

ACA Implementation—Monitoring and Tracking

# Special Enrollment Periods in 2014: A Study of Select States

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With support from the Robert Wood Johnson Foundation (RWJF), the Urban Institute is undertaking a comprehensive monitoring and tracking project to examine the implementation and effects of the Patient Protection and Affordable Care Act of 2010 (ACA). The project began in May 2011 and will take place over several years. The Urban Institute will document changes to the implementation of national health reform to help states, researchers and policymakers learn from the process as it unfolds. This report is one of a series of papers focusing on particular implementation issues in case study states. Reports that have been prepared as part of this ongoing project can be found at [www.rwjf.org](http://www.rwjf.org) and [www.healthpolicycenter.org](http://www.healthpolicycenter.org). The quantitative component of the project is producing analyses of the effects of the ACA on coverage, health expenditures, affordability, access and premiums in the states and nationally.

## INTRODUCTION

The Patient Protection and Affordable Care Act (ACA) establishes an open enrollment period each year for eligible individuals to enroll into a qualified health plan (QHP) through the health insurance marketplaces created by the law. In most cases, if a consumer fails to enroll during open enrollment, he or she remains without marketplace coverage for the entire calendar year. There are important policy reasons for this limited open enrollment period. The ACA prohibits insurers from denying coverage to people who are sick or have pre-existing health conditions. Without an established time frame to enroll, healthy consumers would more likely delay purchasing health insurance until they needed care, and consumers with significant medical needs would purchase health insurance as soon as it was available; this phenomenon is referred to as adverse selection. With primarily higher-cost consumers using the marketplace, insurers would either raise premiums or pull out of the marketplace altogether. By requiring everyone to enroll only during an annual limited open enrollment period, the ACA seeks to minimize adverse selection and promote market stability.

There are many reasons, however, why someone would need to obtain or change health insurance coverage during the year. Common events include losing employer-sponsored insurance, moving, losing Medicaid, getting married, having a baby, or adopting a child. Such life events routinely occur throughout the year and the ACA allows people to enroll outside of open enrollment if they experience such a “qualifying event,” which makes them eligible for a special enrollment period (SEP).

There are limited data on how many people will become eligible for SEPs in the marketplace each year, but as explained in the accompanying text box, estimates run into the millions nationwide. Despite this significant potential for special enrollments, current analysis of marketplace enrollment has focused almost entirely on the initial 2014 open enrollment period.

This study analyzes how five state-based marketplaces (SBMs)—those of California, the District of Columbia [D.C.], Kentucky, Minnesota and Washington—addressed and experienced SEPs in 2014. In addition to reviewing federal and state policies related to SEPs and available public data on SEP enrollment, we interviewed state officials, insurers and consumer assisters involved with the five SBMs and national experts on consumer outreach and assistance. We also studied how these five SBMs coordinated with their state Medicaid programs to enroll people losing Medicaid coverage into marketplace plans.

Our study finds that marketplace systems and consumer outreach and enrollment efforts are still in progress and do not yet match the significant potential for SEP enrollment in the five study SBMs. Despite differences among the five SBMs, we identify four themes related to SEP implementation in 2014 that highlight common challenges. Though some challenges flowed from first-year implementation issues, some will likely recur in future years.

First, launching the marketplaces and completing open enrollment in year one presented so many challenges

## There Is Significant Potential for Special Enrollments Each Year

Estimating how many people will become eligible for SEPs each year is difficult, but some researchers have attempted to quantify the potential scope of SEP eligibility. Here are some estimates of 2014 SEP eligibility:

- Approximately the same number of people would become eligible for marketplace enrollment during 2014 as were eligible at the beginning of 2014 open enrollment.
- Approximately four million people would likely lose health insurance coverage during the course of 2014 and be eligible for either a SEP or Medicaid (for those with significant income loss who live in a state that expanded Medicaid).
- In addition to the estimated four million people who would likely lose health insurance coverage and be eligible for Medicaid or a SEP, another 2.7 million adults would likely be eligible for a SEP by moving, getting married, having a child or gaining a new immigration status.
- Adults between 18 and 34 years old would likely qualify for a SEP at higher rates than older adults because they would be more likely to experience qualifying life events such as moving, getting married, or having a child.

Sources: Curtis R and Graves J, "Open Enrollment Season Marks the Beginning (Not the End) of Exchange Enrollment," *Health Affairs Blog*, November 26, 2013, <http://healthaffairs.org/blog/2013/11/26/open-enrollment-season-marks-the-beginning-not-the-end-of-exchange-enrollment/> (accessed January 2015); Graves J and Gruber J, "Obamacare Enrollment Is Far From Over," *Talking Points Memo*, April 1, 2014, <http://talkingpointsmemo.com/caf/obamacare-enrollment-is-far-from-over> (accessed January 2015); Enroll America. *State Estimates of the Number of Uninsured Adults Eligible for a Special Enrollment Period in 2014*. Washington: Enroll America, August 2014, <http://www.enrollamerica.org/state-estimates-number-uninsured-eligible-special-enrollment-periods/> (accessed January 2015); Young Invincibles. *Young Adults More Likely to Qualify for Special Enrollment*. Washington: Young Invincibles, April 2014, <http://younginvincibles.org/wp-content/uploads/2014/04/Young-Adults-and-Special-Enrollment-FINAL.pdf> (accessed January 2015).

that SBMs had little capacity to address SEP systems and outreach in 2014. Moreover, because each of the study states expanded Medicaid in 2014, they were simultaneously trying to enroll people newly eligible for Medicaid, which has year-round enrollment. Most SBMs and consumer assisters appeared to focus more resources on Medicaid enrollment than on marketplace special enrollments after open enrollment ended.

Second, the SEP eligibility verification systems and corresponding information technology (IT) functionality were limited in our study SBMs. Most systems relied on consumer self-attestation to verify SEP eligibility. Many insurers voiced concerns that without robust systems and processes to verify eligibility, SEPs could be abused and lead to adverse selection. Some consumer advocates, however, expressed concern that extensive requirements to verify eligibility, such as providing documentation, could create more barriers to coverage.

