period ending September 30, 2019.
- The enrollee's coverage is terminated by the QHP after the APTC grace period expires, with a termination effective date of July 31, 2019.
- During this period, the enrollee reports a change and is determined eligible for a SEP, which is sent to the issuer as a M834 transaction with an effective date of September 1, 2019.
- The M834 transaction effective September 1 is considered to be part of one continuous enrollment since the enrollee was still in grace; therefore, the QHP issuer must terminate the enrollee's coverage effective July 31, 2019, for non-payment of premium.

The continuous enrollment test is met as the September 1 SEP transaction is before the September 30 grace period expiration date; the SEP transaction is not effectuated and the issuer should use Enrollment Data Alignment to ensure that the FFE policy reflects the July 31, 2019, termination date.

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The Continuous Enrollment Test: Example 4

Example 4: SEP transaction outside of Open Enrollment – not a continuous enrollment; enroll subject to binder

Same facts as Example 3, but:

- The enrollee is determined eligible for a SEP with a November 1, 2019 effective date, which is sent to the issuer as an M834 transaction.
- The enrollee does not pay all outstanding premium for the original coverage by September 30, 2019, so the issuer terminated the original coverage effective July 31, 2019
- The enrollee makes the required payment for binder on the November 1, 2019 coverage after September 30. If the QHP issuer has not adopted the new of interpretation of guaranteed availability (or is not part of a controlled group that has adopted the new policy interpretation), the QHP issuer must effectuate the new coverage.

The continuous enrollment test is <u>not</u> met as the November 1 SEP transaction is after the September 30 grace period expiration date; the SEP transaction is effectuated when the binder is paid by the due date. The issuer should use Enrollment Data Alignment to ensure that the original FFE policy is terminated July 31, and the new FFE Policy ID begins November 1, using ER&R to assign a new FFE Policy ID to the November 1 coverage.

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Resource

- For more information, please see Sections 6.3.2 and 6.4.3 in the 2018 FFE and FFE-SHOP Enrollment Manual:
  - https://www.regtap.info/reg_librarye.php?i=1761

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