

## FREQUENTLY ASKED QUESTIONS ABOUT HEALTH CARE REFORM

### April 2021 Addendum

#### PURPOSE

This document is designed for state insurance departments to use as they give answers to frequently asked questions (FAQ) and guide consumers about their health care choices. This document was prepared in April 2021 and reflects regulations and guidance received from the federal government as of that date. These FAQs supersede the answers provided in the 2020 edition of [Frequently Asked Questions about Health Care Reform](#). As of April 2021, some provisions of law covered by the FAQs are temporary and slated to expire in the coming years.

**This document isn't intended to be given directly to consumers.** While some sections may be useful for direct-to-consumer communications, the document's primary purpose is to give insurance department staff accurate and understandable information to use when they respond to consumer questions about health care reform.

**States will need to modify this document to include state-specific information and terminology. Content in [brackets] must be edited to provide state-specific information. Drafting notes indicate where states may choose to add additional clarity about state policies.**

Note that the federal Affordable Care Act (ACA) and related regulations refer to "exchanges" that operate in the states, while federal guidance documents refer to these exchanges as "marketplaces." This document uses the term "exchanges." However, some states may decide to follow federal guidance and use the term "marketplaces."

#### **A1. How are enrollment dates for 2021 plans different than in prior years?**

In prior years, enrollment in exchange plans was limited to the open enrollment period or a limited window of time for individuals who experienced a qualifying life event. In 2021, the federally-facilitated exchanges and state-based exchanges have opened special enrollment periods to allow individuals to newly enroll or change their plan selections during the 2021 plan year even if they do not experience a qualifying life event. In federally-facilitated exchanges, individuals and families who qualify may enroll in any plan offered in their service area between February 15 and August 15, 2021. State-based exchanges have the flexibility to establish different dates and to limit plan choices for current enrollees. In [state name], the special enrollment period runs until [insert date].

As in prior years, Medicaid is open for enrollment throughout the year for those who qualify. Applying through an exchange allows individuals to check whether they qualify for Medicaid or an exchange plan.

#### **A2. Who can use the special enrollment period?**

In federally-facilitated exchanges, anyone who lawfully resides in the state served by the exchange can use the special enrollment period to newly enroll in coverage. Anyone currently enrolled in an exchange plan can use the special enrollment period to change plans. Financial help with exchange plan premiums has additional eligibility criteria. Those who are not eligible for other coverage through Medicare, Medicaid, the Children's Health Insurance Program, or as an employer can qualify for financial help, with the amount of help determined by their family income.

**Drafting Note:** If applicable, substitute the above with: In [state name], anyone who lawfully resides in the state and is without coverage can use the special enrollment period to newly enroll. Anyone currently enrolled in an exchange plan can change plans only if they experience a qualifying life event.

#### **A3. What should currently-enrolled consumers consider when making a decision about changing plans during the special enrollment period?**

Many consumers are highly sensitive to premium costs, but there are other factors to consider, including:

- A consumer may have to start accumulating claims toward another deductible or out-of-pocket maximum if they switch plans, particularly if they switch to a different insurance carrier. So, consumers who have made progress toward reaching the deductible or out-of-pocket maximum for the plan they have now may find they will spend more overall out of pocket for the year if they choose a new plan. However, some insurers have agreed to credit deductible and out-of-pocket maximum spending in a new plan as long the consumer was previously enrolled in one of the insurer’s other plans.
- Consumers will have to learn how a new health plan works, as it may have different copayments, coinsurance, and deductible amounts.
- Provider networks may be different between the plans.

**A4. How will current exchange enrollees’ premiums change?**

With the passage of the American Rescue Plan (ARP), most current enrollees will have lower premiums through 2022. The ARP lowered the percentage of expected contributions an enrollee generally must pay for a benchmark plan (Second Lowest Cost Silver Plan) across all income ranges.

Household Income Range (% of FPL)	Range of Expected Contributions for 2021 under Prior Law	Range of Expected Contributions for 2021 and 2022 under the American Rescue Plan Act
100%-133%	2.07%	0%
133%-150%	3.10%-4.14%	0%
150%-200%	4.14%-6.52%	0%-2%
200%-250%	6.53%-8.33%	2.0%-4.0%
250%-300%	8.33%-9.83%	4.0%-6.0%
300%-400%	9.83%	6%-8.5%
400% and higher	Not eligible	8.5%

As noted in the table above, eligible individuals with household incomes between 100% and 150% of the federal poverty level qualify for a premium tax credit for the full premium cost of the benchmark plan. Because a special enrollment period is ongoing (see questions A1-A3), enrollees may apply the higher premium tax credit amounts to their current plan or to another exchange plan.

To have the higher premium tax credits applied as advanced payments directly to their health insurers, enrollees must access and resubmit their applications on Healthcare.gov and may be required to do so on their state’s exchange. Enrollees who do not resubmit their applications may claim the increased premium tax credits when they file their tax returns.

**Drafting Note:** If your state exchange applies the increased premium tax credits automatically, revise the wording above.

**A5. How will eligibility for premium tax credits change for those who don’t currently receive them?**

More people will now be eligible to receive a premium tax credit for an exchange plan through 2022 as the 400% of federal poverty level cap has been removed. Now those otherwise eligible with incomes that are 400% of FPL and above will qualify for premium tax credits to reduce the cost of the benchmark plan to 8.5% of their income.

Consumers enrolled in off-exchange plans (or who are uninsured) who want to access the premium tax credits will need to switch to an exchange plan as they are only available through the exchange. Consumers enrolled in an exchange plan who were previously ineligible for a premium tax credit due to the 400% of FPL cap can access and resubmit their applications on Healthcare.gov or through their state’s exchange to apply advanced premium tax credits to their plan.

