Tips for Assisters: Helping Consumers Understand Grace Periods and Termination due to Non-Payment of Premiums

June 2018

This assister tip sheet provides in-depth guidance on grace periods, premium payments, and termination of coverage in the individual Federally-facilitated Marketplaces and State-based Marketplaces that use the federal eligibility and enrollment platform.

Grace Period Facts

If consumers do not pay their monthly premium payments in full, or within the tolerance of an applicable premium payment threshold by the deadline, their health insurance company (or "issuer") may terminate their qualified health plan (QHP) coverage. But before an insurance company can end consumers' coverage, they have a short period of time to pay called a "grace period."

- Consumers who receive advance payments of the premium tax credit (APTC) have a grace period of three consecutive months.[i] Issuers must pay all appropriate claims for services rendered to consumers during the first month of a grace period and may pend claims for services rendered to consumers during the second and third months.
- Consumers who do not receive APTC have a grace period determined by state rules.[ii] Assisters should help consumers who do not receive APTC contact their State Department of Insurance (DOI) for more information on grace periods in their state.

Helping Consumers Enroll in a New QHP after Their QHP coverage is terminated for Non-Payment of Premiums

Open Enrollment

During Open Enrollment, consumers whose previous QHP coverage was terminated for nonpayment of premiums will still be able to receive an eligibility determination and, if eligible, enroll in a QHP for plan year 2019. Consumers can enroll in the same QHP they had in 2018 for plan year 2019 if it is still available. However, any issuers in the same organization may apply payments for the new enrollment to past due premiums applicable in the previous 12 months if the issuer has properly adopted such a policy and notified consumers of the policy. In such cases, the consumer would need to pay all past due premiums under the policy, and pay the binder payment for the new enrollment before the new enrollment could be effectuated.

Auto Re-enrollment

Auto Re-enrollment is the process the individual Federally-facilitated Marketplaces and State-based Marketplaces using the federal eligibility and enrollment platform use to ensure that current consumers who do not make an active plan selection by December 15 can have coverage on January 1 of the following plan year. If current consumers do not make an active plan selection by December 15, 2018 these Marketplaces will:

1. Determine 2019 eligibility, and
2. Re-enroll eligible consumers effective January 1, 2019 in a QHP under a hierarchy designed to ensure the same or similar QHP coverage with any financial assistance they qualify for.

Consumers who are auto re-enrolled receive an eligibility determination notification from the Marketplace and enrollment materials from the issuer after December 15. Consumers may actively select a plan to replace the auto-enrollment plan until the end of Open Enrollment, or under a special enrollment period, if they qualify for one. For example, a consumer can select a new QHP on December 15 with an effective date of January 1.

Consumers who are not enrolled in Marketplace coverage in mid-December 2018 are not eligible for auto re-enrollment.

Special Enrollment Periods (SEPs)

If a consumer claims loss of minimum essential coverage (MEC) as their SEP qualifying event, and that loss was the result of non-payment of premiums, then the consumer is not eligible for the loss of MEC SEP. If an issuer terminates a consumer’s coverage for nonpayment of premiums, the consumer is also not eligible for an SEP for loss of minimum essential coverage (MEC) due to this termination from coverage. However, the consumer may qualify for an SEP for other reasons.

Scenario #1: A Consumer Who is Not Receiving APTC

John does not receive APTC. He enrolls in a QHP, and has paid all his premiums in full since January. John fails to pay his July premium—due July 1. Since John does not receive APTC, his state's grace period requirements apply. In John's state, the grace period for consumers who do not receive APTC is one month; therefore, John's grace period starts July 1 and ends July 31.

John makes no further premium payments and, complying with state law, John's issuer terminates his coverage with an effective date of July 31. John later qualifies for an SEP and is determined eligible for Marketplace coverage. On August 13, John selects a QHP with a different issuer that is not part of the same organization as his prior issuer, with an effective date of September 1. John makes the September binder payment by the due date in the new issuer's enrollment materials.

John's issuer may not:

- Apply the September 1 payment toward the debt that resulted in termination in July; or,
- Refuse to confirm the new enrollment on the basis of non-payment.

