Rock Enroll!
Ready to Enroll and Renew PY 2025

October 2024

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Agenda

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Lawfully Present Final Rule: DACA Recipients

- Under the final rule that appeared in the May 8, 2024, Federal register, DACA recipients will no longer be excluded from the definition of “lawfully present” for purposes of enrolling in a Qualified Health Plan (QHP) through the Marketplace and the Basic Health Program (BHP) based on a grant of deferred action, just like other similarly situated noncitizens who are granted deferred action.
- These changes, for both DACA recipients and other impacted noncitizens, are effective November 1, 2024.
- This final rule does not change the definition of “lawfully present” for Medicaid or CHIP.
- DACA recipients may have access to financial assistance – Advance Payments of the Premium Tax Credits (APTC) and Cost Sharing Reductions (CSRs) – if otherwise eligible.
  - DACA recipients and other noncitizens impacted by the final rule may be eligible for APTC and CSRs even if their household income is below 100 percent of the Federal Poverty Level (FPL), since they are ineligible for full Medicaid coverage due to their immigration status.

Marketplace Applications for DACA Recipients

- The Marketplaces on the Federal platform will update functionality to reflect DACA recipients' and other noncitizens’ potential eligibility for Marketplace coverage.
- **In states served by a Marketplace on the Federal platform, all DACA recipients should apply directly through the Marketplace** single streamlined application online at HealthCare.gov, by calling 1-800-318-2596 (TTY: 1-855-889-4325), or through approved EDE entities (e.g., QHP issuers and web-brokers) to enroll in Marketplace coverage.

Special Enrollment Period for Marketplace Eligibility for DACA Recipients

- DACA recipients and other noncitizens impacted by the Lawfully Present Final Rule can apply for coverage during the upcoming Marketplace Open Enrollment Period, **November 1, 2024 – January 15, 2025**, for Marketplaces on the Federal platform.
- DACA recipients and other noncitizens impacted by the Final Rule are also eligible for the existing 60-day Special Enrollment Period (SEP) for individuals who have become newly eligible for enrollment in a QHP through an Exchange due to newly meeting the requirement that an enrollee be lawfully present.

Special Enrollment Period for Marketplace Eligibility for DACA Recipients (Cont.)

- Even though the rule will become effective during the Open Enrollment Period, attesting to eligibility for the SEP can help DACA recipients and other noncitizens impacted by the Final Rule have their Marketplace coverage start sooner.
- The chart below shows coverage effective dates for those applying at different times during Open Enrollment, with and without the SEP:

Date of plan selection	Coverage start date with SEP	Coverage start date without SEP
Nov 1 – Nov 15	December 1	January 1
Nov 16 – Nov 30	December 1	January 1
Dec 1 – Dec 15	January 1	January 1
Dec 16 – Dec 30	January 1	February 1
Jan 1 – Jan 15	N/A	February 1

HealthCare.gov Application Process for DACA Recipients

The Marketplaces on the Federal platform will have updated HealthCare.gov application content to better guide DACA recipients applying for coverage. Starting November 1, 2024, DACA recipients and other noncitizens impacted by the Final Rule applying for Marketplace coverage should keep the following steps in mind:

1. If applying between November 1, 2024, and November 30, 2024, be sure to select that they are applying for 2024 coverage if they would like their Marketplace coverage to begin on December 1, 2024. Otherwise, their Marketplace coverage won't start until January 1, 2025.

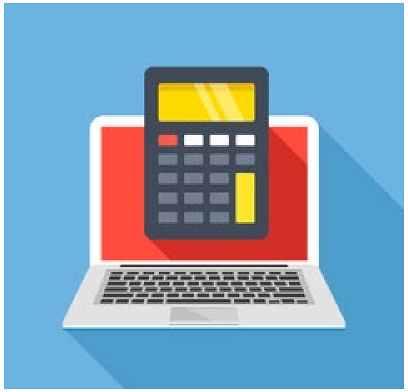
2. DACA recipients and other noncitizens impacted by the Final Rule who have SSNs and are applying for coverage for themselves must enter their SSNs on their applications.

