Assister Webinar: Understanding COBRA April 29, 2020

Questions and Answers

Q1: Does the loss of qualifying coverage special enrollment period (SEP) to enroll in Marketplace coverage start on the date when a worker loses their job, or when their employer-sponsored health care coverage ends?

A1: This SEP starts on the day the consumer's job-based coverage ends. The consumer has up to 60 days before and 60 days after the date that their employer-sponsored health coverage ends to select a Marketplace plan. For example, if a consumer loses their job on June 21 but their coverage does not end until June 30, they have up to 60 days before or after June 30 to apply for Marketplace coverage and select a plan. Their Marketplace coverage can start as soon as the first day of the month following plan selection and after their employer-sponsored coverage ends. It's important to remember that even if a consumer is eligible for COBRA coverage after their traditional employer-sponsored coverage ends, the consumer can instead opt for Marketplace coverage and may be eligible for help paying the cost of their Marketplace plan.

If a consumer initially elects COBRA continuation coverage, they may still use their SEP due to loss of their non-COBRA employer-sponsored coverage to enroll in Marketplace coverage until the end of their 60-day SEP window. Additionally, to qualify for APTC, they can terminate their COBRA continuation coverage. However, if a consumer decides to terminate the COBRA continuation coverage before it runs out and after 60 days have passed since their loss of pre-COBRA job-based coverage, the employee will not be eligible for a loss-of-coverage SEP based on the termination of COBRA continuation coverage and will need to wait to enroll in Marketplace coverage until the next open enrollment period, unless they qualify for another SEP. Also, an individual enrolled in COBRA continuation coverage can qualify for a SEP if COBRA continuation coverage costs change because their former employer stops contributing and they must pay full cost.

Q2: If a consumer enrolls in COBRA after losing their job, and while enrolled in COBRA, they have trouble continuing to make their COBRA premium payments, will a consumer be eligible for an SEP to enroll in a Marketplace plan?

A2: First, be aware that consumers are not obligated to take COBRA coverage. Eligibility for COBRA continuation coverage does not disqualify an individual from a loss- of-coverage SEP. Additionally, if an employee initially elects COBRA continuation coverage, they may still use their loss-of-coverage SEP to enroll in Marketplace coverage until the end of their SEP window, which is 60 days after their loss of pre-COBRA job-based coverage. They may also qualify for APTC if they terminate their COBRA continuation coverage. However, if the employee decides to terminate the COBRA continuation coverage before it runs out and after 60 days have passed since their loss of pre-COBRA job-based coverage, the employee will not be eligible for a loss-of-coverage SEP based on the termination of COBRA continuation coverage and will generally need to wait to enroll in individual market coverage until the next open enrollment period, unless they qualify for another SEP. Also, an individual enrolled in COBRA continuation coverage can qualify for a SEP if COBRA continuation coverage runs out, or if costs change because their former employer stops contributing and they must pay full cost.

If the consumer just finds it to be unaffordable to them for another reason, they can drop their COBRA coverage at any time. However, voluntarily dropping COBRA coverage does not itself make the consumer eligible for an SEP to enroll in Marketplace coverage outside of the OEP: if the consumer voluntarily drops their COBRA coverage outside of the OEP, the consumer must be eligible for some other SEP to enroll in Marketplace coverage. If the consumer voluntarily drops their COBRA coverage during the OEP, the consumer can enroll in Marketplace coverage.

For more information about the Marketplace for businesses and consumers impacted by COVID-19, refer to this FAQ: Marketplace.cms.gov/technical-assistance-resources/training-materials/business-impact-covid-19.pdf, and this page on HealthCare.gov: HealthCare.gov/coronavirus/.

Q3: If a consumer is eligible for COBRA, declines it, and chooses to enroll in a Marketplace plan, is it true that they won't receive a subsidy because the Marketplace considers COBRA coverage to be affordable?