The issuer may not reject the enrollment based on non-payment, and must communicate the enrollment confirmation transaction to the Marketplace.

Scenario #2: A Consumer Receiving APTC

Dawn receives APTC, enrolls in a QHP, and has paid all her premiums in full since January 2018. Dawn fails to pay her August premium—due August 1. Dawn enters a three-month grace period on August 1 and it expires on October 31.

If Dawn does not pay all outstanding premiums by October 31, Dawn's issuer terminates her QHP coverage with an effective date of August 31—the end of the first month of her grace period.

Since Dawn is not enrolled in Marketplace coverage in mid-December 2018, she is not eligible for auto-re-enrollment. During Open Enrollment, Dawn updates her application at HealthCare.gov for the upcoming plan year and is determined eligible for coverage with APTC. Dawn selects the same QHP she had in 2018 for coverage starting January 1, 2019 and pays her binder payment premium by the due date. The issuer, which has properly adopted and implemented a policy of applying payments to past due premiums, applies the binder payment to previous debt and requests full payment of Dawn's past debt and the 2019 binder payment before the issuer effectuates Dawn's enrollment in 2019 coverage.

Grace Periods Spanning Two Plan Years

Some consumers may experience a grace period for non-payment of premiums that spans two plan years. These are consumers who:

- Receive APTC; and
- Fail to pay premiums due at the beginning of November or December.

Auto-reenrollment

Consumers with grace periods extending beyond the 2018 plan year may still be eligible for auto-re-enrollment. If a consumer is auto-re-enrolled, the issuer may not reject the enrollment based on non-payment of premiums.

Termination Date

If a consumer is auto-re-enrolled but does not pay all outstanding premiums by the end of the three-month grace period, the issuer must terminate the consumer's coverage retroactively to the last day of the first month of the grace period. If the consumer's 2019 coverage is considered a renewal of the 2018 coverage (i.e., a re-enrollment that would not require a binder payment to be effectuated), this termination also ends coverage for the 2019 plan year.

If a consumer is re-enrolling, either through auto-re-enrollment or active plan selection in a plan for 2019 coverage that is not considered a renewal of the 2018 coverage (i.e., a re-enrollment that would require a binder payment to be effectuated, such as an alternate enrollment or an active enrollment in a product different than the issuer's renewal product) and does not pay all outstanding premiums by the end of the three-month grace period, the termination will retroactively apply to end the 2018 coverage (November 30 or December 31, depending on when the enrollee entered APTC Grace), but the 2019 coverage will generally remain in place, which may result in a gap in coverage. If the consumer pays the binder payment on the new coverage (and any applicable past due premium from the last twelve months if the new coverage's issuer has adopted the optional payment policy) and the new coverage is effectuated, but then the consumer does not meet subsequent premium payment obligations, the new plan year's coverage would be subject to its own grace period.

Scenario #3: A Consumer in a Grace Period during Auto-Re-enrollment

James receives APTC, enrolls in a QHP, and pays all his premiums in full through November 2018. Then, James fails to pay the December premium by the due date—December 1, 2018. James enters a three-month grace period that will end on the last day of February 2019. James does not actively select a plan for plan year 2019, and the Marketplace sends an auto-re-enrollment transaction to the issuer that would renew James' 2018 coverage in the same plan for 2019 plan year coverage. The issuer may not reject the enrollment based on non-payment of premiums.

James' coverage continues into 2019 and the existing grace period continues, meaning he must pay all outstanding premiums by Feb. 28. However, since James does not pay all outstanding premiums by Feb. 28, the issuer retroactively terminates his coverage effective Dec. 31, 2018.

James is no longer covered for plan year 2019. Since Open Enrollment has ended, James cannot enroll in the 2019 coverage unless he qualifies for an SEP.

Grace Periods Ending December 31, 2018 (the End of Plan Year 2018)

Consumers who are enrolled in a QHP for plan year 2018 with a grace period ending December 31, 2018 may make a premium payment intended for January 2019 coverage rather than for 2018 coverage with outstanding premiums. In this situation, the Marketplace needs to determine:

- If the consumer is enrolling in new coverage (see Scenario #1 above); or
- If the consumer is attempting to renew the current coverage (see Scenarios #2 and #3).