3. When asked whether they are a U.S. citizen or national, select "no."

HealthCare.gov Application Process for DACA Recipients (Cont.)

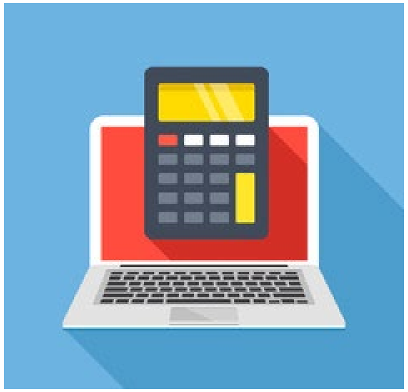
4. When asked whether they have eligible immigration status for purposes of their application for Marketplace coverage, select "yes."
5. When asked about their immigration documents, provide as much information as possible to avoid needing to submit documents later. DACA recipients will generally have an I-776 (Employment Authorization Card).
   - If they select that they have an Employment Authorization Card, they will be asked to enter their Alien Number, Card Number, Expiration Date, and Category Code.
6. If applying between November 1, 2024, and December 31, 2024, and asked about life changes, select that they "gained eligible immigration status."
   - When asked for the date they gained eligible immigration status, enter "11/01/2024."

Failure to File and Reconcile (FTR)



- FTR occurs when consumers who have Marketplace coverage with APTC don't file their annual federal income tax return and reconcile their APTC.
- Typically, prior to Open Enrollment (OE), the Marketplace checks IRS data to determine if tax filers filed their federal income tax returns and reconciled their APTC for the most recent tax year for which data is available.
  - When the Marketplace requests income verification data from the IRS about a tax filer who has not (or whose tax household member has not) filed a federal income tax return or reconciled APTC for that tax year, IRS returns a response to the Marketplace indicating that the tax filer has not filed and/or reconciled their APTC (referred to as having an "FTR status").

Failure to File and Reconcile (FTR) (Cont.)



- Consumers with an FTR status receive Marketplace notices warning them to file their federal income tax return and reconcile past APTC immediately and to attest on their application during OE to having filed and reconciled, if they have, in fact, done so.
- Then, in the new year following OE, the Marketplace performs a recheck of IRS data to verify that those who attested to filing and reconciling on their application during OE actually filed their federal income tax return and reconciled their APTC. This process is called “FTR Recheck.”
- FTR enrollees who don’t update their applications to attest to filing and reconciling and get automatically re-enrolled in coverage for the new plan year will have their APTC removed effective January 1 of the new plan year.

Regaining APTC After Losing APTC Due to FTR

- Beginning with PY 2025 eligibility determinations, consumers who fail to file federal income tax returns and reconcile APTC for the two most recent consecutive tax years, as verified with IRS data, will lose their APTC for PY 2025. If a consumer is found to have failed to file and reconcile APTC for two consecutive tax years, consumers must file a federal income tax return and reconcile past APTC for the applicable tax years to remain eligible for APTC for the new plan year.
  - If a consumer does not attest to having filed and reconciled during OE, they will lose their APTC beginning Jan. 1, 2025.
  - If a consumer attests during OE, but then during FTR Recheck, IRS data shows that they still have not filed their federal tax return and reconciled their APTC, they will lose their APTC beginning May 1, 2025.

Regaining APTC After Losing APTC Due to FTR (Cont.)

