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HEALTHCARE REFORM UPDATE 2013-35



HHS Announces Extensions to Enrollment and Premium Deadlines for Marketplace Coverage and Eligibility for Catastrophic Coverage

On December 12, 2013, the U.S. Department of Health and Human Services (HHS) released an [Interim Final Rule](#) that formally extends some of the marketplace (also known as the exchange) deadlines and encourages insurers to provide additional extensions if possible.

Extensions Affecting the Federally-Facilitated Small Business Health Options Program (FF-SHOP) Marketplace

The rule reiterates that employers and individuals may enroll in the FF-SHOP marketplace as late as December 23, 2013, and still have coverage as of January 1, 2014. (The employer must select a SHOP plan, or meet other insurer requirements to indicate it wishes to purchase SHOP coverage, and provide enrollment forms for employees seeking coverage to the insurer no later than December 23.) Insurers also may accept applications for January 2014 coverage throughout the month of January if they wish.

This extended enrollment date only applies to the FF-SHOP marketplace. However, if an insurer wishes to extend the deadline to December 23, 2013, for applying for small group coverage outside the marketplace (rather than enforcing the current December 15, 2013, deadline) to be consistent both inside and outside the marketplace, it has that option.

Insurers must allow premiums to be paid as late as December 31, 2013,

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for coverage beginning January 1, 2014. Insurers are encouraged, but not required, to accept premiums for coverage at any time during the month of January for coverage that is effective January 1, 2014. Insurers may, if they wish, accept partial premium payments at thresholds determined by the insurer. The Association of Health Insurance Plans (AHIP) has announced that most insurers will accept premiums until January 10, 2014, for coverage effective January 1, 2014.

HHS has also clarified in an [FAQ](#) that an insurer may not impose minimum participation requirements on renewals occurring during the November 15 through December 15 open enrollment period for the FF SHOP.

Extensions Affecting the State-Run Small Business Health Options Program (State SHOP) Marketplace

The rule provides that state SHOPS may still require individuals to enroll by December 15, 2013, to have coverage as of January 1, 2014. However, state SHOPS also have the option to extend enrollment, even past December 23, 2013, if they wish. Insurers must allow premiums to be paid as late as December 31, 2013, for coverage beginning January 1, 2014, and insurers are encouraged to accept premiums for coverage at any time during the month of January for coverage that is effective January 1, 2014. Insurers may, if they wish, accept partial premium payments at thresholds determined by the insurer. The AHIP has announced that most insurers will accept premiums until January 10, 2014, for coverage effective January 1, 2014. Several states have announced slightly different premium due dates.

The SHOP has been delayed in several states. In those states, according to an [HHS FAQ](#), minimum participation requirements may not be imposed for coverage commencing in 2014, because there was no open enrollment available during the period of November 15, 2013, through December 15, 2013.

Extensions Affecting the Federally-Facilitated Individual (FF-E) Marketplace

The rule reiterates that individuals may enroll in the marketplace as late as December 23, 2013, and still have coverage as of January 1, 2014. This extended enrollment date only applies to the marketplace. However, if an insurer wishes to extend the deadline to December 23, 2013, for applying for individual coverage outside the marketplace (rather than enforcing the current December 15, 2013, deadline), it has that option.

Insurers must allow premiums to be paid as late as December 31, 2013, for coverage beginning January 1, 2014. Insurers must set a premium due date for January 2014 coverage (which cannot be earlier than December 31, 2013); they are encouraged, but not required, to accept premiums for coverage at any time during the month of January for coverage that is effective January 1, 2014. Insurers may, if they wish, accept partial premium payments at thresholds determined by the insurer. The AHIP has announced that most insurers will accept premiums until January 10, 2014, for coverage effective January 1, 2014.

Extensions Affecting the State Individual Marketplace

The rule reiterates that individuals may enroll in the marketplace as late as December 23, 2013, and still have coverage as of January 1, 2014. In addition, state marketplaces have the option to extend enrollment, even past December 23, 2013, if they wish. Insurers must allow premiums to be paid as late as December 31, 2013, for coverage beginning January 1, 2014. State exchanges may establish payment cut-off dates that are the same as, or different from, those in the FF-E. Insurers may, if they wish, accept partial premium payments at thresholds determined by the insurer and consistent with state law. The AHIP has announced that

most insurers are willing to accept premiums until January 10, 2014, for coverage effective January 1, 2014. Several states have announced slightly different premium due dates.

This extended enrollment date only applies to the marketplace. However, if an insurer wishes to extend the deadline to December 23, 2013, for applying for individual coverage outside the marketplace (rather than enforcing the current December 15, 2013, deadline), it has that option.

Continuity of Care (In All Marketplaces)

The rule also strongly encourages, but does not require, insurers to smooth the transition to marketplace coverage by temporarily treating out-of-network providers as in-network, particularly if the insurer's online provider directory is not completely current. It also suggests that to avoid care disruption, insurers consider a provider in-network if the provider was treating an acute condition at the start of the year. (Many states already have similar continuity of care requirements.)

In the rule, HHS also encourages health plans to cover non-formulary drugs (including drugs for which coverage might otherwise require prior-authorization or step therapy) for the first 30 days of coverage after January 1, 2014, for individuals who are already taking those drugs. This would give these individuals and their physicians time to become familiar with the plan's formulary and the exceptions process through which non-formulary drugs can be accessed.

New Option for Individuals Who Have Lost Coverage to Purchase a Catastrophic Policy

Currently, catastrophic coverage only is available in the marketplace to people under age 30 and to those who do not need to meet the individual mandate either because the cost of coverage exceeds eight percent of household income or they qualify for a hardship exemption. Catastrophic plans generally will cover three annual primary care visits and preventive care at no cost, but no other charges until the deductible -- which typically will be \$6,350 -- is met. Once the deductible is met, all essential health benefits are covered in full.

On December 19, 2013, HHS announced that individuals who have been unable to renew their current policy, and who believe that the options in the marketplace cost more than the cancelled coverage, will be eligible for a hardship exemption. Eligibility for the hardship exemption will then make the person eligible for a catastrophic policy (which is estimated to cost about 20 percent less than a policy that includes essential health benefits). Individuals who wish to purchase a catastrophic policy will need to provide a copy of their cancellation notice and complete a hardship exemption form. That form is available in the [HHS Bulletin](#).

Pre-Existing Condition Insurance Plan Also Extended

HHS has also announced that the Pre-Existing Condition Insurance Plan (PCIP) also has been extended through January 31, 2014. The PCIP will be replaced by marketplace coverage, but to accommodate PCIP enrollees who have not been able to obtain coverage through the marketplace, the PCIP is being extended for one month. PCIP enrollees will be notified by mail of this offer to extend their coverage. Enrollees can extend coverage by sending in their January premium payment at the same monthly rate that they paid for December 2013. A number of state high-risk pools have also extended coverage into 2014 to ease the transition to 2014 coverage.

Small Business Tax Credit if No SHOP is Available

Beginning in 2014, the small business tax credit will only be available to

small employers that offer coverage through the SHOP marketplace. Several counties in Washington and Wisconsin will not have SHOPs available in 2014, however. In [Notice 2014-6](#), the IRS states that employers located in those counties will still be eligible for the small business tax credit if they offer coverage through an insured small group plan (and meet all other requirements to obtain the credit).

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