

Hardship Exemptions, Age Offs, and Renewal of Catastrophic Coverage

Background: The Affordable Care Act (ACA) establishes statutory exemptions from the individual shared responsibility payment, including an exemption that is available where the Secretary determines the consumer experiences a “hardship” obtaining coverage through a qualified health plan (QHP). The ACA grants the Secretary discretion to define eligibility criteria for the hardship exemption, and HHS has subsequently issued regulations and guidance defining several circumstances under which consumers may qualify for a hardship exemption. Consumers who receive a hardship exemption may enroll in catastrophic coverage regardless of age. Consumers without a hardship exemption may also enroll or reenroll in catastrophic coverage if they are under age 30 before the first day of the plan year.

The majority of hardship exemptions that HHS granted to individuals in 2014 will expire on December 31, 2014, and consumers will not be able to use them to enroll or re-enroll in catastrophic coverage in 2015 with the exception of the hardship exemption for individuals who are eligible for services through the Indian Health Service. Each exemption had a unique Exemption Certificate Number (ECN). As explained below, the hardship exemption that was granted to consumers as a result of the consumer’s plan being cancelled because the plan was not compliant with the market reforms contained in the Affordable Care will also continue to be valid for enrollment in or renewal of catastrophic coverage with a plan year that begins on or before October 1, 2016.

Below we provide the process for issuers to follow for renewing or reenrolling consumers in a catastrophic, or non-catastrophic, plan as appropriate. In addition to hardship exemptions, we also provide information on the renewal or reenrollment process for those catastrophic plan enrollees who turned age 30 during the 2014 plan year.

For catastrophic plan enrollees with a hardship exemption age 30 or over by January 1, 2015, who enrolled outside the Marketplace the renewal or reenrollment process is the following:

1. Issuer will review the Exemption Certificate Number for their enrollees to determine whether the exemption has expired. If it starts with “E, G, or F” and ends with an “N” the exemption expires on 12/31/14. All other exemptions are valid for future years.
2. If the ECN has the configuration specified in #1, meaning the exemption expires on 12/31/14, the issuer will either:
 - a. Renew the consumer in a non-catastrophic plan available under the same product outside the Marketplace and send the applicable renewal notice (Attachment #1 in the Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market guidance¹). In addition to providing the renewal notice, issuers are encouraged to include a cover note indicating that consumers may return

¹ <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Renewal-Notices-9-3-14-FINAL.PDF>

to the Marketplace to apply for a new hardship exemption and enroll in catastrophic coverage if eligible. **OR**

- b. If there are no other plans in which the consumer is eligible to enroll in under the same product, issuers MAY enroll the consumer in a non-catastrophic plan under a different product, subject to applicable Federal and State requirements. In such cases, the issuer should send the consumer a notice (which may model the discontinuation notice, Attachment #3 in the Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market guidance), in accordance with state law. Issuers are encouraged to inform consumers that they may return to the Marketplace to apply for a new hardship exemption and enroll in catastrophic coverage if eligible.
3. If the ECN does not have the configuration specified in #1, meaning the exemption does not expire at the end of 2014, the issuer will renew the consumer in a catastrophic plan available under the same product outside the Marketplace and send the applicable renewal notice (Attachment #1 in the Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market guidance) unless an exception to guaranteed renewability applies.

For catastrophic plan enrollees with a hardship exemption age 30 or over by January 1, 2015, who enrolled through the Marketplace, the renewal or reenrollment process is the following:

1. The Marketplace will reenroll these consumers who are over age 30 and had a hardship exemption into the crosswalk age off plan, if made available by the issuer. Issues must indicate a crosswalk age off plan if another QHP is still available to the consumer.
2. Issuers should send enrollees the applicable notice (Attachment #2 or Attachment #4 in the Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market guidance) identifying a plan available under the same product, unless an exception to guaranteed renewability applies. Issuers are encouraged to include a cover note indicating that consumers may return to the Marketplace to apply for a new hardship exemption and enroll in catastrophic coverage, if eligible.

For catastrophic enrollees who turned age 30 during the 2014 plan year, who enrolled through or outside the Marketplace, the reenrollment process is the following:

1. Renew the consumer in a non-catastrophic plan available under the same product and send the applicable renewal notice, (Attachment #1 or Attachment #2 in the Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market guidance). For those catastrophic plans sold through the Federally-facilitated Marketplace (FFM) in 2014, issuers are expected to complete the Plan ID Crosswalk Template submitted to CMS with the appropriate 2015 Plan ID for enrollees aging off of a catastrophic plan.
2. If there are no other plans in which the consumer is eligible to enroll in under the same product, issuers MAY enroll the consumer in a non-catastrophic plan under a different

product, subject to applicable Federal and State requirements. In such cases, the issuer should send the consumer a notice (which may model the discontinuation notice, Attachments #3 or #4 in the Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market guidance), in accordance with state law. For those catastrophic plans sold through the Federally-facilitated Marketplace (FFM) in 2014, issuers that want to reenroll these consumers into a non-catastrophic plan under a different product are expected to complete the Plan ID Crosswalk Template submitted to CMS with the appropriate 2015 Plan ID for enrollees aging off of a catastrophic plan. If the issuer chooses not to enroll the consumer in a non-catastrophic plan they should send the consumer a notice (which may model the discontinuation notice, Attachments #5 or #6 in the Form and Manner of Notices When Discontinuing or Renewing a Product in the Group or Individual Market guidance.)

Should issuers consider consumers who bought a catastrophic plan based on a hardship exemption due to their insurance policy being cancelled in 2014 as eligible for catastrophic coverage in 2015?

Yes. On December 19, 2013, CMS issued guidance indicating that individuals whose policies were cancelled because the coverage was not compliant with the market reforms contained in the Affordable Care Act were eligible for a hardship exemption if they found other options to be more expensive. The hardship exemption would enable these individuals to purchase catastrophic coverage.² On March 5, 2014, CMS issued additional guidance stating that this hardship exemption will continue to be available until October 1, 2016, for those individuals whose non-compliant coverage is cancelled and who meet the requirements specified in the December 19, 2013 guidance.³

Individuals who claimed this hardship exemption for 2014 will continue to be eligible for catastrophic coverage based on this hardship exemption for plan years starting on or before October 1, 2016. For plan years starting on or before October 1, 2016, issuers of catastrophic coverage must treat consumers who qualify for the hardship exemption as eligible for catastrophic coverage and should renew the coverage accordingly. Individuals who claim this hardship exemption for the first time in 2015 also will be eligible to enroll in catastrophic coverage for plan years starting on or before October 1, 2016.

² <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/cancellation-consumer-options-12-19-2013.pdf>

³ <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/transition-to-compliant-policies-03-06-2015.pdf>