A3: No, this is not true. Eligibility for COBRA continuation coverage does not disqualify an individual from a loss-of-coverage SEP, or from APTC eligibility as long as they decline to enroll in COBRA continuation coverage, or end their COBRA continuation coverage before their Marketplace coverage starts. That is, consumers who are eligible for but not enrolled in COBRA coverage may be determined APTC eligible when they apply for Marketplace coverage, if they meet other APTC eligibility requirements.

Additionally, if an employee initially elects COBRA continuation coverage, they may still use their loss-of-coverage SEP to enroll in Marketplace coverage until the end of their SEP window, which is 60 days after their loss of pre-COBRA job-based coverage. They may also qualify for APTC if they terminate their COBRA continuation coverage. However, if the employee decides to terminate the COBRA continuation coverage before it runs out and after 60 days have passed since their loss of pre-COBRA job-based coverage, the employee will not be eligible for a loss-of-coverage SEP based on the termination of COBRA continuation coverage and will generally need to wait to enroll in individual market coverage until the next open enrollment period, unless they qualify for another SEP.

A consumer should consider all of their options for health coverage before enrolling in COBRA. Since an employee often must pay the full cost of COBRA coverage themselves, COBRA may not always be the most affordable option for a consumer.

Q4: Do Coronavirus Aid, Relief, and Economic Security (CARES) Act payments need to be reported to the Marketplace? Do these payments impact eligibility for financial assistance through the Marketplace?

A4: The CARES Act calls for the IRS to make economic impact payments of up to $1,200 per taxpayer and $500 for each qualifying child. If a consumer gets one of these payments, they don't need to include it in the income they report on their HealthCare.gov application. These payments don't impact eligibility for financial assistance for health care coverage through the Marketplace, or eligibility for Medicaid or the Children's Health Insurance Program (CHIP). For more information, visit IRS Coronavirus Tax Relief information.

Q5: Does unemployment compensation need to be reported to the Marketplace?

A5: All types of unemployment compensation should be reported on the Marketplace application, including new benefits created through the CARES Act. The CARES Act provides new unemployment compensation, including:

- Pandemic Unemployment Assistance (PUA): Individuals who do not qualify for regular unemployment compensation and are unable to continue working as a result of COVID-19, such as self-employed workers, independent contractors, and gig workers, are eligible for PUA benefits. PUA provides up to 39 weeks of benefits to qualifying individuals.

- The Federal Pandemic Unemployment Compensation program (FPUC): This program allows states to provide an additional $600 per week benefit to individuals who are collecting regular UC. The CARES Act specifies that FPUC benefit payments will end after payments for the last week of unemployment before July 31, 2020.
- Pandemic Emergency Unemployment Compensation (PEUC): Consumers are eligible for UC for an extended time period, even if they had UC that ended earlier this year. The CARES Act removed earlier UC waiting periods, and added 13 extra weeks to the unemployment benefit period.

Q6: A consumer temporarily loses their job and their job-based health insurance and qualifies for an SEP to enroll in Marketplace coverage with APTC. The consumer then gets their job back and their job-based coverage. Will the consumer owe back the APTC amount that they received for the few months they were unemployed when they reconcile their federal income taxes?

A6: No, they will not have to pay back APTC they received when they didn't have job-based coverage. APTC is provided on a monthly basis based on a consumer's projected annual household income and whether or not they are offered affordable coverage through an eligible employer-sponsored plan that provides minimum value. However, if a consumer's household income *for the year* is more than they estimated on their application, or if the number of people in their household is fewer than originally reported, their premium tax credits or help with cost sharing might change. If a consumer doesn't report the changes, they may have to pay money back when they file their federal income tax return for the year. If a consumer's household income *for the year* is less than they estimated on their application, or the number of people in their tax household is more than originally reported, a consumer could qualify for more financial assistance and receive the additional amount as a tax refund. When the consumer gets their job back, it's important that they report any changes in household income and in eligibility for job-based coverage to the Marketplace as soon as possible, and if applicable, to terminate enrollment in their Marketplace plan with APTC if they've re-enrolled in job-based coverage. If they receive more APTC than they are eligible for based on changes in household income, and don't report the changes to the Marketplace, they may have to pay back APTC when they file their federal income taxes.