



Center for Consumer Information and Insurance Oversight

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**Temporary Special Enrollment Period (SEP) for Consumers Losing Medicaid or the Children’s Health Insurance Program (CHIP) Coverage Due to Unwinding of the Medicaid Continuous Enrollment Condition– Frequently Asked Questions (FAQ)**

*The guidance referenced in this document is applicable to all Marketplaces, and provides specific operational details for consumers in Marketplaces using the federal eligibility and enrollment platform. This guidance does not replace or revise previously issued guidance, and it references current federal regulations at 45 CFR 155.420(d)(9) and (d)(1), Section 5131 of the Consolidated Appropriations Act of 2023 (CAA, 2023), the Center for Medicaid and CHIP Services (CMCS) Informational Bulletin dated January 5, 2023, and the CMCS State Health Official (SHO) letter #23-002, published on January 27, 2023. This guidance describes flexibilities for consumers and Marketplaces with regard to the Medicaid Continuous Enrollment Condition Unwinding SEP for plan years 2023 and 2024.*

Since the onset of the novel coronavirus disease of 2019 (COVID-19) Public Health Emergency (PHE), state Medicaid agencies have made policy, programmatic, and systems changes to respond effectively to the pandemic. State Medicaid agencies also have made changes to qualify for the temporary Federal Medical Assistance Percentage (FMAP) increase under section 6008 of the Families First Coronavirus Response Act (FFCRA), including satisfying a continuous enrollment condition for most Medicaid beneficiaries who were enrolled in the program as of or after March 18, 2020.<sup>1</sup> Similarly, during the COVID-19 PHE, some states have been granted 1115 demonstration authority to provide continuous enrollment for Children’s Health Insurance Program (CHIP) beneficiaries in addition to other flexibilities that have had this effect.

The Consolidated Appropriations Act, 2023 (CAA, 2023) amends the expiration of the FFCRA section 6008 continuous enrollment condition and availability of the temporary FMAP increase, such that it will no longer be linked to the end of the COVID-19 PHE. The continuous enrollment condition will end on March 31, 2023. Beginning April 1, 2023, states will be able to terminate Medicaid enrollment for individuals no longer eligible. Beneficiaries whose coverage is terminated on April 1 could have their last date of Medicaid coverage be March 31, 2023. The temporary FMAP increase will be gradually reduced and phased down beginning April 1, 2023, and will end on December 31, 2023, for states that meet certain conditions. As described in prior Centers for Medicare & Medicaid Services (CMS)

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<sup>1</sup> To help keep beneficiaries in coverage during the COVID-19 PHE, under the continuous enrollment condition, states received additional federal funding if they paused Medicaid terminations starting in March 2020.

guidance,<sup>2</sup> after the expiration of the continuous enrollment condition, states will have up to 12 months to initiate, and 14 months to complete, a renewal for all individuals enrolled in Medicaid, CHIP, and, if applicable, the Basic Health Program (BHP), in a process commonly referred to as “unwinding” and the 12-month period has been called the “unwinding period.”

After the continuous enrollment condition ends on March 31, 2023 and states’ unwinding periods begin, many beneficiaries may lose Medicaid or CHIP coverage on or after April 1, 2023, and therefore may need to transition to other coverage, such as Marketplace coverage. Therefore, CMS is providing additional flexibilities for states and Marketplaces during the unwinding period to help beneficiaries maintain continuity of coverage as they transition off Medicaid or CHIP coverage and into a Marketplace qualified health plan (QHP).

### **Q1: What is the Centers for Medicare & Medicaid Services (CMS) announcing today?**

**A1:** Today, CMS is announcing a Marketplace Special Enrollment Period (SEP) for qualified individuals and their families who lose Medicaid or CHIP coverage due to the end of the continuous enrollment condition, also known as “unwinding.” This SEP, hereinafter referred to as the “Unwinding SEP,” will allow individuals and families in Marketplaces served by HealthCare.gov to enroll in Marketplace health insurance coverage outside of the annual open enrollment period. CMS will update HealthCare.gov so that Marketplace-eligible consumers who submit a new application or update an existing application between March 31, 2023<sup>3</sup> and July 31, 2024; and attest to a last date of Medicaid or CHIP coverage within the same time period, are eligible for an Unwinding SEP. Consumers who are eligible for the Unwinding SEP will have 60 days after they submit their application to select a Marketplace plan with coverage that starts the first day of the month after they select a plan.

