



Assisting Victims of Domestic Violence



August 2019

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Overview

- Introduction
- Scenario
 - Background
 - Scenario Questions
 - Question 1 Explained: Eligibility for a Special Enrollment Period for Victims of Domestic Violence & Spousal Abandonment
 - Question 2 Explained: Eligibility for Financial Assistance
- When Consumers File Taxes
- Hardship Exemption
- Review
- Resources

Introduction

- CMS is committed to addressing the needs of victims of domestic violence and spousal abandonment, and making it possible for this population to enroll in health care coverage apart from their abuser or abandoner.



Introduction cont.

- Consumers who have experienced domestic violence include 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.
- All the facts and circumstances are considered in determining whether an individual is abused.



Introduction cont.

- The perpetrator of the domestic violence can be the consumer's spouse, domestic partner or other household member.
- Consumers who have experienced spousal abandonment are individuals who, taking all facts and circumstances into account, are unable to locate their spouse after reasonable diligence.

Scenario: Background



Vivian is 32 years old, married, and a mother of one child.

- She experienced domestic violence perpetrated by her husband last month, in July.

Scenario: Background cont.

Vivian is still legally married to her husband.

- They lived together from January through July; Vivian moved out in July and filed a restraining order against her husband and moved to a new house in the same town.
- She has a 4 year old daughter, Remy, who lives with her year-round.
- She works as an office assistant at a small business and earns \$28,000 annually. Her employer does not offer health instance benefits for employees.
- She wants to enroll in coverage separate from her husband and is interested in getting Marketplace coverage for herself and her daughter; however, it's outside the Marketplace's annual Open Enrollment Period.
- She will not be filing taxes jointly with her husband; she will be filing her taxes under the “married filing separately” category.

Scenario: Questions

- 1) Since it is outside of the Marketplace's annual Open Enrollment Period, will Vivian and her daughter be able to enroll in Marketplace coverage?
- 2) And, since Vivian is still legally married, but will not be filing taxes jointly with her husband, will she be eligible to receive financial assistance through the Marketplace for herself and her daughter, if otherwise eligible?



Scenario Question 1: Explained: Eligibility for a SEP for Victims of Domestic Violence and Spousal Abandonment

Question 1: Is Vivian eligible for a special enrollment period to enroll in Marketplace coverage outside of the Marketplace's annual Open Enrollment Period?

- **Answer: Yes.** Victims of domestic violence, like Vivian, and their dependents, like Remy, who want to enroll in coverage apart from their abuser have experienced an event that qualifies them for a special enrollment period.
- Vivian must call the Marketplace Call Center to request this special enrollment period. This special enrollment period cannot be accessed through HealthCare.gov.
- Since Remy is a dependent of a victim of domestic violence, her mother will be able to enroll her in Marketplace coverage on the same application during this special enrollment period as well.



Scenario Question 1: Explained cont.

- A victim of domestic violence does not need to be married to the perpetrator to qualify for this special enrollment period.
- Victims of spousal abandonment and their dependents may also qualify for this special enrollment period.
- 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 in order to qualify for this special enrollment period.

Scenario Question 1: Explained cont.

- Vivian must contact the Marketplace Call Center at 1-800-318-2596 (TTY: 1-855-889-4325) to apply for the SEP for victims of domestic violence and spousal abandonment.
- If she is eligible for the SEP, the Marketplace Call Center can tell her which plans are available in her area and she can enroll in coverage at that time. Or she can compare plans and enroll in coverage through HealthCare.gov within 60 days from the date she reported the domestic abuse or spousal abandonment to the Marketplace.



Scenario Question 2: Explained: Eligibility for Financial Assistance

Question 2: Can Vivian receive cost-lowering financial assistance through the Marketplace?



- **Answer: Yes.** Vivian and Remy can receive financial assistance through the Marketplace, as long as they are otherwise eligible, even though Vivian is not filing her taxes jointly with her husband.

Scenario Question 2: Explained cont.

- Generally, married consumers must file jointly to be eligible for financial assistance through the Marketplace. However, 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.
- *Please note:* An assister should assure Vivian that, because of her circumstances, she will not face any penalty for representing that she is not married on the application.

Scenario Question 2: Explained cont.

- Based on her household income and family size, Vivian 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 selects for herself and Remy.
- If Vivian wants to see if she is eligible for Marketplace coverage and financial assistance through the Marketplace, she can fill out and submit a Marketplace 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 when notifying them of the domestic violence or abandonment event.
- *Please note:* Because Vivian is applying outside of open enrollment, she will not be able to actually select a plan until she is granted the SEP by the Call Center.

