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Commentary: Insurers' Push to Restrict Special Enrollment Periods Would Block Uninsured People

By Sarah Lueck

Insurers are pressing the Administration to put burdensome new restrictions on special enrollment periods (SEPs) — times during which people who've experienced major life changes such as having a child, getting married, moving, or losing other coverage can enroll in marketplace coverage outside the regular open enrollment period.¹ That's a bad idea.

Some insurers want the Administration to bar uninsured people from using certain SEPs. Insurers also want to restrict people with coverage from switching plans when they qualify for certain SEPs. Insurers claim that people with higher-than-average costs are taking advantage of SEPs to enroll only when they need health care, driving up insurers' costs.

The reality is that too *few* eligible people are taking advantage of SEPs and that this low enrollment is likely a big reason why SEP enrollees tend to have higher costs. Those who are healthier are sitting out.²

Not everyone can enroll or choose the right plan during open enrollment. People's situations change over the course of a year, and many of these changes warrant allowing them to enroll in coverage or change plans. SEPs are especially important because only marketplace enrollees can receive federal premium and cost-sharing subsidies to help make coverage affordable for low- and moderate-income people. (People who become eligible for premium tax credits during the year because their incomes change *don't* get an SEP to newly enroll in a marketplace plan if they missed open enrollment.)

Under current marketplace rules, when someone has a baby or adopts a child, both the child and the other family members become eligible to enroll in a plan or change to a different plan. Similarly, when someone gets married, both spouses can enroll in or change marketplace plans. That's the

¹ For more on SEPs, see "SEP Reference Chart: A Guide to Special Enrollment Period (SEP) Triggers and Timing," Health Reform: Beyond the Basics, June 11, 2015, <http://www.healthreformbeyondthebasics.org/sep-reference-chart/>.

² Sarah Lueck, "To Make Marketplaces Work Best, Enroll More People — Not Fewer," Center on Budget and Policy Priorities, January 21, 2016, <http://www.cbpp.org/blog/to-make-marketplaces-work-best-enroll-more-people-not-fewer>.

same way employer plans work; even people who declined coverage when offered it get another chance when a new family member arrives.³

A SEP is also available to people who move to a new place with different marketplace plans. Insurers want to eliminate this SEP for people who didn't already have coverage before moving. But this SEP recognizes that federal subsidies may vary in different locations since they're based in part on the cost of coverage in a given area.

Giving uninsured people an SEP in these life-changing situations is vitally important. Getting married, having a baby, or moving can significantly affect people's decisions about whether to enroll in health coverage. A woman getting married may find that her new household gets a larger premium tax credit that makes coverage more affordable. A new father may realize that joining his wife and baby's health plan provides important financial protection for his growing family. Someone moving to a new area for a better-paying job may find it easier to shoulder the cost of a monthly premium.

Some insurers are also urging the Administration to stop allowing people enrolled in marketplace plans to switch plans when they have a baby or get married. This, too, would unwisely restrict consumers' choice. People experiencing such significant events should have the right to reevaluate their health plan and possibly switch to a new one.

The Administration has already responded to insurers' demands by eliminating several SEP triggers that are no longer needed and announcing it would review SEP enrollments to determine whether consumers properly obtained coverage.⁴ The Administration also officially requested data showing the problems with SEPs that insurers have raised, but the industry's public comments provided little more than assertions.⁵ Any further changes to special enrollment rules should only be made if there is actual evidence of a problem.

One reasonable change would be to clarify a marketplace application question designed to identify people eligible for an SEP due to loss of other coverage. In asking whether a person recently lost coverage, the application doesn't explain that being terminated from a plan for failure to pay premiums *doesn't* count as loss of coverage — and doesn't warrant an SEP.

Awareness of open enrollment periods is very low, as is people's knowledge of the significant penalties they will soon pay if they go without health insurance under health reform's individual mandate. Just 15 percent of uninsured people aged 18-65 knew that January 31 was the deadline to sign up for a marketplace plan for 2016, according to new poll from the Kaiser Family Foundation.⁶ And just 1 percent were aware of the penalty amount for being uninsured in 2016.

³ "FAQs on the Health Insurance Portability and Accountability Act of 1996 (HIPAA)," Employee Benefits Security Administration, Department of Labor, http://www.dol.gov/ebsa/faqs/faq_compliance_hipaa.html.

⁴ Kevin Counihan, "Clarifying, Eliminating and Enforcing Special Enrollment Periods," The CMS Blog, January 19, 2016, <https://blog.cms.gov/2016/01/19/clarifying-eliminating-and-enforcing-special-enrollment-periods/>.

⁵ *Federal Register*, Vol. 80 No. 231, December 2, 2015, <https://www.gpo.gov/fdsys/pkg/FR-2015-12-02/pdf/2015-29884.pdf>.

⁶ Bianca DiJulio *et al.*, "Kaiser Health Tracking Poll: January 2016," January 28, 2016, <http://kff.org/health-reform/poll-finding/kaiser-health-tracking-poll-january-2016/>.

Amid such low consumer awareness and growing evidence⁷ that SEPs represent a critical opportunity to expand marketplace enrollment among healthier people while ensuring access to health coverage, further restricting special enrollment periods would be unwise.

⁷ Lueck, 2016.