



# Marketplace Eligibility Appeals: Eligibility Appeals Process Overview



*November 2023*

*This information is intended only for the use of entities and individuals certified to serve as Navigators, certified application counselors, or non-Navigator assistance personnel in a Federally-facilitated Marketplace. The terms “Federally-facilitated Marketplace” and “FFM,” as used in this document, include FFMs where the state performs plan management functions. Some information in this manual may also be of interest to individuals helping consumers in State-based Marketplaces and State-based Marketplaces using the Federal Platform. This material was produced and disseminated at U.S. taxpayer expense.*

CSG-202311

# Marketplace Eligibility Appeal Rights

- If consumers believe there was a mistake or disagree with certain eligibility determinations made by a Marketplace, they have a right to request an appeal.
- This presentation is about appealing to the Department of Health and Human Services (HHS) Appeals Entity about a Marketplace eligibility determination.
  - Also known as the Marketplace Appeals Center.
- We'll also briefly discuss some consumer appeal rights from State-based Exchange (SBE) appeals entities.



# Marketplace Eligibility Appeal Rights: Appointing an Authorized Representative

- Consumers may appoint someone as their authorized representative to communicate with the Marketplace Appeals Center on their behalf and represent them throughout the process.
- The representative can be a relative, friend, legal counsel, or another trusted person.
- Consumers must designate their representative in writing and sign the document or indicate their signature digitally if using the online portal.



# Appealing a Marketplace Eligibility Determination

What determinations can be appealed?

- Eligibility to buy a Marketplace qualified health plan (QHP), including a Catastrophic plan.
- Eligibility for lower costs, including the amount of:
  - Advance payments of the premium tax credit (APTC).\*
  - Cost-sharing reductions (CSRs).
- Eligibility for a Special Enrollment Period (SEP) to enroll in a Marketplace QHP outside the regular Open Enrollment Period (OEP).

\*Including eligibility for APTC due to the expanded eligibility thresholds under the American Rescue Plan Act of 2021, currently extended to PY 2023 through PY 2025, by the Inflation Reduction Act.



# Appealing a Marketplace Eligibility Determination (Cont.)

- Eligibility for Medicaid or the Children's Health Insurance Program (CHIP) for residents of states that have delegated appeals of certain types of Medicaid and CHIP determinations made by the Federally-facilitated Exchange (FFE) to the Marketplace Appeals Center.
- Eligibility for a hardship or affordability exemption for consumers age 30 or older who wish to purchase a Catastrophic plan.
- Any SBE's eligibility appeal decision or its decision denying the consumer's request to vacate the dismissal of their eligibility appeal.
- Instances where the Marketplace did not provide a timely decision.

# Marketplace Decisions that Cannot be Appealed

Consumers cannot appeal a Marketplace decision if:

- They disagree with the date the Marketplace ended their coverage
- They disagree with information on their Form 1095-A
- The consumer's health insurance company did not apply their premium tax credit correctly
- They want to change information on their Marketplace application
- They have to pay back some or all of the premium tax credits (PTC) they used during the year when they file their federal income tax return

# How to Request a Marketplace Eligibility Appeal

How to request a Marketplace appeal:

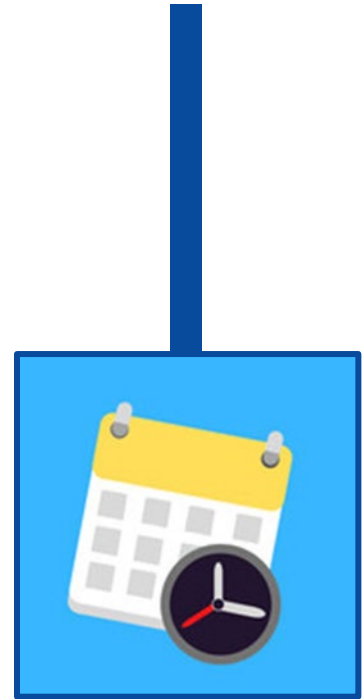
- Online: Consumers can log into their Marketplace account, choose the application they want to appeal, then select “Eligibility & appeals” from the menu. They should then follow the instructions to file their appeal.
- By fax or mail: Consumers can visit [HealthCare.gov/marketplace-appeals/appeal-forms/](https://www.healthcare.gov/marketplace-appeals/appeal-forms/) and answer a few questions to get the form they need. They can then print and send their completed paper form or a letter requesting an appeal. They should include their name, address, and the reason for the appeal. If the appeal is for someone else (like their child), they should also include that person’s name. Consumers then fax or mail their paper form or letter to the Marketplace:
  - Fax: 1-877-369-0130
  - Mail:
    - Health Insurance Marketplace®
    - ATTN: Appeals
    - 465 Industrial Blvd
    - London, KY 40750-0061



# When an Eligibility Appeal is Received

- How does the Marketplace Appeals Center determine if an appeal is valid?
  - Timeliness: the request must be received within:
    - 90 days of the notice of the contested Marketplace eligibility determination;\*
    - 30 days of the date of an SBE notice of appeal decision; or
    - 30 days of notice from an SBE declining to reopen the appeal after it was dismissed by the SBE.

\*Consumers who miss the 90-day timeframe to file an appeal may be able to request an extension. When the appeal is filed, the consumer should explain why they missed the deadline.