- Consumers who remain enrolled in full-cost coverage after losing APTC eligibility can return to their Marketplace application during the plan year and attest to filing and reconciling for the applicable tax year after they have done so.
- The consumer will then become eligible for APTC again (if otherwise eligible) and will be eligible for a Special Enrollment Period (SEP) to make changes to their enrollment and can apply APTC to their plan prospectively. This SEP is only available to current enrollees.
- Consumers who drop coverage because they lost APTC and then file a federal income tax return and reconcile APTC as required for the applicable tax year must qualify for a different type of SEP, such as a move, to re-enroll in coverage with APTC or wait until the next OE. Consumers can find more information on SEP qualifying events at HealthCare.gov: Special Enrollment Periods.

FTR Key Points

- The 2024 Payment Notice revised the FTR policy to terminate APTC when enrollees fail to file taxes and reconcile APTC for two consecutive tax years, rather than one tax year, beginning with re-enrollment for PY 2025.
- Consumers with a FTR status will receive a Marketplace Open Enrollment Notice (MOEN) and the consumer's tax filer will also receive a FTR Direct Notice prior to Open Enrollment for PY 2025.
- CMS will resume FTR operations in Fall 2024 with the start of OE 2025, and effective January 1, 2025, enrollees who have failed to file and reconcile for tax years 2022 and 2023 will no longer be eligible for APTC.
- If a consumer with a two-tax-year FTR status has in fact filed and reconciled but IRS has not yet updated their data, they can attest to filing and reconciling on their Marketplace application during OE to remain eligible for APTC for PY 2025. The Marketplace will then recheck IRS data to see if they have in fact filed and reconciled during the FTR Recheck process, which typically occurs sometime after OE ends annually on January 15.

Enhanced Tax Credits Still in Effect

- The Inflation Reduction Act (IRA) was signed into law on August 16, 2022.
- This law extended through PY 2025 the enhanced premium tax credits initiated under the American Rescue Plan Act of 2021 (ARP).
- This means that for 2025, many Marketplace consumers will have available to them $0 premium plans when using their premium tax credits. And consumers with household income above 400 percent of the federal poverty level may qualify for premium tax credits as well.

Enhanced Tax Credits Still in Effect (Cont.)

- Whether each consumer qualifies for a premium tax credit depends in part on how their household income compares to the costs of plans in their area. There is not one set household income limit that applies to everyone, but consumers can check Healthcare.gov: See plans & prices to see whether they would qualify for tax credits based on their income.
- Reminder: Issuers will send consumers renewal notices which generally provide an estimate of APTC based on the previous year. The consumer's actual APTC will appear on their eligibility determination notice (EDN) from the Marketplace as well as on their January bill.

SEPs During Open Enrollment

- Remember that consumers you see during OE may be seeking coverage for the remainder of PY 2024 in addition to enrolling for 2025. Below are some scenarios you may encounter:
  - A consumer is losing employer-based coverage on November 30 and wants coverage for December
  - A consumer recently had a baby and wants to add the child to their existing policy
  - A consumer recently moved from another state
- Review the resources on SEPs at CMS.gov: Health Insurance Marketplace to ensure you are ready to help consumers in these common situations.

Medicaid/CHIP SEP Changes

- Beginning January 1, 2024, at the option of the Marketplace, a qualified individual or their dependent(s) who loses Medicaid or CHIP coverage has 90 days after the triggering event (the loss of coverage) to select a QHP. This aligns the SEP window following a loss of Medicaid or CHIP with the 90-day Medicaid reconsideration window, which allows former Medicaid or CHIP beneficiaries to provide the necessary information to their state Medicaid agency to re-establish their eligibility for Medicaid or CHIP without having to complete a new application.
- State-based Exchanges have the option to implement this change earlier than January 1, 2024, and to allow more than 90 days to select a plan, if the State Medicaid agency permits or provides for a longer Medicaid or CHIP reconsideration period.
- In the Marketplaces on the Federal platform, this will be implemented following the expiration of the Medicaid Unwinding SEP, which has been extended to November 30, 2024.

