

Departments Issue FAQs on Special Enrollment, Women’s Preventive Care Services

The departments clarified that someone who loses eligibility for individual coverage, including marketplace coverage, is entitled to a special enrollment period in a group health plan for which that individual is otherwise eligible. They also specified that updated guidelines on women’s preventive care apply for plan years beginning on or after December 20, 2017.

Background

On December 20, 2016, the Departments of Labor, Health & Human Services and Treasury (departments) issued guidance in the form of [Frequently Asked Questions](#) (FAQs) on implementation of the Affordable Care Act (ACA).

Loss of Individual Coverage Triggers Special Enrollment Rights

HIPAA requires group health plans to provide special enrollment periods during which employees, spouses and dependents can sign up outside of the annual open enrollment period. Group health plans must provide a special enrollment opportunity where an otherwise eligible individual loses eligibility for other coverage.

The departments clarified that an individual who is enrolled in, and then loses eligibility for, individual health insurance coverage – including marketplace coverage – is entitled to a special enrollment period in an employer-sponsored group health plan for which he or she is otherwise eligible and declined coverage when previously offered. The individual had to have been enrolled in the other coverage at the time he or she declined employer coverage. Group health plans must offer a special enrollment opportunity in this scenario even where the individual can enroll in other individual market coverage, either in or outside the marketplace.



Comment. Special enrollment rights would occur, for example, if a spouse loses coverage under individual health insurance due to divorce or death of the policyholder, or if a child loses coverage upon reaching age 26. On the other hand, it appears that failing to renew enrollment in individual coverage (including a marketplace plan) is not a loss of eligibility that triggers special enrollment rights.

There is no special enrollment opportunity, however, if the loss of eligibility is due to failure to timely pay premiums or because of fraud or misrepresentation.

Updated Guidelines for Women’s Preventive Care

The ACA requires non-grandfathered group health plans to cover certain preventive care services without cost-sharing. (See our [May 19, 2016 For Your Information.](#)) These include evidence-informed preventive care and screening provided in comprehensive guidelines supported by Health Resources and Services Administration (HRSA).

HRSA [updated](#) the guidelines on December 20, 2016 to ensure that they are current with “the existing science and evidence based practices.” The departments specified that non-grandfathered group health plans must begin offering coverage for the preventive services addressed in the updated guidelines for plan years beginning on or after December 20, 2017. Until that time, plans can follow the previous HRSA guidelines.

In Closing

Employers should update procedures and guidelines to ensure they afford a special enrollment opportunity to otherwise eligible individuals who have lost marketplace or other individual coverage. Non-grandfathered group health plans should prepare to offer coverage without cost-sharing under the updated HRSA guidelines for plan years beginning on or after December 20, 2017.

FAQ on Qualified Small Employer HRAs

Under 2013 guidance, a standalone health reimbursement arrangement (HRA) cannot satisfy the ACA’s market reforms and are prohibited for active employees. (See our [March 31, 2016 For Your Information.](#)) The 21st Century Cures Act changed this rule by allowing small employers (generally, those with fewer than 50 employees) to offer an HRA that pays or reimburses qualified medical expenses, including health insurance premiums, incurred by certain employees and their family members, up to specified limits. (Please see our [December 12, 2016 Legislate.](#)) The departments confirmed that the 2013 guidance continues to apply to other employers. They also addressed the extension of certain transition relief under the Cures Act.

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