



**2023 Notice of Benefit and Payment Parameters (NBPP) Final Rule
(CMS-9911-F)
April 28, 2022**

REACTIVE STATEMENT

**2023 Notice of Benefit and Payment Parameters Final Rule:
Special Enrollment Period (SEP) Verification**

Background: The Notice of Benefit and Payment Parameters for 2023 Final Rule streamlines HealthCare.gov operations by scaling back pre-enrollment verification for Special Enrollment Periods (SEPs) to include only the SEP for loss of minimum essential coverage—the SEP type that comprises the majority of all SEP enrollments through Marketplaces on the federal platform—and to clarify that State Marketplaces maintain the option to verify eligibility for any SEP type.

Reactive Statement:

The Notice of Benefit and Payment Parameters for 2023 Final Rule is part of the Biden-Harris Administration’s ongoing efforts to ensure an equitable health care system for all. With this rule, HHS is advancing policies to directly address health disparities and close health equity gaps by scaling back pre-enrollment SEP verification, removing barriers that make it more difficult for qualified consumers to enroll in and retain affordable coverage.

Requiring SEP verification can have disproportionately negative impacts on vulnerable consumers and result in gaps or loss of coverage as different populations are impacted by additional administrative burdens. However, HHS’ experience is that the majority of people who have difficulty or are unsuccessful in verifying their eligibility for an SEP were indeed eligible. This provision will help ensure more people retain coverage by reducing the burden on both consumers and Marketplace issuers.

Today’s final rule removes impediments to coverage, reduces consumer burden, and ensures consumers continue to have access to quality, affordable coverage.

Reactive Charges and Responses:

Charge: Scaling back SEP verification would lead to an increase in fraud and abuse.

Response: SEP verification helps ensure program integrity and can decrease the risk of adverse selection when it prevents individuals from waiting until they are sick to enroll in insurance. However, requiring SEP verification can have disproportionately negative impacts on vulnerable consumers who are eligible for Marketplace enrollment and result in gaps or loss of coverage as different populations are impacted by the additional administrative burdens.

We are proposing to only verify eligibility for SEPs related to loss of minimum essential coverage—the most common type of SEP sought by consumers in Marketplaces that rely on the



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federal platform. The final rule also clarifies that State Marketplaces maintain the option to verify eligibility for any SEP types that make the most sense for their consumers.

Charge: SEP verification will lead to higher premiums and harm market stability.

Response: Ceasing pre-enrollment verification for all SEPs except for the SEP based on loss of minimum essential coverage may be perceived by issuers (and their actuaries) as an additional risk of adverse selection that may cause them to slightly increase premiums. However, this policy will reduce the burden on Marketplaces and consumers, increasing consumer access to coverage and improving the overall health of individual market risk pools, which will exert downward pressure on premiums. We also estimate that this final rule will save CMS approximately \$5.2 million in annual SEP verification operating costs.

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