Third, SEP marketing and advertising was limited in 2014 and consumer education and enrollment assistance for SEPs proved to be challenging. Promoting SEPs contradicted the message that consumers had to enroll by March 31,

2014. Also, the availability of different types of qualifying events made it difficult to develop a simple marketing message and target consumer outreach. The limited time frame to enroll through a SEP following the occurrence of a qualifying event (generally 60 days) further complicated outreach and enrollment efforts. Moreover, overall lack of understanding of the marketplaces and low health insurance literacy among consumers compounded the outreach and education challenges around SEPs. This finding is supported by the Urban Institute's Health Reform Monitoring Survey data from September 2014, which found that 61.5 percent of nonelderly adults with knowledge of the marketplaces reported that they had heard little or nothing about SEPs.

Fourth, systems have not yet been developed to maximize the placement of individuals losing Medicaid into marketplace plans. The study SBMs and state Medicaid programs did little beyond the legal requirement of providing notice that Medicaid coverage would be ending and adding information to those notices about the marketplaces and consumer assistance availability. The timing of the notices also created some barriers to continuous coverage because, though they were legally compliant, the notices sometimes did not provide enough time for individuals

to enroll in a QHP before losing Medicaid coverage. We learned of no state or SBM efforts to educate and assist individual consumers losing Medicaid, who generally have little familiarity with the marketplace and private insurance and often need assistance.

This paper provides a short summary of the legal framework for SEPs under the ACA and summarizes the limited published data available regarding SEP enrollment in

our study SBMs for 2014. Although the SEP enrollment data was limited (and unavailable for Kentucky), we provide approximate estimates for California, D.C., Minnesota and Washington. We then discuss the four common themes that emerged from our stakeholder interviews and conclude with a summary of challenges and opportunities that marketplaces and diverse stakeholders may encounter as they address SEPs in 2015 and beyond.

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## THE LEGAL FRAMEWORK FOR SPECIAL ENROLLMENTS

As described in table 1, current federal regulations describe 10 qualifying events that trigger a SEP.<sup>1</sup> Six events address events in consumers' lives; one significant example of a change in a consumer's life is the loss of "minimum essential coverage" (health insurance provided through a non-marketplace plan such as an employer plan or Medicaid). Three events address error or misconduct by the marketplace, insurer, or non-marketplace entity (e.g., broker or consumer assister), and the last event is "exceptional circumstances" that allow a marketplace to determine a special enrollment on a case-by-case basis.<sup>2</sup>

Marketplaces are bound to these 10 events, but they retain flexibility in how to address the "types of scenarios" for errors or misconduct by the marketplace, an insurer, and non-marketplace entity. These errors or misconduct include inaction, misrepresentation, and substantial contract violation.<sup>3</sup> Marketplaces also retain flexibility with identifying "exceptional circumstances" that would qualify individuals for a special enrollment.<sup>4</sup>

In 2014, the federally facilitated marketplace (FFM) recognized several one-time SEPs that arose from first-year enrollment issues. For example, because of the "high consumer traffic" before the March 31 end of open enrollment, the FFM used its flexibility for marketplace enrollment errors to provide a SEP for those "in line" individuals who had started the application process but could not finish by March 31.<sup>5</sup> Similarly, the FFM provided a SEP for individuals with "limited circumstances" such as being incorrectly transferred to Medicaid and subsequently determined ineligible.<sup>6</sup> Under its authority to define "exceptional circumstances," the FFM provided a time-limited SEP for domestic abuse survivors in 2014 and for individuals having or being eligible for health insurance coverage under COBRA (the Consolidated Omnibus Budget Reconciliation Act).<sup>7</sup> It also provided

additional definitions of "exceptional circumstances" for a SEP, such as having a non-calendar year plan renew or becoming ineligible for a hardship after receiving a certificate of exemption.<sup>8</sup> The five SBMs we studied adopted some or all of the exceptional and limited circumstances SEPs the FFM adopted in 2014, and all five SBMs extended enrollment for individuals "in line" who could not complete enrollment by March 31. Table 1 lists the special enrollments that federal regulations require for all marketplaces (10 qualifying events and the specific SEPs that the FFM provided in 2014 as exceptional circumstances, contained in qualifying event 9).

California and Washington regulations provide additional opportunities to enroll beyond the qualifying events available in the FFM.<sup>9</sup> In California, an individual can enroll when he or she has a court order to provide dependent coverage, his or her provider is leaving a health plan during a course of treatment for a serious medical condition, or he or she is returning from active duty from a military reserve or the California National Guard.<sup>10</sup> Washington regulations allow a SEP to individuals who become newly eligible or ineligible for financial assistance regardless of whether they are already enrolled in a marketplace plan or whose QHP has been terminated and their grace period has expired.<sup>11</sup>

Similarly, D.C. also provides additional qualifying events for a SEP, but uses its flexibility with "exceptional circumstances" to provide a special enrollment in the following cases: domestic violence, divorce, the beginning or end of a domestic partnership, a court order to provide health insurance, a serious medical condition or natural disaster during another qualifying event affecting an individual's ability to enroll, or employer denial into the Small Business Health Options Program.<sup>12</sup> Table 2 summarizes the additional SEPs that California, D.C. and Washington have adopted.

## Table 1. Events Triggering Special Enrollments in the Federally Facilitated Marketplace in 2014

1. Loss of minimum essential coverage (e.g., leaving a job and employer-sponsored insurance, involuntary loss of employer-sponsored insurance or loss of Medicaid eligibility)
2. Addition of dependent through marriage, birth, adoption, placement for adoption or foster care
3. Gain of status as a citizen, national or lawfully present individual
4. Marketplace error related to enrollment or nonenrollment
5. Material violation of health insurance plan by insurer
6. Current marketplace enrollee or individual with employer-sponsored insurance becomes newly eligible or ineligible for premium tax credits or cost-sharing reductions because of change in income or loss of employer-sponsored insurance
7. Move leading to access to new marketplace health plans
8. Status as federally recognized American Indian tribe or Alaska Native (an individual meeting this status can enroll or change a plan with a SEP once a month)
9. Exceptional circumstances determined by marketplace, such as the following in 2014: <ul style="list-style-type: none"> <li>• eligibility for health insurance coverage under COBRA (available from May 2, 2014, to July 1, 2014).</li> <li>• loss of individual mandate exemption (e.g., an individual's income increases and he or she loses the "hardship exemption," thus he or she needs to get insurance or pay a tax penalty)</li> <li>• domestic abuse (available until May 30, 2014)</li> <li>• renewal of non-calendar year market plans outside of open enrollment</li> <li>• service in AmeriCorps State and National, VISTA or NCCC program</li> <li>• loss of Pre-existing Condition Insurance Program coverage (for those in federal high-risk insurance pools)</li> <li>• natural disaster or serious medical condition during open enrollment or planned system outages that occur on or around plan selection deadlines</li> </ul>
10. Misconduct of non-marketplace entity providing assistance