# When an Eligibility Appeal is Received (Cont.)

- The request must be about a matter that's appealable, examples of which are provided on slides 4 and 5.
- The appeal must be requested by a consumer or by an authorized representative appointed in writing by the consumer.
- If the appeal request doesn't meet these requirements, the consumer will get a notice explaining why the request is invalid and how to fix the problem and resubmit the appeal.



# After the Consumer Files an Appeal

If the appeal is valid, consumers who appeal (appellants) get a letter from the Marketplace Appeals Center that:

- Acknowledges receipt of their appeal
- Includes their appeal number, which uniquely identifies their case
  - Consumers should write their appeal number on any documents they submit to the Marketplace Appeals Center
- Provides a description of the appeals process
- Includes instructions for submitting additional material for consideration, if necessary



# Types of Resolution

- Informal Resolution
  - If possible, the Marketplace Appeals Center will try to resolve the appeal based on the available information.
  - This decision will be binding if the consumer is satisfied.
- Hearing
  - In some cases, the appeal may go straight to a hearing.
  - If the consumer is dissatisfied with the informal resolution results, a hearing may be requested.

# Informal Resolution of Eligibility Appeals

The Marketplace Appeals Center works with appellants to resolve eligibility appeals informally.

- The Marketplace Appeals Center:
  - Reviews facts and evidence submitted by the appellant and those that are available from the Marketplace
  - Sometimes contacts appellants by phone or mail
  - Sends an Informal Resolution Notice that describes proposed resolution and decision
- If appellant is satisfied, the appeal decision follows.
- Appellants who aren't satisfied may request a hearing.

# Marketplace Eligibility Appeal Hearing

Hearings are more formal.

- Consumers will receive notice of the scheduled hearing in writing at least 15 days prior to the hearing date unless:
  - The appellant requests an earlier hearing date (and one is available) and waives their right to 15 days' written notice.
  - A hearing date sooner than 15 days is necessary to process an expedited appeal as agreed to by the appellant.
- Hearings are conducted by telephone.
- Hearings are presided over by a Federal Hearing Officer.
- Appellants and any witnesses are under oath.

# Eligibility Appeal Decisions

- After the hearing concludes, the Federal Hearing Officer carefully considers all evidence and testimony of the appellant and any witnesses.
- The Federal Hearing Officer issues the eligibility appeal decision.
  - The decision is mailed to the appellant within 90 days from the receipt date of the appeal request, as administratively feasible.
  - The decision is final and binding, although judicial review may be an option (as state and federal law allows).
- Beginning January 1, 2024, consumers can request review by the CMS Administrator of the eligibility appeal decision prior to a judicial review.



# Eligibility Appeal Decisions (Cont.)

- The consumer must follow the instructions on the decision letter to ensure implementation.
- If the decision finds the contested eligibility determination was incorrect when it was made by the Marketplace, the consumer may be able to have the decision implemented retroactively based on the date when the consumer received the incorrect determination.



# Eligibility Appeal Decisions: Retroactive Effectuation

As a part of retroactive effectuation of eligibility appeal decisions:

- A Marketplace plan may owe an appellant a refund if:
  - The appellant had paid Marketplace plan premiums to the plan before the appeal was decided; and
  - They're now eligible for a larger premium tax credit and/or lower copayments, coinsurance, and deductibles as a result of the appeal.\*



\*Note: The appeal does NOT consider or resolve any of these monetary amounts.



# Eligibility Appeal Decisions: Retroactive Effectuation (Cont.)

OR

- An appellant may owe money to their Marketplace plan if:
  - They're now enrolling in Marketplace coverage for an earlier date; or
  - They haven't paid their past premium balance(s).



# Getting Help with Appeals

Consumers can get help with Marketplace eligibility appeals.

- The Marketplace Call Center can help explain how to request an appeal.
  - Call 1-800-318-2596. TTY users should call 1-855-889-4325.
- After appeals are submitted, the Marketplace Appeals Center can answer appellants' questions about their appeal.
  - Call 1-855-231-1751. TTY users can call 711.

# Getting Help with Appeals (Cont.)

- Navigators can help consumers understand the process for requesting a Marketplace eligibility appeal. Navigators are required to provide information on and assistance with understanding the process of filing Marketplace eligibility appeals.
- Certified Application Counselors in FFMs are permitted but not required to assist consumers with Marketplace appeals.
- The appellant may appoint an authorized representative to request a Marketplace eligibility appeal and speak for them during the hearing.
  - Must be designated in writing and signed by the appellant.
  - Contact the Marketplace Appeals Center for more information.
    - Call 1-855-231-1751. TTY users can call 711.

# Key Points to Remember

- To request an eligibility appeal with the Marketplace, consumers or their authorized representatives can:
  - Complete an appeal request form; or
  - Write a letter explaining the reason for the request.
- The completed request form or letter can be submitted electronically, faxed, or mailed.
- The Marketplace Appeals Center will try to resolve eligibility appeals informally.
- Consumers can ask for a faster appeal if their health is at risk.

# Key Points to Remember (Cont.)

- Appellants with a valid appeal request have a right to a hearing, including when they are dissatisfied with their informal resolution results.
- Appellants should stay enrolled in and pay their premiums for their existing coverage during their appeal, until it is resolved.
- Decisions are in writing and mailed within 90 days of receipt of the appeals request, as administratively feasible.
- The outcome of an appeal could impact coverage for other members of an appellant's household.
- For more information about Marketplace appeals, visit [HealthCare.gov/marketplace-appeals/what-you-can-appeal/](https://www.healthcare.gov/marketplace-appeals/what-you-can-appeal/).