



# Complex Cases: Assisting Victims of Domestic Violence



*Center for Consumer  
Information and  
Insurance Oversight  
(CCIIO)*

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# Disclaimer

Please note that the information included in this presentation is solely illustrative. Several slides contain screenshots with names and/or specific issuers/plans. The purpose of these screenshots are to provide examples. Names presented are made up and issuer/plan names displayed were selected at random. These examples do not include personally identifiable information and are not an endorsement of specific issuers/plans.

# Assisting Victims of Domestic Violence

- Consumers who have experienced domestic violence are individuals who have experienced physical, psychological, sexual, or emotional abuse, including efforts by the perpetrator to control, isolate, humiliate, and intimidate, or to undermine the consumer's ability to reason independently. The perpetrator of the domestic violence can be the consumer's spouse, domestic partner, or other household member.
- Besides experiencing domestic violence, consumers can also experience spousal abandonment, meaning they are unable to locate their spouse after reasonable diligence and taking all facts and circumstances into account.

# Scenario: Assisting Victims of Domestic Violence

Sonya, 37 years old, Married, Mother of One Child

- Sonya experienced domestic violence perpetrated by her husband a month ago. Sonya is still legally married to her husband; however, she has filed a restraining order against her husband and moved to a new house.
- Sonya has a 4-year old daughter, Sophia, who lives with her year-round.
- Sonya works as an office assistant at a small business and earns \$28,000 annually. Her employer does **not** offer health insurance benefits to its employees.
- Sonya wants to enroll in coverage separate from her abusive husband and is interested in getting coverage for her and her daughter through the Federally-facilitated Marketplace. However, it is outside the Marketplace's annual Open Enrollment period.
- Sonya and her husband will **not be filing taxes jointly**. Sonya will be filing her taxes under the "married filing separately" category.
- Since Sonya is still legally married, but will not be filing taxes jointly with her husband, will Sonya be eligible to receive financial assistance through the Marketplace for herself and her daughter, if otherwise eligible? And, since it is outside of the Marketplace's annual Open Enrollment period, will Sonya and her daughter be able to enroll in Marketplace coverage?

# Is Sonya Eligible for a Special Enrollment Period to Enroll in Marketplace Coverage Outside the Marketplace's Annual Open Enrollment Period?

- Yes. Victims of **domestic violence**, like Sonya, **and their dependents** (in this case, Sonya's daughter) who want to enroll in coverage apart from their abuser have experienced a qualifying event that qualifies them for a special enrollment period (SEP).
- Sonya must call the Marketplace Call Center to request this SEP. This SEP cannot be accessed through HealthCare.gov. After qualifying, Sonya has 60 days to select a plan.
- It is important to note that Sonya's daughter, as a dependent of a victim of domestic violence, is able to enroll in Marketplace coverage with her mother through this SEP.
- Victims of **spousal abandonment** and their dependents may also qualify for this SEP.
- It is also important to note that the victim of domestic violence (or spousal abandonment) does not need to be married to the perpetrator to qualify for this SEP.
- Victims of domestic violence or spousal abandonment **do not** have to show medical or legal records or other proof that they have experienced domestic violence or spousal abandonment to qualify for this SEP; eligibility is based on self-attestation.
- For more details about this SEP, click here:  
[https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Updated-Guidanceon-Victims-of-Domestic-Abuse-and-Spousal-Abandonment\\_7.pdf](https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Updated-Guidanceon-Victims-of-Domestic-Abuse-and-Spousal-Abandonment_7.pdf).

# Can Sonya Receive Cost-lowering Financial Assistance Through the Marketplace?

- Yes. Sonya and her daughter can receive financial assistance through the Marketplace, as long as they are otherwise eligible.
- Generally, married consumers must file federal income taxes jointly to be eligible for financial assistance through the Marketplace. For victims of domestic violence or spousal abandonment, this is not the case.
- Married victims of domestic violence or spousal abandonment who are applying for coverage separately from their abusive spouse (or spouse who abandoned them) and filing taxes separately may be determined eligible for financial assistance through the Marketplace by indicating that they are **not married** on their Marketplace application.
- *An agent or broker should assure Sonya that she will not face any penalty for representing that she is not married on the application.*

# Eligibility for Financial Assistance

- Based on her household income and family size, Sonya may be eligible to receive financial assistance through the Marketplace, which can be applied to reduce the cost of monthly premiums and other out-of-pocket costs for the health coverage she selected for herself and Sophia.
- Sonya can find out what financial assistance she could be eligible for by filling out a Marketplace application and submitting the application prior to calling the Marketplace Call Center to access the SEP for survivors of domestic violence. Because Sonya is applying outside the Open Enrollment period, she will not be able to actually select a plan until she is granted the SEP by the Call Center.
- Sonya's daughter Sophia may be determined to be eligible for a Marketplace plan with financial assistance as well, or for the Children's Health Insurance Program (CHIP), depending on her state's eligibility criteria.

# How to Apply for Coverage Using the Special Enrollment Period for Victims of Domestic Violence of Spousal Abandonment

- If Sonya wants to see if she is eligible for Marketplace coverage and financial assistance, she can fill out and submit an application prior to calling the Marketplace Call Center to access the SEP to enroll in coverage. Or, she can fill out an application with the assistance of the Call Center.
- Remember, when filling out the Marketplace application, Sonya should:
  - Indicate that she is **not married** on the application.
  - Indicate that her family size is 2 (Sonya and Sophia) and her income is \$28,000. She will not include her husband or his income on the application.
- Once Sonya has decided she wants to enroll in Marketplace coverage, she can access the SEP for victims of domestic violence through the Marketplace Call Center at 1-800-318-2596 (TTY: 1-855-889-4325).
- After accessing the SEP through the Marketplace Call Center, Sonya can now compare plans and enroll in coverage. Sonya will have 60 days from the date the Call Center grants her the SEP to enroll in coverage.

# When Consumers File Their Taxes

- The Internal Revenue Service (IRS) has clarified that certain victims of domestic abuse and spousal abandonment can claim the premium tax credit on their federal income tax return using the Married Filing Separately filing status. For more information on this, see Treasury Notice 2014-23.
- Married consumers who receive advance payments of the premium tax credit (APTC) and who have experienced domestic abuse or spousal abandonment must follow the IRS instructions for Form 8962 to claim their premium tax credits on their tax return. To claim APTC, these consumers must be living apart from their spouse when they file their taxes.

# Eligibility for the Hardship Exemption

- If consumers who are victims of domestic violence or spousal abandonment choose not to enroll in a Marketplace plan or other health coverage option, they can apply for a hardship exemption that would allow them to be exempt from the individual shared responsibility fee for going without coverage for three (3) or more consecutive months out of the year.
- On the hardship exemption application, consumers will need to indicate when the domestic violence started, when the hardship ended, or if the hardship is ongoing. This will determine the length of the hardship exemption. Generally, hardship exemptions are provided for the month before the hardship begins, the months during which the hardship is experienced, and the month after the hardship ends.
- For more **information** and **step-by-step instructions** on how to claim an exemption due to domestic violence or spousal abandonment, and the **form** for claiming an exemption, go to:  
<https://www.healthcare.gov/exemptionstool/#/results/2015/details/domestic-violence>.