Sources: 45 C.F.R. 155.420(d); Center for Consumer Information and Insurance Oversight. *Guidance for Issuers on People 'In Line' for the Federally-Facilitated Marketplace at the End of the Initial Open Enrollment Period*. Baltimore: Centers for Medicare and Medicaid Services, 2014, <http://www.cms.gov/ccio/Resources/Regulations-and-Guidance/Downloads/in-line-SEP-3-26-2014.pdf> (accessed January 2015); Health Insurance Marketplace. *Helping Consumers Enroll in Special Enrollment Periods for "Limited Circumstances" through the Health Insurance Marketplace*. Washington: US Department of Health and Human Services, 2014, <https://marketplace.cms.gov/technical-assistance-resources/seps-for-limited-circumstances.pdf> (accessed January 2015); Centers for Medicare and Medicaid Services. *Special Enrollment Periods and Hardship Exemptions for Persons Meeting Certain Criteria*. Baltimore: Centers for Medicare and Medicaid Services, 2014, <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/SEP-and-hardship-FAQ-5-1-2014.pdf> (accessed January 2015); Centers for Medicare and Medicaid Services. *Guidance on Hardship Exemption Criteria and Special Enrollment Periods*. Baltimore: Centers for Medicare and Medicaid Services, 2014, <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/exemptions-guidance-6-26-2013.pdf> (accessed January 2015).

Note: COBRA = Consolidated Omnibus Budget Reconciliation Act.

**Table 2. Additional Events Triggering Special Enrollments in California, D.C. and Washington**

California	Mandated to cover dependent under state or federal order
	Receiving services for acute condition, serious chronic condition, pregnancy, terminal illness, care of newborn from birth to 36 months old, surgery or other procedure authorized to occur within 180 days of a provider no longer participating in the health plan
	Returning from active duty from military reserve or California National Guard
D.C.	Domestic violence
	Divorce
	Beginning or end of a domestic partnership
	Court order to provide health insurance
	Serious medical condition or natural disaster during another qualifying event affecting an individual's ability to enroll
	Missed open enrollment while waiting for employer to be approved to participate in Small Business Health Options Program in marketplace and employer ultimately determined ineligible for Small Business Health Options Program
Washington	Change in income causing new eligibility or ineligibility for premium tax credits or cost-sharing reductions or causing a dependent to become eligible
	Termination of QHP and expiration of grace period

Sources: 10 CCR § 6504, incorporating Health & Safety Code § 1399.849(d)(1) and Insur. Code § 10965.3(d)(1); D.C. Health Benefit Exchange Authority, Resolution dated May 9, 2013, <http://hbx.dc.gov/sites/default/files/dc/sites/Health%20Benefit%20Exchange%20Authority/publication/attachments/Resolution-SpecialEnrollmentPeriods.pdf> (accessed January 2015), Resolution dated June 11, 2014, <http://hbx.dc.gov/sites/default/files/dc/sites/hbx/publication/attachments/Resolution-SpecialEnrollmentPeriodsAdopted6-11-14b.pdf> (accessed January 2015), Resolution dated July 9, 2014, <http://hbx.dc.gov/sites/default/files/dc/sites/hbx/publication/attachments/Resolution-SpecialEnrollmentPeriodsAdopted%207-9-14.pdf> (accessed January 2015); WAC § 284-170-430 and WAC § 284-170-425.

## ANALYZING LIMITED SEP DATA IN CALIFORNIA, D.C., MINNESOTA AND WASHINGTON FOR 2014

There are limited data on SEP enrollment in the five study states, but we make some preliminary calculations based on published enrollment information. Only California and Washington issued reports stating how many consumers enrolled through a SEP, but their reports covered different periods of time. For D.C. and Minnesota, we analyze published QHP enrollment numbers, which quantified enrollment at the end of open enrollment and several months later. Kentucky did not publish sufficient data for us to include in this analysis. Based on the limited enrollment data that these four SBMs released by November 1, 2014, we calculate the rate of the reported SEP enrollment (California and Washington) or the rate of the estimated SEP enrollment (D.C. and Minnesota) as a percentage of the open enrollment totals earlier reported by those marketplaces

(tables 3 and 4). These estimates may be imprecise for several reasons: the study SBM reports provided only a snapshot in time of enrollment totals; none of the SBMs reported QHP enrollment data over the same period; and most SBMs did not report how many people had dropped coverage since the end of open enrollment. If large numbers of people dropped coverage and the SBM reported net enrollment changes rather than total cumulative enrollment, there would be even higher rates of SEP enrollment than our calculations show.

Although the SEP enrollment rates reflected in tables 3 and 4 are only roughly comparable because of the incompleteness of and variations in the data reported by the SBMs, the estimated rates of SEP enrollment as a percentage of total reported open enrollment are

**Table 3. Special Enrollment in Individual Qualified Health Plans in California and Washington During Specified Periods of Time in 2014, Based on Data Reported by Those State-Based Marketplaces**

State-based marketplace reporting QHP enrollment numbers	(1) Total QHP enrollment at the end of 2014 open enrollment (as of March 31, 2014)	(2) Total QHP special enrollment	(3) Period covered by total QHP special enrollment	(4=2/1) Rate of reported SEP enrollment as a percentage of total reported QHP open enrollment
Covered California	1,395,929 <sup>a</sup>	200,000 <sup>b</sup>	June 2014 through September 2014	14.3%
Washington Health Benefits Exchange	152,753	11,497	April 2014 through July 2014	7.5%

Sources: Covered California. *Individual Market Enrollment Report—October 16, 2014*. West Sacramento, CA: Covered California, 2014. <http://news.coveredca.com/p/covered-california-individual-market.html> (accessed January 2015); Washington Health Benefit Exchange, *Health Coverage Enrollment Report: October 1, 2013–March 31, 2014*. Olympia: Washington Health Benefit Exchange, 2014. [http://wahbexchange.org/files/2713/9888/1218/WAHBE\\_End\\_of\\_Open\\_Enrollment\\_Data\\_Report\\_FINAL.pdf](http://wahbexchange.org/files/2713/9888/1218/WAHBE_End_of_Open_Enrollment_Data_Report_FINAL.pdf) (accessed January 2015). Washington Health Benefit Exchange, “Washington Healthplanfinder Gains New Enrollees, Current Customers Transition,” press release, September 4, 2014, <http://wahbexchange.org/news-resources/press-room/press-releases/sept-4-press-release/> (accessed January 2015).