Scenario Question 2: Explained cont.



- Remy may be determined eligible for a Marketplace plan with financial assistance as well, or for Medicaid or the Children’s Health Insurance Program (CHIP), depending on her state’s eligibility criteria.
- Remember, when filling out the Marketplace application, Vivian should:
 - Indicate that she is not married on the application.
 - Indicate that her family size is 2 (Vivian and Remy) and her income is \$28,000. She will not include her husband or his income on the application.

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 instructions to IRS Form 8962: <https://www.irs.gov/instructions/i8962#idm140719954165248>
- Married consumers who receive advance payments of the premium tax credit and who have experienced domestic abuse or spousal abandonment must follow the IRS instructions for Form 8962 to claim their premium tax credit on their tax return. To claim the premium tax credit, the consumer must be living apart from his/her spouse when filing his/her taxes.

Eligibility for a Hardship Exemption

- Consumers who are victims of domestic violence or spousal abandonment can apply for a hardship exemption, which would qualify them to enroll in a catastrophic plan through the Marketplace if they so choose.
- Catastrophic plans are available to consumers who are under the age of 30 prior to the first day of the plan year or who qualify for an affordability or hardship exemption.
- Catastrophic health insurance plans generally have low monthly premiums and very high deductibles. They may be an affordable way to protect consumers from worst-case scenarios, like getting seriously sick or injured. But they may not pay for most routine medical expenses.

How to Claim a Hardship Exemption

- On the hardship exemption application, consumers will need to indicate when the domestic violence started and either 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 a hardship exemption due to domestic violence or spousal abandonment, and the form for claiming an exemption, go to: <https://www.healthcare.gov/exemptions-tool/#/results/2017/details/domestic-violence>

Review

- If a domestic violence or spousal abandonment event occurs outside of the Open Enrollment Period, a domestic violence or spousal abandonment victim does not need to wait for that period to find a new healthcare plan for him or herself. They can qualify for a Special Enrollment Period (SEP) but must call the Marketplace Call Center at 1-800-318-2596 (TTY: 1-855-889-4325) to access the SEP.
- A dependent of a domestic violence or spousal abandonment victim can be enrolled during the SEP with their parent/guardian.
- Victims of domestic violence or spousal abandonment and their dependents may be eligible for financial assistance through the marketplace but must indicate that they are **not** married on the Marketplace Application, even if they are legally married.

Review cont.



- Victims of domestic violence or spousal abandonment, who are otherwise eligible, can claim the premium tax credit on their federal income tax return using the “Married Filing Separately” filing status.
- Victims of domestic violence or spousal abandonment may choose to claim a hardship exemption in order to enroll in a catastrophic health insurance plan

Marketplace, Healthcare.gov, and IRS Resources

- Understanding Special Enrollment Periods:
<https://marketplace.cms.gov/outreach-and-education/special-enrollment-periods-available-to-consumers.pdf>
- How to Claim an Exemption if You Experienced Domestic Violence:
<https://healthcare.gov/exemptions-tool/#/results/2017/details/domestic-violence>
- About Catastrophic Health Insurance Plans:
<https://www.healthcare.gov/choose-a-plan/catastrophic-health-plans/>
- IRS Form 8962 instructions:
<https://www.irs.gov/instructions/i8962#idm140719954165248>

Additional Domestic Violence Resources

- HHS Administration for Children & Families, Family and Youth Services Bureau
 - Getting Help with Domestic Violence: <https://www.acf.hhs.gov/fysb/resource/help-fv>
 - Family Violence Prevention and Services Program: <https://acf.hhs.gov/fysb/programs/family-violence-prevention-services/about>
 - Domestic Violence Resource Network Fact Sheet: https://www.acf.hhs.gov/sites/default/files/fysb/fvpsa_dvrn_20170224.pdf
- HHS Office of Disease Prevention and Health Promotion
 - Domestic Violence Resources: <https://healthfinder.gov/FindServices/SearchContext.aspx?topic=253>
- HHS Office on Women's Health
 - Resources by State on Violence Against Women: <https://www.womenshealth.gov/relationships-and-safety/get-help/state-resources>
 - Domestic or Intimate Partner Violence: <https://www.womenshealth.gov/relationships-and-safety/domestic-violence>
- HHS Centers for Disease Control and Prevention
 - Violence Prevention – Intimate Partner Violence: <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html>
- DOJ Office for Victims of Crime
 - Help Series for Crime Victims – Domestic Violence: https://www.ovc.gov/pubs/helpseries/HelpBrochure_DomViolence.html