WESTERN CENTER ON LAW & POVERTY

Health Care Practice Tip - October 2019

Changes Coming to Covered California for Open Enrollment

1. Open Enrollment Dates

Covered California open enrollment started on October 15, and thanks to the recent passage of AB 1309, it will end on January 31, 2020. AB 1309 also changed the plan effective date for enrollments between January 16 – 31. Instead of starting on March 1, according to the regular plan effective date rules, consumers who enroll later in January can still have their plans start February 1.

2. Extra State Subsidies[1]

a. Nearly free premiums for people below 138% of the Federal Poverty Level!

Currently there are about 25,000 individuals on Covered California receiving subsidies. Starting in January, their premiums will be $1 a month. Some of these people may currently be on Bronze policies. If they don't affirmatively select a new plan for plan year 2020, they will stay in their Bronze plan, instead of enrolling in a Silver 94 plan (that's better than a Platinum plan due to Cost Sharing Reductions) for the same price. Remember, they can still change plans until the end of open enrollment or whenever they may have a Special Enrollment qualifying life event.

Who are these individuals and why aren't they on Medi-Cal?

Some of these people are individuals over age 65 who are neither Medi-Cal eligible, due to the assets test nor are they Medicare eligible because they do not have enough quarters to qualify for Medicare. This most often happens with recent immigrants who came to the United States later in life, thus didn't earn enough quarters, but can also happen with citizens who were not in the workforce – e.g. single women who spend a lifetime caring for other family members rather than working outside the home.

For the most part, however, they are lawful immigrants who only qualify for restricted scope Medi-Cal. This can include people on Temporary Protected Status (TPS), Compact of Free Association (COFA) citizens (Micronesia, Marshall Islands, Palau), Asylum seekers, and temporary visa holders such as those on student or work visas.

But can't some of these individuals get full-scope Medi-Cal?

Yes. Some people with these immigration statuses get access to full-scope Medi-Cal as part of the last category of the Permanently Residing Under Color of Law (PRUCOL) test on the MC-13 form, but most do not. If you have a client who can honestly state that the US immigration authorities know they are here but do not intend to deport them "either because of the person's status category or *individual circumstances*" your client should be able to

[1] The statutory language of the budget trailer bill SB 78 (Gov. Code § 100800 *et seq.*) gives considerable flexibility to set the amounts of the subsidies. See AB 74 and SB 106 for 2019-2020 budget allocations and directions on how the state subsidies were divided among the population. Covered California has adopted the current design of the subsidies in **2020 State Premium Assistance - Final Program Design Document** as adopted at the June 26, 2019 Board Meeting.

apply for full-scope Medi-Cal instead of Covered California. Remember, county workers cannot refuse to accept an MC-13 from an individual regardless of their immigration status.

Remember: Health for All Young Adults is happening too!

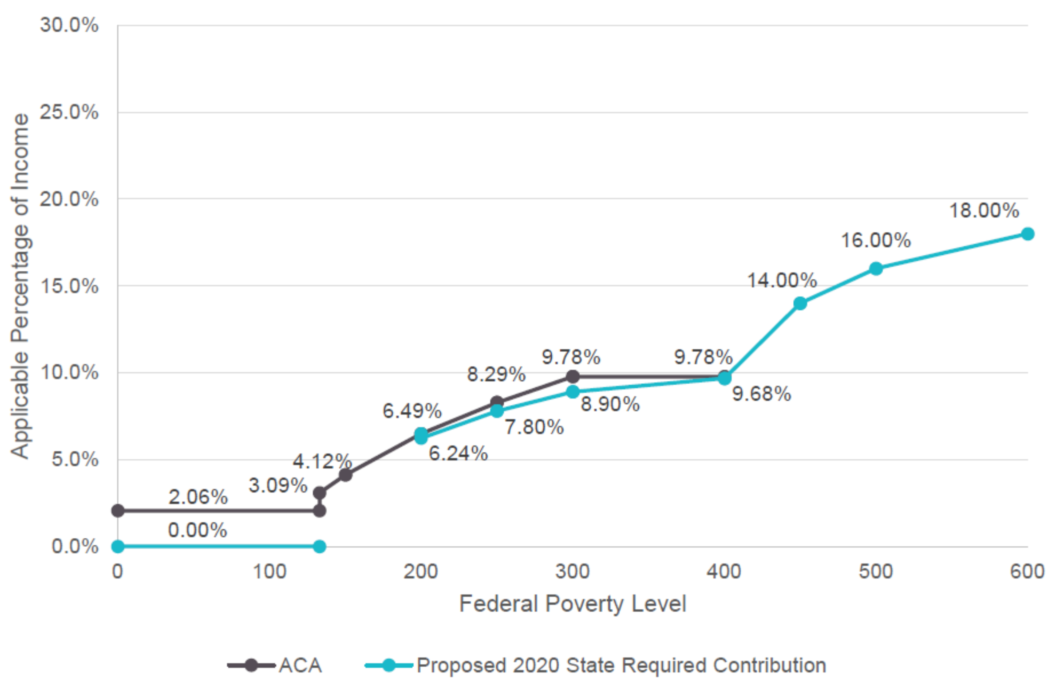
Some of the individuals currently on Covered California receiving subsidies are under age 26 and should be moved to free full-scope Medi-Cal.