#### **A6. What health coverage help is available to those eligible for unemployment benefits?**

Individuals who are approved to receive or have received unemployment benefits for at least one week in 2021 are eligible for premium tax credits if they enroll in a plan through the exchange. For those receiving unemployment benefits in 2021, income more than 133% of the federal poverty level will not be considered in the calculation of premium tax credits. These enrollees will receive the full premium tax credit and will not need to make premium contributions for a benchmark plan. For those in a non-Medicaid expansion state, an enrollee receiving unemployment benefits whose income is below 100% of federal poverty level is also eligible for premium tax credits. Enrollees eligible for unemployment benefits are also eligible to choose a Silver plan with lower cost-sharing.

#### **A7. What health coverage help is available for those eligible for continuation coverage under COBRA?**

The American Rescue Plan created a premium assistance program for people who are eligible for COBRA because they lost employer coverage due to involuntary termination of employment (other than for gross misconduct) or a reduction in work hours. A consumer who is eligible does not have to pay for COBRA coverage from April 1, 2021 through September 30, 2021. The premium assistance includes the administrative fee that may be charged in addition to the premium for COBRA coverage.

Consumers who may be eligible for premium assistance due to an applicable COBRA qualifying event before April 1, 2021, should receive a notice of their extended COBRA election period by May 31, 2021. Consumers who believe they are eligible for assistance, but did not receive a notice or election form, should contact their employer or former health plan for more information.

Employers paying the premium for eligible individuals will be reimbursed through a refundable tax credit.

More information is available at <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra/premium-subsidy>

#### **A8. Who is eligible for COBRA premium assistance?**

A consumer is eligible for premium assistance if they are eligible for COBRA due to involuntary termination of employment (other than for gross misconduct) or a reduction in hours. If the consumer was eligible before April 1, 2021 but not enrolled in COBRA on April 1, then they have a window to elect COBRA continuation during the period starting April 1, 2021 and ending 60 days after being provided notice of the right to elect COBRA premium assistance.

#### **A9. When does eligibility for COBRA premium assistance end?**

Someone receiving COBRA premium assistance loses eligibility for the assistance on the earliest of:

- When they are eligible under a new group health plan, a spouse's plan (not including excepted benefits, a qualified small employer health reimbursement arrangement (QSEHRA), or a health flexible spending arrangement (FSA)), or Medicare;
- When the maximum period of continuation coverage under COBRA expires. The maximum period of coverage starts on the date that the person was originally eligible for COBRA, even if they did not elect COBRA then; or
- On September 30, 2021.

After September 30, 2021, the consumer will need to pay the premium and administrative charge to remain on COBRA, if eligible, or enroll in other health coverage. The consumer may be eligible to enroll in an ACA-compliant plan through the Exchange during a special Enrollment Period.

#### **A10. Can someone who is enrolled in a COBRA plan change plans on or after April 1, 2021?**

A health plan may allow someone enrolled in coverage under COBRA to change plans. The consumer will not lose eligibility for COBRA premium assistance due to the change. The plan may offer eligible individuals the option of

choosing other coverage that is also offered to similarly-situated active employees and that does not have higher premiums than the coverage the individual had at the time they qualified for COBRA.

**A11. Can someone who is enrolled in an exchange plan enroll in COBRA coverage and obtain premium assistance?**

Yes, if they are eligible. A consumer cannot receive both premium tax credits for an exchange plan and COBRA premium assistance at the same time. A consumer who enrolls in COBRA coverage with premium assistance should report the change to the exchange and cancel their individual policy. Otherwise, they may need to repay the premium tax credits they receive for an exchange plan.

**A12. What should consumers consider in choosing between exchange plans and COBRA?**

Many consumers are highly sensitive to premium costs, but there are other factors to consider, including:

- A consumer will likely have to start accumulating claims toward another deductible or out-of-pocket maximum if they switch. So, consumers who have made progress toward reaching the deductible or out-of-pocket maximum for the plan they have now may find they will spend more overall out of pocket for the year if they choose a new plan.
- Consumers will have to learn how a new health plan works, as it may have different copayments, coinsurance, and deductible amounts.
- Provider networks may be different between the plans.
- Premium assistance for COBRA will end on September 30, 2021. An exchange plan will continue until the end of the year, and can be renewed, unless the policy is cancelled.
- Due to the American Rescue Plan's changes to premium tax credit eligibility and amounts (see questions A4-A5), an enrollee's current exchange plan or another one available to them may be available with no premium or a much lower premium than they paid so far in 2021.

**A13. Do the COBRA premium assistance provisions also apply to state mini-COBRA laws?**

Yes. The American Rescue Plan Act defines "COBRA continuation coverage" to include "a state program that provides comparable continuation coverage." However, the American Rescue Plan does not change state eligibility or election time periods. A consumer may qualify for COBRA premium assistance under state continuation coverage, but there is no additional time to elect continuation.

**A14. How can an employer find out more about refundable tax credits to cover the cost of premiums for enrollees eligible for COBRA premium assistance?**

Employers are expected to claim credits for the cost of premiums in their tax filings. The Internal Revenue Service (IRS) is expected to release guidance to explain the process and employers should direct questions to IRS.

**A15. How do the provisions of the American Rescue Plan Act apply to U.S. territories?**

Because territories do not have exchanges, the premium tax credit changes for exchange coverage do not apply to territories.

COBRA premium assistance is available to eligible enrollees in ERISA-covered plans in the territories.