Notes: QHP = qualified health plan. SEP = special enrollment period.

<sup>a</sup> Covered California reported both enrollment and “effectuation” data for its open enrollment period, distinguishing between those who selected a plan and those who subsequently paid the initial premium and had coverage take effect. Covered California. *Individual Market Enrollment Report—October 16, 2014*. West Sacramento, CA: Covered California, 2014. <http://news.coveredca.com/p/covered-california-individual-market.html> (accessed January 2015). Covered California reported that its SEP data described people who had completed applications and selected a plan and, unlike its open enrollment data, did not explicitly report those who had effectuated coverage by paying the first month’s premium. We therefore decided to use the total enrollment numbers rather than the final effectuation numbers reported for California’s open enrollment period. The rate of SEP enrollment would have been higher if we had used the effectuation data.

<sup>b</sup> Covered California did not report precise SEP enrollments but said they had received “over 200,000” from June 2014 to September 2014. No SEP data were provided for April 2014 and May 2014.

**Table 4. Special Enrollment in Individual Qualified Health Plans in the District of Columbia and Minnesota During Specified Periods of Time in 2014, Extrapolated from Data Reported by Those State-Based Marketplaces**

State-based marketplace	(1) Total QHP enrollment at the end of 2014 open enrollment (as reported by SBM)	(2) Total QHP enrollment reported several months after the close of open enrollment	(3) Period covered by the second enrollment report (Column 2)	(4=2-1) Estimated SEP enrollment for designated period	(5=4/1) Rate of Estimated SEP enrollment as a percentage of total reported QHP open enrollment
DC Health Link (District of Columbia)	11,106 <sup>a</sup>	15,110	Through October 7, 2014	4,004	36.1%
MNSure (Minnesota)	50,096 <sup>b</sup>	55,289	As of October 8, 2014	5,193	10.4%

Sources: DC Health Link, “Nearly 45,000 People Enrolled in Health Coverage Through DC Health Link,” press release, May 2, 2014, <https://dchealthlink.com/node/1354> (accessed January 2015); DC Health Link, “More Than 60,000 People Enrolled in Health Coverage Through DC Health Link,” press release, October 9, 2014, <https://dchealthlink.com/node/1804> (accessed January 2015); MNSure, “More Than 200,000 Minnesotans Enroll in Quality Health Coverage Through MNSure,” press release, April 23, 2014, <https://www.mnsure.org/news-room/news/news-detail.jsp?id=486-127507> (accessed January 2015); MNSure, “MNSure Metrics Dashboard,” October 15, 2014, <https://www.mnsure.org/images/bd-2014-10-15-dashboard.pdf> (accessed February 2015).

Notes: QHP = qualified health plan. SEP = special enrollment period. SBM = state-based marketplace.

<sup>a</sup> DC Health Link included enrollments through April 30, 2014.

<sup>b</sup> The MNSure press release included enrollments through April 23, 2014.

informative. These rates ranged from 7.5 percent in Washington to 36.1 percent in D.C. As explained below, the states with the lowest estimated SEP enrollment rates, Washington (7.5 percent) and Minnesota (10.4 percent), were the states that implemented eligibility verification procedures in 2014 that went beyond consumer self-attestation. California, which had the most developed SEP outreach and enrollment system of the five study SBMs, had an estimated SEP enrollment rate of 14.3 percent. D.C.'s estimated SEP enrollment rate of 36.1 percent appears to be an outlier and could reflect, in part, a concerted effort made by D.C. SBM officials to address individual cases where consumers complained about losing or not obtaining coverage.<sup>13</sup>

None of the marketplaces in our study reported on the types of qualifying events that triggered enrollment through a SEP in 2014, and some SBM officials indicated this information was unavailable for 2014. An official from California, however, reported that they intend to analyze qualifying event data in the future, explaining that “the data will unveil areas in which we need to further refine our processes and channels.” None of the other SBMs reported that they had plans to capture, analyze or publicly report SEP data by qualifying event. Although none of the SBMs conducted an analysis, SBM officials and insurer respondents reported that they believe the most common qualifying event was loss of other health insurance, followed by marriage and birth of a child.

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## COMMON THEMES FROM THE FIELD

Most of our study SBMs did not have fully developed operational systems in 2014; nor did consumer outreach and enrollment assistance efforts match the significant potential for SEP enrollment in 2014. Even Covered California, which seemed more prepared than other SBMs because it had established policies and systems and a dedicated marketing strategy, fell somewhat short of its own estimate of 60,000 SEP enrollees a month, instead reporting approximately 50,000 a month. Most respondents across stakeholder groups noted that the initial rollout of the marketplaces greatly affected how much SBMs could focus on SEPs in 2014. Although these marketplaces had different experiences during their initial ACA rollouts, four common themes emerged from this study.

### Year-one challenges limited SBM efforts around special enrollment

To varying degrees, the SBMs we studied had limited capacity to devote time and resources to special enrollments in 2014. All the study SBMs had to address issues related to their initial launch and work through first-year operational issues as they arose, and much of this work continued after the close of open enrollment. With the exception of California, which launched an advertising campaign around SEPs, the states' primary focus in SEPs was to continue enrolling people who had experienced enrollment difficulty because of technical problems, errors or the exceptional circumstances recognized by the FFM and the SBMs. Most of our study SBMs also focused on Medicaid enrollment after open enrollment ended because their states expanded Medicaid and Medicaid enrollment is open year-round.

### Insurers had significant concerns over verifying SEP eligibility in 2014

In 2014, none of the IT systems in the study SBMs had the full functional capability to handle enrollments based on qualifying events for SEPs when open enrollment ended. California's system appeared to be the most developed, but an assister reported that more-detailed questions about qualifying events were added to the online system over time.