### **Q2: Why is CMS offering this Unwinding SEP?**

**A2:** Many states and other stakeholders have raised significant concerns that, due to the unprecedented nature of unwinding, Medicaid and CHIP beneficiaries may face exceptional challenges when transitioning from Medicaid or CHIP coverage to other forms of coverage, such as Marketplace coverage. Medicaid and CHIP beneficiaries may be confused as to why their Medicaid or CHIP coverage is ending for the first time in several years. They may not have been in contact with, or received regular communications from, their state Medicaid agencies while the continuous enrollment

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<sup>2</sup> CMS. (March 3, 2022). *Promoting Continuity of Coverage and Distributing Eligibility and Enrollment Workload in Medicaid, the Children’s Health Insurance Program (CHIP), and Basic Health Program (BHP) Upon Conclusion of the COVID-19 Public Health Emergency* [State Health Official Letter #22-001]. Available at <https://www.medicaid.gov/federal-policy-guidance/downloads/sho22001.pdf>.

<sup>3</sup> March 31, 2023 is the earliest date that a beneficiary can have their last day of Medicaid coverage if coverage is terminated following the end of the continuous enrollment condition.

condition was in place, since many Medicaid and CHIP eligibility and enrollment operations were paused while it was in place, which could increase confusion about a sudden loss of coverage. Due to the volume of individuals expected to lose Medicaid and CHIP coverage, Medicaid and CHIP agencies may be unable to provide timely information about the termination of coverage and coverage options that would enable consumers to make an informed decision about their coverage options within 60 days.<sup>4</sup> For example, a consumer may need clarity as to whether a loss of Medicaid or CHIP coverage was procedural or due to ineligibility before deciding whether to pursue Marketplace coverage.

Additionally, many Medicaid and CHIP beneficiaries may have moved or changed addresses since last receiving communications from their state Medicaid or CHIP agency. As a result, they may not receive termination notices from their Medicaid or CHIP agency timely or at all. CMS anticipates that many former Medicaid and CHIP beneficiaries would qualify for the SEP available for individuals who did not receive timely notice of triggering events under 45 CFR § 155.420(c)(5), and in light of the exceptional circumstances described here, that this rises to the level of eligibility for Exceptional Circumstances SEPs under § 155.420(d)(9), we think it is appropriate to streamline access to and eligibility for these SEPs using the Unwinding SEP.

### **Q3: When can consumers access this Unwinding SEP?**

**A3:** Between March 31, 2023 and July 31, 2024, Marketplace-eligible consumers who are losing Medicaid, CHIP, or, if applicable, BHP, coverage due to unwinding can access the Unwinding SEP by submitting or updating an application through HealthCare.gov, a certified partner that supports SEPs, or the Marketplace Call Center. Consumers who are determined eligible for this Unwinding SEP will have 60 days from the date on which they submit a new or updated HealthCare.gov application to make a plan selection. **Note:** After July 31, 2024, consumers who were unable to enroll in Marketplace coverage because they did not receive a timely notice of termination of Medicaid or CHIP coverage, may contact the Marketplace Call Center at 1-800-318-2596 (TTY: 1-855-889-4325) to request an SEP, which will be granted on a case-by-case basis.

Finally, consumers do not have to wait for their Medicaid or CHIP coverage to end, before submitting an application for Marketplace coverage. Per regulation, consumers losing minimum essential coverage (MEC), such as Medicaid or CHIP, may report that loss of coverage up to 60 days before their last day of Medicaid or CHIP coverage.

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<sup>4</sup> Under 45 CFR 155.420(c)(1) and (d)(1), an individual who loses minimum essential coverage, including most types of Medicaid and CHIP coverage, is generally eligible for an SEP for 60 days after the date of loss of coverage.

**Q4: When will coverage start for consumers eligible for the Unwinding SEP?**

**A4:** Consumers' Marketplace coverage will start the first day of the month following plan selection under this Unwinding SEP.<sup>5</sup> For example, if a consumer who is eligible for the Unwinding SEP selects a plan on August 20, 2023, Marketplace coverage will start on September 1, 2023.

