CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

Implementing Benefits for Pending Eligibility Appeals (5/13/2019)

Center for Consumer Information & Insurance Oversight (CCIIO)

May 13, 2019

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

This communication was printed, published, or produced and disseminated at U.S. taxpayer expense.

Introduction

- Consumers may appeal the loss of Advance Premium Tax Credit (APTC) due to Medicaid Periodic Data Matching (PDM), Annual Income (Data Matching Issues (DMI) expirations, and Failure to Reconcile (FTR) recheck.
- This webinar addresses issues arising when consumers request eligibility pending appeal.

Appeal Processing and 1095-A Form Accuracy

- CMS also receives appeals that are not submitted through the reconciliation data alignment process. Therefore, some consumers who have filed appeals have received inaccurate 1095-A forms.

- Issuers needing assistance with reconciliation data alignment should partner with their CMS Account Manager and Lead Caseworker by escalating examples of processing and FFE posting issues.

- Efficient and timely processing will reduce consumer calls to the Marketplace Call Center and future complaints.

Eligibility Pending Appeal Regulatory Requirement

§155.525 Eligibility pending appeal.

- (a) *General standards.* After receipt of a valid appeal request or notice under §155.520(d)(1)(ii) that concerns an appeal of a redetermination under §155.330(e) or §155.335(h), the Exchange or the Medicaid or CHIP agency, as applicable, must continue to consider the appellant eligible while the appeal is pending in accordance with standards set forth in paragraph (b) of this section or as determined by the Medicaid or CHIP agency consistent with 42 CFR parts 435 and 457, as applicable.
- (b) *Implementation.* If the tax filer or appellant, as applicable, accepts eligibility pending an appeal, the Exchange must continue the appellant's eligibility for enrollment in a QHP, advance payments of the premium tax credit, and cost-sharing reductions, as applicable, in accordance with the level of eligibility immediately before the redetermination being appealed.

Eligibility Pending Appeal Guidelines

- The FFE enrollment manual provides guidance pertaining to eligibility pending appeal and also provides guidance for FFE appeal determinations and related HICS case processing.

  https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Enrollment-Manual-062618.pdf

Communicating with Issuers on Eligibility Pending Appeal

- All communication from the Marketplace Appeals Center regarding consumers' pended eligibility will be via Health Insurance Casework System (HICS).
- Initial HICS cases for appeals with pended eligibility will indicate "**No**" in the HICS field labelled, "Appeals Decision Made".
- The issuer may receive multiple HICS cases for a consumer.

Appeals HICS Case for Retroactive Enrollments

- Upon receipt of a HICS case instructing an issuer to implement an appeal decision, the issuer should follow the directions in the HICS case narrative, as directed by the FFE.
- Issuers should reach out to their respective CMS Account Manager and/or Lead Caseworker if the HICS case directive is not clear or cannot be implemented without additional information.

Appeals HICS Case for Retroactive Enrollments

- Once completed the issuer should submit these enrollment changes via the enrollment data alignment process (IC834/RCNI/Disputes).
- Issuers will see these updates on Pre-Audit files released for the year that the update was made in the FFE.
- FFE updates accepted via the enrollment data alignment process will automatically trigger Corrected or Voided 1095-A Forms related to retroactive Appeals determinations.

Enrollment Data Alignment

- Enrollment changes due to appeals implemented **before** August of the subsequent year should be updated using the IC834 process. If the IC834 process can't be utilized, then issuers should submit through the RCNI.

- In some situations the dispute process must be used to update the FFE.

- Enrollment changes due to appeals implemented **after** August of the subsequent year must be submitted using the dispute process.

FAQs

- **Q1. How does the issuer know if a consumer should receive eligibility pending appeal?**

- **A1. The issuer will receive a HICS case. Sample narrative language:**

  Abigail Adams has been granted pended eligibility while their appeal is pending. The Issuer is to update its internal system to reflect the following eligibility.

  This appeal decision is the result of an urgent appeal request.

  Monthly amount of APTC and effective date: $884.00 APTC awarded effective 5/1/2019.

  Cost Sharing Reductions and effective date: CSR level 05awarded effective 5/1/2019.

FAQs, continued.

- **Q2. Why isn't there always an end date in the narrative for pended eligibility appeals cases?**

- **A2.** We are not always able to include an end date because the appeal is still being adjudicated, and we don't know if the appealed eligibility determination will be upheld or overturned; nor do we know when a decision will be reached or when we will have further eligibility results to send to the issuer.