California, D.C. and Kentucky relied exclusively on consumer self-attestation to verify eligibility for a SEP in 2014, but their systems varied. In California, the online system asked consumers to identify which qualifying event they had experienced; in D.C., the system could not let consumers report which qualifying event had occurred. California's system also warned consumers they would be committing perjury if they falsely asserted they had experienced a qualifying event. Kentucky allowed consumers to attest online or through a paper application that they were eligible for a SEP and manually reviewed SEP applications based on exceptional circumstances. Minnesota also relied on consumer self-attestation but used call center staff to interview consumers about which qualifying event had occurred. Minnesota also allowed insurance companies to request supporting documentation from consumers to verify SEP eligibility after insurers voiced concern about the need to verify eligibility. Minnesota officials reported, however, that the SBM made the final determination for SEP eligibility.



Washington had the only SBM that required consumers to provide documentation of SEP eligibility, but the system did not request documentation until after the consumer had completed the online enrollment process. Many respondents noted that consumers did not realize they were required to provide documentation. Staff reviewed the documentation manually to verify eligibility and contacted consumers with any questions regarding documentation. Like Minnesota, Washington respondents reported that the SBM adjusted its system after insurers voiced concern about the need to verify SEP eligibility.

Regarding consumer self-attestation, insurer respondents consistently stated that they wanted stronger systems to verify SEP eligibility. One respondent described the system as lacking “guard rails”; another spoke of the need for a more “robust” eligibility determination system that had greater transparency and more formal processes. Many insurer respondents expressed concern over adverse selection; one respondent stated that without strong verification systems, people who need health care outside of open enrollment might start “gaming the system.”

Respondents noted that IT systems need to address many types of qualifying events for a SEP and, where more than self-attestation is used for verification, enable consumers to upload supporting documentation. But even with the IT functionality, a documentation requirement necessitates manual review of the documentation and potential follow-up with a consumer. A Minnesota SBM official noted that it was because of this lack of review capacity that the marketplace allowed insurers to request supporting documentation and follow-up with consumers trying to enroll under a SEP. Some insurer respondents, however, reported that carriers have processes to verify SEP eligibility for individual coverage outside the marketplaces and believe it can be implemented. As one insurance company respondent explained: “I think out of the gate, many of us wanted to have really robust processes ... around SEP management, but the reality is there are supporting resources and technology that go along with it. So I think it will be interesting to see how SEP management evolves.”

Outside of California, consumer assisters seemed unaware that insurers were pushing SBMs for stronger systems to verify SEP eligibility, although assisters in Minnesota voiced concerns about insurers verifying consumers’ SEP eligibility. Interviews with California sources confirmed that insurers and consumer assisters were engaged in policy discussions on how to verify eligibility for a SEP. Consumer advocates there raised concerns about new barriers that may prevent eligible individuals from enrolling if California implemented a verification process that required documentation of qualifying events.

## SEP marketing was limited in 2014 and consumer outreach and education around SEPs presented particular challenges

Though all five SBMs posted information on their web sites about SEPs, only California and Washington conducted proactive SEP marketing efforts. Covered California was the most engaged; it implemented a dedicated marketing campaign to drive enrollment and maintain brand presence using a multimedia (radio, mail, social media, and television), bilingual (English and Spanish) special enrollment campaign.<sup>15</sup> Washington also used press releases and social media to raise special enrollment awareness, but marketplace officials noted there was no mass-marketing campaign.

Insurers participating in this study did little or no targeted marketing around special enrollment, though they did post SEP information on their web sites and some included SEPs in community presentations and broker trainings. The insurers’ passive approach to special enrollment suggests that, at least in 2014, they did not view SEPs as an opportunity to increase membership and market share and may have reflected insurers’ concerns about adverse selection.

Special enrollment outreach was also limited according to the consumer assisters we interviewed in the five study states. Most consumer assisters continued general outreach regarding the marketplaces, especially for hard-to-reach populations, but addressed SEPs as part of broader presentations. Most assisters told us that they focused in particular on Medicaid-eligible populations once open enrollment ended, and this consumed significant resources in 2014.

Limited resources also affected the amount of SEP advertising and outreach that consumer assisters undertook. In D.C., for example, the number of in-person assister groups dropped from 33 to 14 after the end of open enrollment, and most of them helped consumers enroll in Medicaid. According to a D.C. marketplace official, the D.C. marketplace’s funding for direct enrollment assistance did not extend beyond open enrollment, so consumer assisters had to refer consumers to the SBM call center for SEP enrollment. Assisters in California reported that the SBM was late to distribute special enrollment materials in 2014 and, according to one respondent, this was significant because organizations receiving funding for outreach were not allowed to use those funds to print their own outreach materials.

Despite these limitations, assisters undertook creative initiatives around special enrollments, particularly targeting populations eligible for specific SEPs. A sampling of these initiatives is included in the accompanying text box.

## Special Enrollment Outreach Strategies: Targeting Specific Populations in 2014

Respondents described many SEP outreach strategies used to target specific populations experiencing certain qualifying events. Though respondents were uncertain of the success of particular outreach strategies, they believed that overall, outreach increased general consumer understanding of SEPs. Local assisters and national organizations, such as Enroll America, MomsRising and Young Invincibles, used social media and published materials targeting specific populations. Respondents reported initiatives related to the following qualifying events:

### Losing employer-sponsored insurance when losing or changing jobs

- Setting up tables and circulating enrollment information at career fairs
- Working with unemployment offices, economic development and job-training programs to educate and assist people claiming benefits and seeking work
- Creating a YouTube video for self-employed business owners on how changes in income can affect one's coverage status

### Getting married or divorced (and losing coverage through an ex-spouse)

- Setting up tables and providing enrollment information outside of courthouses
- Working with county clerk offices to provide enrollment information to people seeking marriage licenses
- Partnering with bridal stores and distributing flyers through wedding expos and an online wedding guide
- Partnering with a divorce attorney, ultimately yielding referrals for enrollment assistance

### Giving birth or adopting a child

- Connecting women who have given birth with hospital-based certified application counselors to learn about enrollment options
- Partnering with maternity stores to reach expecting mothers
- Working with family services centers to target new parents, presenting at classes for new mothers and having staff distribute an informational graphic to their clients
- Hosting a Twitter chat for new mothers on obtaining coverage for themselves and their babies
- Presenting information for prospective parents at an adoption agency, including a focus on new lesbian, gay, bisexual and transgender parents

### Experiencing other qualifying events

- Providing information for new citizens at naturalization ceremonies
- Partnering with moving companies to make enrollment information available to customers
- Working with college and university administrators to contact graduating seniors about enrollment options
- Using a social media campaign targeting young adults turning 26 years old
- Working with correctional facilities, parole boards and rehabilitation centers to provide enrollment information to people transitioning from incarceration

SBM officials and consumer assisters consistently told us that consumers have little understanding of SEPs and that a lot more could be done to educate consumers about SEPs and help them enroll in future years. They also identified four challenges, beyond the limited resources and ripple effects of the first-year operational issues, around SEP outreach and education.