Determination depends on whether the consumer took action to update his/her application, was determined eligible, and actively selected a QHP for 2019 coverage.

Enrolling in New Coverage during Open Enrollment

Consumers with grace periods expiring at the end of the plan year and who actively complete a plan selection for 2019 coverage during Open Enrollment may enroll in 2019 coverage in certain scenarios, if otherwise eligible. If the enrollee actively enrolls in a policy requiring binder payment, the Marketplace considers this a new enrollment, and the new coverage takes effect if a consumer pays the January 2019 premium (and any applicable past due premium) by the due date. However, if the active selection does not require binder, the issuer will cancel the enrollment as the enrollee's selection is considered merely an update to a continuous enrollment that is terminated.

Auto-re-enrollment

Consumers whose grace period expires on December 31 may be auto re-enrolled in 2019 coverage if 1) they don't actively select a new QHP during Open Enrollment; and, 2) their 2018 QHP issuer will offer a QHP through the Marketplace for plan year 2019. If the consumer does not pay all outstanding premiums by December 31, the issuer may reject the auto-renewal.

Scenario #4: Consumer Updates Application

Monica does not receive APTC. She enrolls in a QHP and pays all her premiums in full through November 2018. Monica fails to pay her November 2018 premium—due November 1. Her issuer has adopted the payment policy to condition new enrollment on payment of recent past due premium. In Monica's state, the grace period for consumers who do not receive APTC is one month. Monica enters the grace period on November 1 and it expires on November 30. If Monica fails to pay the outstanding amount by the end of state grace, Monica's issuer may terminate her coverage effective November 30.

During Open Enrollment on December 10, 2018, Monica updates her application at HealthCare.gov for the upcoming plan year. She is determined eligible for coverage and selects a different QHP offered by the same 2018 issuer with coverage starting January 1, 2019. She pays the first month's premium and any outstanding payment from the 2018 enrollment by the due date—January 1. The issuer effectuates Monica's coverage and sends the Marketplace a confirmation transaction.

Scenario #5: Consumer Auto-Re-enrolled

Consider the same facts from Scenario #4, except Monica does not return to HealthCare.gov to select a new plan for 2019. Since Monica is still covered when the Marketplace sends auto-renewals and the same QHP is offered for the upcoming year, the Marketplace sends an auto-re-enrollment transaction to Monica's issuer. Since Monica did not any more premium payments, the issuer rejects this renewal since Monica did not pay all her outstanding premium payments by December 31.

Scenario #6: Gap in Coverage

Donna receives APTC, enrolls in a QHP, and pays all her premiums in full from January 2018 to September 2018. Then, Donna fails to pay her October premium—due October 1. Donna enters a three-month grace period on October 1 and it expires December 31.

During Open Enrollment on December 10, Donna updates her application for the upcoming plan year at Healthcare.gov and is determined eligible for coverage. Donna selects a new plan with coverage offered by an unrelated issuer starting January 1, 2019 and pays her first month's premium by the due date.

Because Donna selected a different plan for plan year 2019, the issuer may not apply the January 2019 premium payment to the December 2018 nonpayment (and would not be aware of the nonpayment). The issuer must accept the enrollment and apply the premium payment to January. The issuer sends the Marketplace a confirmation transaction. Since Donna did not pay all outstanding amounts due for the grace period ending December 31, 2018, her coverage during the prior year is terminated with a retroactive effective date of October 31, 2018. This leaves Donna with a gap in coverage for November and December and new coverage from January 1, 2019 forward.

This document is only a summary of applicable requirements and does not itself create any legal rights or obligations.

This was produced and disseminated at U.S. taxpayer expense. This is merely a summary of law and policy, does not create any legal rights or obligations, and applicable legal requirements are fully stated in the relevant statues and regulations.

---

[i] 45 C.F.R. § 156.270(d); § 155.430(d)(4).

[ii] 45 C.F.R. § 155.430(d)(5).