b. 138-200% FPL - no extra subsidies

Individuals with incomes between 138-200% FPL do not get extra state subsidies. We believe they still need extra help paying for health care since they will be paying– after all, many are parents with children on Medi-Cal or people who were on Medi-Cal until the minimum wage increased. Please keep track of client stories in this income range and let Jen Flory know!

c. 200-600% FPL - extra state subsidies

Individuals with incomes between 200-600% FPL may be eligible for extra state subsidies, particularly those who are older or live in areas with high health premiums. Previously, with just the federal subsidies, the expected contribution for the second lowest cost silver plan ranged from 6.49% of the household's income at 200%FPL to 9.78% of the household's income at 400%FPL, with no help for households earning over 400% FPL. Now, the expected contribution for the second lowest cost silver plan is 6.24% - 9.68% for household's earning between 200-400%FPL and scales up to 18% for households earning up to 600% FPL.[2]



[2] Chart taken from June 26, 2019 Covered California Board Presentation, slide 7: [Presentation - Covered California Policy Items]

3. Looking Ahead to Reconciliation

Because there are now state subsidies available, anyone receiving them will have to reconcile the amount of premium tax credits received on their state taxes as well. In other words, in addition to filing Form 8962 with their federal taxes to reconcile the amount of federal premium tax credits received throughout the year, consumers receiving state subsidies will also have to fill out a similar, yet-to-be designed form with their state taxes. Covered California proposed the following reconciliation caps at its September 19, 2019 Board Meeting, which will likely be approved at the next Board meeting on November 21[3]:

Income	Single Filers	All Other Filers
<200% FPL	**$300**	**$600**
200-300%	**$775**	**$1550**
300-400%	**$1300**	**$2600**
400-500%	*$2000*	*$4000*
500-600%	*$3000*	*$6000*
600-700%	*$4200*	*$8400*

Note that the first three rows are exactly the same as the current federal reconciliation caps. No changes to the current caps will be made there. The second three rows are the reconciliation caps for the higher income levels. Covered California is proposing extending the reconciliation caps beyond the current cap for state subsidies (600%FPL) so that consumers do not fall off a cliff if they underestimate their income and end up owing all of their subsidies back as currently happens with the federal reconciliation caps.

4. Return of the Individual Mandate Penalty[4]

While not strictly a Covered California issue, consumer advocates should be aware the California has **reinstated the individual mandate penalty for tax year 2020.** Projections show most of the folks likely to drop their coverage are those in the Medi-Cal and Covered California income ranges.

The exemptions to the individual mandate largely follow the federal law.[5] One notable exception is the exemption for people whose income is below the filing threshold. Because the filing threshold for California taxes is much higher than the threshold for federal taxes, more low-income people can use this exemption if they have gaps in their Medi-Cal coverage.

Covered California is the entity responsible for administering the exemption process and is currently finalizing applications for hardship exemptions, exemptions based on the affordability of other available products, and the religious conscious exemption.

Finally, advocates should be aware that Health Sharing Ministries are starting to market in California as a cheaper option to fulfill the individual mandate. These products are not health insurance, are highly discriminatory, and are unregulated by the state. Please let Jen Flory know if you are seeing consumers harmed by these products.

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[3] See **2020 State Premium Assistance - Program Design Document Proposed Amendment One**
[4] Budget Trailer Bill SB 78 (Gov. Code § 100700 *et seq.*).
[5] *Id.* Regulations have been adopted at 10 C.C.R. § 6910 *et seq.*