150 Percent of the FPL SEP Now Permanent

- APTC-eligible consumers in the Marketplaces on the federal platform with a projected annual household income at or below 150 percent of the FPL are eligible for a monthly SEP to enroll in a qualified health plan (QHP) or change from one QHP to another.
- In the 2025 Payment Notice, CMS made this SEP permanent, effective June 4, 2024.

Job-based Coverage Affordability Rules

- If an applicant is enrolled in employer-sponsored coverage (ESC), they are ineligible for APTC.
- If an applicant has an offer of ESC that is considered affordable and meets the minimum value standard, they are ineligible for APTC (whether or not they are enrolled).
- If an employee has an offer of affordable employer coverage, affordability is based on the employee's cost for self-only coverage. If a consumer has an offer of employer coverage that extends to their family members, the affordability of employer coverage for those family members is based on the family premium amount, not the self-only employee premium cost.
- For 2025, a plan is considered "affordable" if the plan's premiums (for employee-only or family coverage, as applicable) do not exceed 9.02 percent of the employee's household income.

Bronze to Silver Crosswalk Reminder

- Consumers who are in a bronze QHP for PY 2024 may come to you with a notice showing that they are being crosswalked into a silver QHP for PY 2025 because their plan availability met the following criteria:
  - They are eligible for income-based CSRs, are currently enrolled in a bronze level QHP, and would otherwise be automatically re-enrolled in a bronze-level QHP; AND
  - The silver-level QHP (with CSRs) is in the same product with the same provider network as the bronze level QHP into which they would have otherwise been re-enrolled; AND
  - The silver-level QHP has a premium after APTC that is lower than or equivalent to the premium of the bronze level QHP into which they would have otherwise been re-enrolled.

Bronze to Silver Crosswalk Reminder (Cont.)

- You can help these consumers by explaining:
  - Why they were crosswalked into a silver QHP, and that this silver QHP covers the same benefits and health care providers that their 2025 bronze plan would cover;
  - That the crosswalk was done based on previously verified income or information from the Exchange’s trusted data sources and that changes in their household income could impact their premiums and eligibility for CSRs; and
  - That they can accept the new plan or return to the Exchange to choose a different plan.

Note: You should always encourage consumers to return to the Exchange each year to update their information and select the plan that best meets their needs.

Automatic Re-enrollment for Enrollees with Catastrophic Coverage

- CMS now requires all Marketplaces to re-enroll enrollees with Catastrophic coverage, including enrollees who will lose eligibility for Catastrophic coverage, into a new QHP for the coming plan year, to the extent consistent with applicable state law.
- Enrollees whose current plan is no longer available and/or who will lose eligibility for catastrophic coverage must be re-enrolled in a plan in the same product as the enrollee’s current QHP or, if that product is no longer available, enrolled in the product offered that is the most similar to the enrollee's current product, and that has the most similar network compared to the enrollee's current QHP.
- If no bronze plan is available through the applicable product, the Marketplace must enroll the enrollee in the QHP with the lowest coverage level offered under the product.

Changes to the Former Foster Care Children Medicaid Policy

Under federal law, Medicaid provides coverage for qualifying youth who age out of foster care until they reach age 26, under the mandatory FFCC eligibility group.

Until recently, to be considered eligible for the FFCC eligibility category, individuals had to meet all of the following criteria:

- Are under age 26;
- Are not eligible for or enrolled in another mandatory eligibility group;
- Were in foster care in the state in which the individual is seeking Medicaid eligibility upon attaining age 18 (or higher as the state has elected in its title IV-E plan); and
- Were enrolled in Medicaid in such state while in foster care.

However, updates to these criteria, effective January 1, 2023, expand the ability for FFCC who turned 18 on or after January 1, 2023, to obtain Medicaid coverage. Such individuals now could have been in foster care and enrolled in Medicaid in **any state** upon attaining age 18 (or higher as the state has elected in its title IV-E plan). Refer to Former Foster Care Children Medicaid Policy Update for more information.

Q&A