



Silver State Health Insurance Exchange

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MEMORANDUM

DATE: 12/29/2022

TO: Brokers and Navigators

FROM: Silver State Health Insurance Exchange Policy Unit

SUBJECT: Medicaid Continuous Coverage During the Public Health Emergency and Exchange Eligibility

Purpose: To provide guidance to Brokers and Navigators regarding the state of Medicaid coverage during the Public Health Emergency (PHE) the following clarification is being provided.

Summary and Background: Since the enactment of the Families First Coronavirus Response Act (“CV Response Act”), in 2020, prohibitions have been placed with state Medicaid agencies regarding the termination of currently enrolled Medicaid consumers, with limited exceptions¹. Specifically, the statute ties federal pandemic assistance to continuous Medicaid enrollment to prevent state agencies from terminating consumers from coverage by specifying that consumers be “treated as eligible” even if circumstances have changed that would normally cause termination of coverage due to ineligibility, such as over-income. This prohibition on the ability of state agencies to terminate Medicaid coverage is often referred to as “continuous coverage” during the PHE. The PHE has been extended multiple times and may expire in April of 2023.

This prohibition **DOES NOT** prevent a consumer from requesting a “voluntary termination” of Medicaid coverage, from losing coverage due to a move out-of-state, or from termination of coverage due to a consumer death.

Guidance and Instructions:

The following guidelines are intended to provide a clearer view of consumer options as they relate to Exchange coverage eligibility and the continuous coverage efforts.

1. A consumer who chooses to voluntarily terminate Medicaid coverage due to being over income during the PHE and only enrolled in Medicaid due to “continuous coverage” during the PHE, is not restricted from being eligible for advanced premium tax credits or cost sharing reductions due to voluntary termination of Medicaid coverage.² Consumers should report income and household size as normal and will be offered any financial assistance they are determined eligible for by the Exchange. These consumers should be outside the range of Medicaid eligibility and are only “treated as eligible” by state Medicaid agencies regarding termination of coverage by said state agency, not by the Exchange, in so far as financial eligibility is determined.
2. If consumers find that it is in their best interest to terminate their own Medicaid coverage during the PHE, to gain Exchange coverage, there is no prohibition on such actions. Consumers may enroll in coverage during the current open enrollment period (OEP) for 2023, gaining any financial benefits they qualify for.

¹ 42 CFR 433.400(d) : (<https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-C/part-433/subpart-G/section-433.400>)

² 45 CFR 155.305(f) : (<https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-B/part-155/subpart-D/section-155.305>)

3. Consumers who term their continuous coverage with Medicaid outside of OEP will generally need a qualifying life event (QLE) to receive a special enrollment period (SEP) and enroll in an Exchange plan.³ A voluntary termination of Medicaid does not count as a QLE even during the PHE. This means that a voluntary termination outside of OEP, will mean the consumer needs another QLE, within 60 days to gain an SEP, such as a move, with prior coverage (Medicaid counts), a gain of a dependent, a gain of citizenship, or some other QLE criteria.
4. Brokers and Navigators are encouraged to work with their consumers to provide guidance on consumer options for Exchange enrollment and help consumers determine the best course of action during the PHE, whether that means staying on Medicaid during the PHE or enrolling in Exchange coverage.

Note: Voluntary termination of Medicaid by a consumer during the PHE, does not in and of itself, affect or cause denial of APTC eligibility. Prior to the PHE enactment, consumers who voluntarily terminated would often not be eligible for APTC not because they voluntarily terminated their coverage, but because they were within Medicaid eligibility income range, without a Medicaid denial. They were Medicaid eligible, and thus not APTC eligible. This is not the case for those consumers who are outside Medicaid eligibility, and only being “treated” as eligible regarding state agency restrictions on termination.

³ 45 CFR 155.420(d) : <https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-B/part-155/subpart-E/section-155.420>