**Q5: Is there a new application question that consumers have to answer to be determined eligible for the Unwinding SEP?**

**A5:** No. However, CMS has made updates to the existing application question on HealthCare.gov that asks about a recent loss of Medicaid or CHIP coverage and updated existing functionality to grant the Unwinding SEP to eligible consumers. Consumers can also be determined eligible for the Unwinding SEP through existing questions on partner applications that ask about a recent loss of Medicaid or CHIP coverage.

**Q6: What steps should consumers take to make sure they can be determined eligible for the Unwinding SEP?**

**A6:** The Unwinding SEP will be available to Marketplace-eligible consumers who:

- 1) Submit a new application or update an existing application between March 31, 2023 and July 31, 2024 and answer "Yes" to the application question asking if their Medicaid or CHIP coverage ended recently or will end soon, and
- 2) Attest to a last date of Medicaid or CHIP coverage between March 31, 2023 and July 31, 2024.

In order to help avoid gaps in coverage during unwinding, CMS recommends that consumers who have received notice from their state Medicaid or CHIP agency that they are no longer eligible for Medicaid or CHIP coverage submit a new application or update an existing application on HealthCare.gov as soon as possible. This recommendation also applies to consumers whose Medicaid or CHIP coverage was terminated due to procedural reasons, so that the Marketplace can evaluate their eligibility for Medicaid, CHIP, or qualified health plan (QHP) coverage with advance payments of the premium tax credit (APTC) or cost-sharing reductions (CSR), as applicable.

Finally, to help consumers learn about their opportunity to enroll in Marketplace coverage through this Unwinding SEP, CMS will:

- (1) notify partners and stakeholders who regularly interact with or on behalf of potentially qualified consumers;

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<sup>5</sup> Consumers eligible for another SEP may receive an earlier coverage effective date as described in Q8.

- (2) provide technical assistance and training to enrollment assisters, such as agents, brokers, and Navigators;
- (3) provide information to news media;
- (4) conduct direct consumer outreach and communications, along with general outreach, education and marketing to raise consumer awareness including tactics such as social media, email, search, and digital video; and
- (5) provide educational information and resources for consumers on HealthCare.gov about what to do and next steps if they are losing their Medicaid or CHIP coverage.

**Q7: Will consumers need to provide documentation to verify their eligibility for the Unwinding SEP?**

**A7:** No, consumers will not be required to submit documentation of a qualifying life event to be eligible for the Unwinding SEP. Consumers will be required to attest to a loss of Medicaid or CHIP coverage as part of the application.

**Q8: If consumers are eligible for multiple SEPs, what will their Marketplace coverage effective date be?**

**A8:** In general, if a consumer is eligible for multiple SEPs due to multiple qualifying life events, the consumer will be given the earliest coverage effective date associated with the applicable SEPs. If a consumer is eligible for the Unwinding SEP and another SEP, the consumer will be given the coverage effective date associated with the Unwinding SEP, unless the other SEP has a retroactive coverage effective date. If a consumer qualifies for an SEP with a retroactive coverage effective date but doesn't want coverage to start on the date of their triggering event, such as the date of a birth or adoption date, the consumer can contact the Marketplace Call Center to have coverage start on a different date.

**Q9: What should consumers do if they aren't sure whether their Medicaid or CHIP coverage was terminated by their state Medicaid or CHIP agency?**

**A9:** Consumers can find contact information for their state Medicaid or CHIP agency by visiting <https://www.medicaid.gov/resources-for-states/coronavirus-disease-2019-covid-19/unwinding-and-returning-regular-operations-after-covid-19/renew-your-medicaid-or-chip-coverage/index.html>, which provides state Medicaid or CHIP agency enrollment links and contact information for each state. Consumers should contact their Medicaid or CHIP agency as soon as possible to ensure the agency has their up-to-date contact information, and to ensure they are receiving all communications regarding the status of their enrollment.

**Q10: Does this announcement of the temporary Unwinding SEP also apply to State-Based Marketplaces (SBMs) that operate their own eligibility and enrollment platforms?**

**A10:** SBMs that operate their own eligibility and enrollment platforms can offer this Unwinding SEP for their populations per federal regulation at 45 CFR 155.420(d)(9). Consumers losing Medicaid or CHIP coverage in SBM states should check with their SBM to find out if they're offering this SEP and any next steps. Consumers can find information about their respective State Marketplace by visiting <https://www.healthcare.gov/marketplace-in-your-state/>.