First, respondents reported that SEP outreach was particularly challenging because it conflicted with the strong message during open enrollment that people must enroll before the March 31 deadline. One consumer assister remarked that the open enrollment message was “if you missed the deadline, you’re done,” which made messaging about the ability to enroll through a SEP more difficult.

Second, because of the variety of qualifying events, respondents described difficulty in developing clear and simple messaging for special enrollment in general. Respondents described consumer confusion about how some of the qualifying events for a SEP worked. For example, consumers mistakenly believed that they were eligible for a SEP if they voluntarily dropped their employer coverage or if they became pregnant. Respondents noted that the variety of qualifying events for SEPs required them to develop different messaging across audiences and environments. As one respondent explained, “It’s not an easy thing to put into a sound bite.”

Third, many respondents commented on the challenges presented by the limited time frame for SEP enrollment given that it was already difficult to identify consumers around the time they experienced a qualifying event. As one assister remarked, it was all about “getting someone at the right time.” Another assister explained that reaching and enrolling consumers for a special enrollment was like “looking for a needle in a haystack and in a given window of time.” Many consumers sought help enrolling late in the 60-day eligibility window or did not know there was a limited time frame and missed the deadline.

Finally, the overall lack of consumer awareness about the marketplace and how private health insurance operates compounded these challenges for consumer outreach and education around SEPs. As one marketplace official stated, people wanted to know why they “couldn’t sign up once they were sick.” Respondents remarked that the concept of enrolling into health insurance during a time frame was new to many people, particularly those familiar with Medicaid. As one assister told us, “there was a lack of awareness [about the marketplace] and it was compounded for special enrollment periods.” Another marketplace official remarked that “for most people,” special enrollment is “a foreign

concept” because they are new to health insurance and how it operates.

### Latest data from the Health Reform Monitoring Survey shows lack of consumer understanding about SEPs

The Urban Institute’s September (3rd quarter) 2014 Health Reform Monitoring Survey (HRMS) provides further support for respondents’ perception that consumer understanding of SEPs is low.<sup>16</sup> In that survey, nonelderly adults (ages 18 to 64) were asked whether they had heard that certain life events might trigger a SEP.<sup>17</sup> This question was only asked of respondents who said they had heard about the ACA marketplaces. Within this group, 61.5 percent of all nonelderly adults said they had heard nothing at all or only a little about SEPs. As reflected in figure 1, knowledge of SEPs was even lower among low-income nonelderly adults.

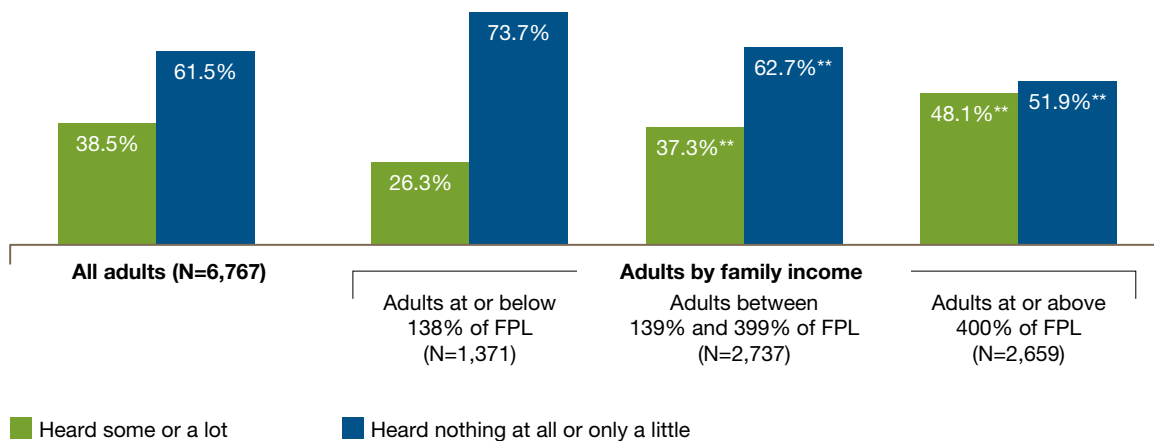
### Challenges remain for transitioning individuals losing Medicaid coverage into the Marketplace

Low-income consumers routinely experience fluctuations in income that lead to changes in eligibility for Medicaid and marketplace subsidies. This back-and-forth between types of coverage is often referred to as “churning,” and loss of Medicaid eligibility is estimated to be a significant source of special enrollments every year.<sup>18</sup> Loss of Medicaid eligibility<sup>19</sup> involves an identifiable target population, many of whom would likely be eligible for marketplace subsidies. Churning and SEPs are expected to be even more significant in future years in all five study SBMs: because their states all expanded Medicaid, many more people will have Medicaid eligibility redeterminations.

Our study highlights one aspect of churn by reviewing how the SBMs and state Medicaid programs are working to transition the population losing Medicaid coverage into marketplace plans. Most Medicaid and SBM officials reported that there are three areas where more work could be done to transition this population.

First, Medicaid enrollees sometimes did not have sufficient time to enroll in a QHP after receiving notice that they were about to lose coverage. Under Medicaid rules, states need only give notice (i.e., an adverse determination notice) 10 days before the individual will lose Medicaid coverage.<sup>20</sup> In one state, the adverse determination notices went out within the legally permissible time frame, but after the deadline to enroll into a QHP for continuous coverage. For those individuals, it was not possible to avoid a gap in coverage because QHP selection had to be made by a certain date to retain continuous coverage. In other states, SBM and Medicaid officials were aware of this issue and worked to

**Figure 1. Familiarity with Special Enrollment Periods among Adults Ages 18 to 64 Who Have Heard About the Marketplaces, Overall and by Family Income**



Source: Health Reform Monitoring Survey, quarter 3, 2014.

Notes: FPL = federal poverty level. Estimates do not include 0.6 percent of respondents who had heard about the marketplaces but did not report their awareness of special enrollment periods.