FAQs, continued.

- **Q3. How will we know when eligibility pending appeal will end?**

- **A3.** The Marketplace Appeal Center will enter a new HICS case that provides instructions for ending eligibility pending appeal. This HICS case may also provide additional instruction to update the appellant's eligibility if it has changed as the result of the appeal decision. Issuers may also receive a new 834 transaction that provides an updated amount of APTC and other changes to eligibility. If a new 834 was generated related to the appeal it will referenced in the HICS case.

Example #1
End Eligibility Pending Appeal and Terminate Coverage

<Consumer name>'s appeal concluded. The Issuer is to update its internal systems to reflect the eligibility and effective dates below.

The Issuer is to stop the pended eligibility established via HICS case #E[INSERT: HICS case that granted PB], effective [INSERT: last day of the month that the decision/dismissal was dated].

The Issuer is to terminate the enrollment effective [INSERT: first day after PB is stopped], because the consumer is no longer eligible for QHP and APTC/CSR, based on the appeal outcome.

- Consumer is not eligible for QHP, effective [INSERT: mmddyyyy for the first day of the month after PB is stopped].
- Consumer is not eligible for APTC or CSR, effective [INSERT: mmddyyyy for the first day of the month after PB is stopped].

The eligibility outlined above is applicable for the remainder of the year unless the Marketplace provides instructions through a subsequent 834 or a HICS case.

Example #2
End Eligibility Pending Appeal and Prospectively Enroll

<Consumer name>'s appeal concluded. The Issuer is to update its internal systems to reflect the eligibility and effective dates below.

The Issuer is to stop the pended eligibility established via HICS case #E[INSERT: HICS case that granted PB], effective [INSERT: last day of the month that the decision/dismissal was dated].

The Issuer is to begin the following eligibility, based on the appeal outcome. The eligibility below is informational as the appeal results were transmitted to the issuer via an 834 file on [INSERT: Date the 834 was sent].

- Monthly amount of APTC: [INSERT: New APTC amount, based on appeal outcome]. Effective date: [INSERT: First day of the month after the date of the appeal decision or dismissal.]

- Cost Sharing Reductions: [INSERT: New CSR level, based on appeal outcome]. Effective date: [INSERT: First day of the month after the date of the appeal decision or dismissal.]

Example #3
End Eligibility Pending Appeal and Retroactively Enroll

<Consumer name>'s appeal concluded. The Issuer is to update its internal systems to reflect the eligibility and effective dates below.

The Issuer is to stop the pended eligibility established via HICS case #E[INSERT: HICS case that granted PB], effective [INSERT: last day before the retro eligibility begins]. The appeal decision eligibility supersedes the pended eligibility.

The Issuer is to begin the following eligibility, based on the appeal outcome. The eligibility below is informational as the appeal results were transmitted to the issuer via an 834 file on [INSERT: Date the 834 was sent].

- Monthly amount of APTC: [INSERT: New APTC amount, based on appeal decision]. Effective date: [INSERT: retro effective date]
- Cost Sharing Reductions: [INSERT: New CSR level, based on appeal decision]. Effective date: [INSERT: retro effective date]

The eligibility outlined above is applicable for the remainder of the year unless the Marketplace provides instructions through a subsequent 834 or a HICS case.

Example #4
End Eligibility Pending Appeal Because of a Subsequent Enrollment

<Consumer name>'s appeal concluded. The Issuer is to update its internal systems to reflect the eligibility and effective dates below.

The Issuer is to stop the pended eligibility established via HICS case #E[INSERT: HICS case that granted PB], effective [INSERT: last day before subsequent enrollment took effect].

The enrollment record reflects that the consumer independently updated his/her eligibility and enrollment during the pendency of the appeal. The consumer's eligibility and enrollment from the independent update was transmitted to the issuer via 834 and should continue unchanged. The record shows that this enrollment occurred on [INSERT: Enrollment date from MCU] effective [INSERT: Effective date from MCU], and included the eligibility outlined below.

- Monthly APTC Amount: [INSERT: APTC amount, based on independent EDN and enrollment]
- Cost Sharing Reductions: [INSERT: CSR level, based on independent EDN and enrollment]

The eligibility outlined above is applicable for the remainder of the year unless the Marketplace provides instructions through a subsequent 834 or a HICS case.