



FEMA-Declared Emergencies & Major Disasters and Special Enrollment Periods (SEP) Guidance

Consumer Information & Insurance Oversight (CCIIO)

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

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Agenda

- Overview of FFE Guidance Regarding FEMA-Declared Emergencies & Major Disasters, Published on August 9, 2018
- Special Enrollment Period (SEP) Eligibility
- SEP Deadlines & Coverage Effective Dates
- Sample SEP Scenarios
- How To Enroll In Coverage
- SEPs For Emergencies & Disasters Not Recognized By FEMA
- Other Areas Covered by the August 9, 2018 Guidance

Overview of FFE Guidance Regarding FEMA-Declared Emergencies & Major Disasters

- On August 9th, CMS released guidance clarifying FFE policy for consumers impacted by an emergency or major disaster that is recognized with a formal declaration from the Federal Emergency Management Agency (FEMA). In particular, the guidance covers:
 - Which individuals should be considered affected by such FEMA-declared emergencies or disasters and eligible for an Exceptional Circumstances SEP under 45 CFR §155.420(d)(9)
 - SEP deadline and coverage effective date rules
 - How affected individuals can access this SEP
 - Policies for termination of coverage
 - Consumer payments and grace period extensions
 - Compliance standards

SEP For Individuals Affected by a FEMA-Declared Emergency or Major Disaster: *Eligibility*

- An individual will be considered “affected by a FEMA-declared emergency or major disaster” and eligible for an Exceptional Circumstances SEP under 45 CFR §155.420(d)(9), if he or she attests that they meet the following eligibility requirements:
 1. They resided in any of the counties that are eligible to apply for “individual assistance” or “public assistance” by FEMA either during the FEMA-designated incident period of the emergency or major disaster, or at the time of application for enrollment.
 2. They were affected by the emergency or disaster, and it prevented them from completing enrollment for an enrollment period for which they were eligible (i.e., either Open Enrollment or an SEP).

SEP For Individuals Affected by a FEMA-Declared Emergency or Major Disaster: *Deadlines and Coverage Effective Dates*

- Individuals affected by a FEMA-declared emergency or major disaster have up to 60 days from the end of the FEMA-declared incident period to select a new QHP through the FFE or make changes to their existing QHP enrollment.
- **Coverage Effective Dates.** Individuals affected by a FEMA-declared emergency or major disaster can choose to:
 - have coverage start in the future, pursuant to regular effective date rules outlined in 155.420(b)(1); or
 - can request an effective date that would have applied if they had selected a plan during their original enrollment opportunity on or after the FEMA-designated incident start date.
- Coverage effective date rules vary based on the date of plan selection and the qualifying event for the enrollment opportunity.

SEP For Individuals Affected by a FEMA-Declared Emergency or Major Disaster: *Sample Scenarios*

<u>Qualifying Event</u>	<u>Date of Qualifying Event</u>	<u>Qualifying Enrollment Period End Date</u>	<u>FEMA Incident Start Date</u>	<u>FEMA Incident End Date</u>	<u>Exceptional Circumstance SEP End Date</u>	<u>Plan Selection Date Example</u>	<u>Available Coverage Effective Date(s)</u>
Birth or Adoption*	6/1	7/31	6/20	6/22	8/21	8/3	6/1, 7/1, 8/1, or 9/1
Loss of Coverage	6/1	7/31	6/20	6/22	8/21	8/5	7/1, 8/1, or 9/1

*Per 45 CFR §155.420(b)(2)(i), the Exchange is required to ensure that coverage is effective for a qualified individual on the date of birth, adoption, placement for adoption, placement in foster care, or effective date of the child support order or other court order. However, qualified individuals may also call the Marketplace Call Center to alternatively elect a coverage effective date for the first of the month following plan selection or following regular coverage effective rules.

SEP For Individuals Affected by a FEMA-Declared Emergency or Major Disaster: *How to Enroll in Coverage*

- To request an Exceptional Circumstances SEP, individuals affected by a FEMA-declared emergency or major disaster must contact the Marketplace Call Center at 1-800-318-2596 or TTY at 1-855-889-4325 and indicate they were eligible for another enrollment window, but were unable to complete their enrollment due to an emergency or disaster.
- Eligible individuals may expedite the process by completing an application in advance of calling the Marketplace Call Center on HealthCare.gov directly or with the assistance of a Navigator, Agent/Broker, Certified Application Counselor, or Direct Enrollment Partner.
- The initial eligibility results may show the consumer is not eligible to enroll because Open Enrollment has ended.
- Each SEP request must be individually re-evaluated by a caseworker, which may take several days. Caseworkers will review an individual's eligibility for the SEP using available information from Marketplace consumer records and public information on FEMA declarations.

SEPs For Emergencies and Disasters Not Recognized By FEMA

- Consumers impacted by emergencies or disasters that do not receive FEMA designations may also be considered for eligibility for an Exceptional Circumstances SEP under 45 CFR §155.420(d)(9). Individuals impacted by any emergency or disaster such that they are unable to enroll during an enrollment opportunity for which they qualify may contact the Marketplace Call Center at 1-800-318-2596 or TTY at 1-855-889-4325 to request enrollment.

Other Areas Covered by August 9 Guidance

- **Consumer Payments and Grace Period Extensions:** If issuers comply with a state regulatory authority's request, in reaction to a natural disaster or other emergency disruption within a state, to extend premium payment deadlines and delay cancellations for non-payment of premium, CMS may exercise enforcement discretion with regard to regulatory requirements such as the deadlines for payments to effectuate coverage and for payments of premiums under grace periods, including for individuals receiving APTCs.
- **Termination of Enrollment or Coverage:** The FFEs permit an individual to choose to terminate his or her coverage through the FFE for any reason. Enrollees who terminate their coverage due to hardship from a FEMA-declared or other natural disaster may apply for an exemption from associated tax penalties. Further, the Tax Cuts and Jobs Act of 2017 will eliminate the individual mandate penalty owed by consumers who do not maintain minimum essential coverage (MEC) or obtain an exemption, effective beginning in tax year 2019.
- **Compliance Standards:** CMS will consider refraining from taking compliance actions in instances where a QHP issuer's failure to comply was the direct result of the conditions created by a FEMA-declared natural disaster, and the issuer could not have taken reasonable steps in advance to prevent the compliance failure.

Resources

- Emergency and Major Disaster Declarations by the Federal Emergency Management Agency (FEMA) – Special Enrollment Periods (SEPs), Termination of Coverage, and Payment Deadline Flexibilities, Effective August 9, 2018: <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/8-9-natural-disaster-SEP.pdf>
- Additional information on SEPs available: <https://marketplace.cms.gov/outreach-and-education/special-enrollment-periods-available-to-consumers.pdf>.
- Hardship exemptions: <https://marketplace.cms.gov/technical-assistance-resources/exemption-general-hardship.pdf>