\*\* Estimate differs significantly from those with income at or below 138 percent of FPL at the .05(.01) level, using a two-tailed test.

send notices out a week or two earlier. Consumer assisters reported that because their clients had little or no familiarity with private health insurance, the one- or two-week time frame still made it challenging to help individuals losing Medicaid to enroll into a QHP without a gap in coverage.

There are reasons why extending the adverse action notice period for Medicaid, however, may not be possible. As one state Medicaid official noted, extending the adverse action period “would often extend Medicaid coverage for an additional month, impacting Medicaid caseloads and state budgets.”

Second, some respondents highlighted that more could be done to assist those losing Medicaid because this population would greatly benefit from enrollment assistance.

We heard of no systematic efforts by the SBMs or Medicaid programs to contact people losing Medicaid to explain their options and connect them to consumer assisters; SBMs and Medicaid programs only sent the legally required Medicaid notices that encourage people to contact the marketplace or an assister.<sup>21</sup>

Finally, respondents in some states spoke about the delays in full integration of Medicaid and marketplace eligibility and enrollment systems, noting that there was little or no communication between pre-expansion “legacy” Medicaid systems and the marketplace.<sup>22</sup> Better integration of these systems may be needed before SBMs will be able to engage in systematic individualized outreach and education to consumers losing Medicaid eligibility.

## CONSIDERATIONS FOR 2015 AND BEYOND

SEPs are likely to be even more important in the future than they were in 2014 because open enrollment periods will be significantly shorter. In 2015, open enrollment ended on February 15, 45 days earlier than in 2014. For the 2016 plan year, the US Department of Health and Human Services has proposed an open enrollment period from October 1, 2015, to December 15, 2015, which would result in a greater window for SEPs.

For marketplaces, the ability to seamlessly enroll individuals under a SEP will depend largely on their resource capacity and IT functionality. Marketplace respondents stated that they will be addressing IT functionality, and some officials reported that they will be revisiting their verification process for SEP eligibility in 2015. Respondents stated that SEPs were not a major priority given the challenges of the initial open enrollment, which subsequently affected the SBMs’

ability to address SEPs. All of the SBM officials we spoke to anticipated that in future years, they would be able to focus in greater detail on special enrollment systems and procedures.

Insurer concerns over SEP eligibility verification systems and adverse selection will likely continue, and marketplaces throughout the country may continue balancing the need to verify SEP eligibility with its costs and effect on consumers.

Addressing churn between Medicaid and the marketplace to avoid gaps in coverage will also likely continue to be a challenge. According to interviews, increasing overall coordination between these two programs could minimize gaps in coverage by prospectively identifying and targeting individuals who will be losing Medicaid coverage and connecting them to community assisters. Moreover, providing earlier notices to consumers losing Medicaid and allowing them more time to arrange coverage in the marketplace may minimize coverage gaps. As IT systems better integrate Medicaid and marketplace enrollment and notices, some communication issues between the systems may improve.

Consumers' lack of knowledge about special enrollment was a common theme among respondents in all five SBM states and nationally. Some of this is an extension of consumers' general lack of understanding of the marketplace and private health insurance, but there was also confusion around SEPs in particular, including the availability of SEPs and what constitutes a qualifying event to trigger a SEP. The challenge of targeting, finding and enrolling eligible consumers within a limited time frame will likely remain indefinitely. Most respondents, however, were optimistic that consumer understanding of SEPs would increase in the coming years. As one assister put it, "as more people become accustomed to having health coverage," people will become more aware of the need to think about coverage when they lose their job, move or experience another qualifying event. This respondent noted that eventually, as people become accustomed to marketplace plans, there will be a "cultural shift" toward greater health insurance awareness that will include an understanding of SEPs.

## ENDNOTES

1. 45 C.F.R. § 155.420(d).
2. *ibid.*
3. 79 Fed. Reg. 30239, 30296 (May 27, 2014), <http://www.gpo.gov/fdsys/pkg/FR-2014-05-27/pdf/2014-11657.pdf> (accessed January 2015).
4. *ibid.*
5. Center for Consumer Information and Insurance Oversight. *Guidance for Issuers on People 'In Line' for the Federally-Facilitated Marketplace at the End of the Initial Open Enrollment Period*. Baltimore: Centers for Medicare and Medicaid Services, 2014, <http://www.cms.gov/ccio/Resources/Regulations-and-Guidance/Downloads/in-line-SEP-3-26-2014.pdf> (accessed January 2015).
6. Health Insurance Marketplace. *Helping Consumers Enroll in Special Enrollment Periods for "Limited Circumstances" through the Health Insurance Marketplace*. Washington: US Department of Health and Human Services, 2014, <https://marketplace.cms.gov/technical-assistance-resources/seps-for-limited-circumstances.pdf> (accessed January 2015).
7. The special enrollment for domestic abuse survivors was available through May 2014. Centers for Medicare and Medicaid Services. *Victims of Domestic Abuse*. Baltimore: Centers for Medicare and Medicaid Services, 2014, <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/victims-domestic-violence-guidance-3-31-2014.pdf> (accessed January 2015); Centers for Medicare and Medicaid Services. *Special Enrollment Periods and Hardship Exemptions for Persons Meeting Certain Criteria*. Baltimore: Centers for Medicare and Medicaid Services, 2014, <http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/SEP-and-hardship-FAQ-5-1-2014.pdf> (accessed January 2015).
8. 45 C.F.R. § 155.420(d); Centers for Medicare and Medicaid Services, *Special Enrollment Periods and Hardship Exemptions*; Centers for Medicare and Medicaid Services. *Guidance on Hardship Exemption Criteria and Special Enrollment Periods*. Baltimore: Centers for Medicare and Medicaid Services, 2014, <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/exemptions-guidance-6-26-2013.pdf> (accessed January 2015).
9. 10 CCR § 6504 incorporating Ca. Health & Safety Code § 1399.849(d)(1) and Ca. Insur. Code § 10965.3 (d)(1); WAC 284-170-430 incorporating WAC 284-170-425. Note that Kentucky has regulations addressing qualifying events for special enrollment periods that mirror the federal regulations, 45 C.F.R. § 155.420(d), 900 Ky. Admin. Regs. 10:030, Section 7. Minnesota regulations also follow the qualifying events in the federal regulations; see M.S.A. § 62K.15 and Minnesota Insurance Bulletin 2014-1, April 15, 2014, which requires health plans to provide consumers information about SEPs under the ACA at the time of application and annually or more frequently.
10. 10 CCR § 6504 incorporating Ca. Health & Safety Code § 1399.849(d)(1) and Ca. Insur. Code § 10965.3 (d)(1). Note that serious medical condition includes pregnancy.
11. WAC 284-170-430 (2)(e) and WAC 284-170-425 (2)(g). Note that the SEP provided under WAC 284-170-430 (2)(e) mirrors a previous version of 45 CFR § 155.420 (d) (6). See 78 Fed. Reg. 4594, 4646 (Jan. 22, 2013), <http://www.gpo.gov/fdsys/pkg/FR-2013-01-22/pdf/2013-00659.pdf> (accessed January 2015).
12. D.C. Health Benefit Exchange Authority, Resolution dated May 9, 2013, <http://hbx.dc.gov/sites/default/files/dc/sites/Health%20Benefit%20Exchange%20Authority/publication/attachments/Resolution-SpecialEnrollmentPeriods.pdf> (accessed January 2015), Resolution dated June 11, 2014, <http://hbx.dc.gov/sites/default/files/dc/sites/hbx/publication/attachments/Resolution-SpecialEnrollmentPeriodsAdopted6-11-14b.pdf> (accessed January 2015), Resolution dated July 9, 2014, <http://hbx.dc.gov/sites/default/files/dc/sites/hbx/publication/attachments/Resolution-SpecialEnrollmentPeriodsAdopted%207-9-14.pdf> (accessed January 2015).
13. D.C. also recognized several qualifying events not recognized in other SBMs, but D.C. SBM officials reported that they did not believe these unique SEPs were a significant enrollment source in 2014.
14. Covered California. *Individual Market Enrollment Report—October 16, 2014*. West Sacramento, CA: Covered California, 2014. <http://news.coveredca.com/p/covered-california-individual-market.html> (accessed January 2015).
15. Covered California. *Marketing, Outreach, and Enrollment Assistance Advisory Group Meeting*. West Sacramento, CA: Covered California, 2014, <http://hbx.coveredca.com/stakeholders/Marketing-Outreach-Enrollment/PDFs/6.12.14%20Presentation.pdf> (accessed January 2015).
16. The HRMS is a quarterly survey of the nonelderly population that uses cutting-edge Internet-based survey methods to monitor the ACA before data from federal government surveys are available. The HRMS provides quarterly data on health insurance coverage, access to and use of health care, health care affordability, and self-reported health status, as well as information about timely issues related to

ACA implementation. For more information about the HRMS and analysis of survey data, see Urban Institute, "Health Reform Monitoring Survey," <http://hrms.urban.org/> (accessed January 2015).

17. The HRMS asked the following: "Most health plan enrollment through the marketplaces happens during the open enrollment period. But people can have a special enrollment period if they had a qualifying life event. Qualifying life events include: getting married or divorced, having a baby, adopting a child, moving to a new state, gaining citizenship, or losing other health insurance coverage. How much, if anything, have you heard about this aspect of the health care law? Have you heard: 1. A lot, 2. Some, 3. Only a little, 4. Nothing at all?" Health Reform Monitoring Survey. "Quarter 3 2014 Questionnaire." Washington: Urban Institute, 2014, <http://hrms.urban.org/survey-instrument/HRMS-Quarter-3-2014-survey.pdf> (accessed January 2015).
18. Buettgens M, Nichols A and Dorn S. *Churning Under the ACA and State Policy Options for Mitigation*. Washington: Urban Institute, 2014, <http://www.urban.org/UploadedPDF/412587-Churning-Under-the-ACA-and-State-Policy-Options-for-Mitigation.pdf> (accessed January 2015). Notably, this study shows that the majority of people who lose Medicaid eligibility because their incomes increase are most likely eligible for employer-sponsored insurance, not marketplace subsidies.
19. Loss of minimum essential coverage triggers a special enrollment period. 45 CFR § 155.420(d)(1)(i). Most Medicaid coverage constitutes minimum essential coverage, but certain Medicaid programs provide limited benefits and therefore are not considered minimum essential coverage. For example, see Cindy Mann, "Minimum Essential Coverage," letter to State Health Officials and State Medicaid Directors. SHO # 14-002. November 7, 2014, <http://www.medicaid.gov/Federal-Policy-Guidance/downloads/SHO-14-002.pdf> (accessed January 2015).
20. 42 C.F.R. § 435.919 requires state Medicaid agencies to provide "timely and adequate notice" of proposed adverse actions, including termination of Medicaid eligibility, consistent with the requirements in subpart E of part 431 which require the agency to "mail a notice at least 10 days before the date of action." 42 C.F.R. § 431.211.
21. In Minnesota, many people above 200 percent of the federal poverty level lost coverage through the state's MinnesotaCare program and were therefore eligible to enroll in the marketplace. During summer 2014, these individuals were provided a one-time special enrollment for the marketplace. The Medicaid program made concerted efforts to notify these individuals about their anticipated loss in coverage and to connect them to consumer assisters. Our study focused on the systems for addressing individualized Medicaid eligibility redeterminations, which will result in individuals losing coverage at different times based on changes in their household income; we did not focus on the transitioning of large groups of Medicaid beneficiaries based on across-the-board changes in eligibility rules, as occurred for MinnesotaCare beneficiaries in summer 2014. But these one-time efforts might provide lessons on how to best notify and work with people losing Medicaid eligibility. A Minnesota official reported that they learned from the MinnesotaCare experience in 2014 and plan to improve the transition process for people losing Medicaid eligibility in 2015.
22. The ACA changed Medicaid eligibility requirements so that most Medicaid beneficiaries, not just those who became newly eligible for Medicaid expansion, are now evaluated under a modified adjusted gross income (MAGI) test. Although the tests are different in certain respects, MAGI tests are also used to determine eligibility for financial assistance in the marketplace. The goal is to integrate Medicaid and marketplace eligibility determinations and enrollment. Some pre-ACA Medicaid populations, including persons with disabilities, will not be subject to the MAGI test, and states were given certain options to transition to the new eligibility systems. For an analysis of the status of states' IT eligibility systems, see Government Accountability Office, "Medicaid, Federal Funds Aid Eligibility IT System Changes, but Implementation Challenges Persist." Washington: U.S. Government Accountability Office, 2014, <http://www.gao.gov/assets/670/667484.pdf> (accessed January 2015).

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