
29 C.F.R. § 2590.701-6

Special enrollment periods.

(a) *Special enrollment for certain individuals who lose coverage*—(1) *In general.* A group health plan, and a health insurance issuer offering health insurance coverage in connection with a group health plan, is required to permit current employees and dependents (as defined in § 2590.701-2) who are described in paragraph (a)(2) of this section to enroll for coverage under the terms of the plan if the conditions in paragraph (a)(3) of this section are satisfied. The special enrollment rights under this paragraph (a) apply without regard to the dates on which an individual would otherwise be able to enroll under the plan.

(2) *Individuals eligible for special enrollment*—(i) *When employee loses coverage.* A current employee and any dependents (including the employee's spouse) each are eligible for special enrollment in any benefit package under the plan (subject to plan eligibility rules conditioning dependent enrollment on enrollment of the employee) if—

(A) The employee and the dependents are otherwise eligible to enroll in the benefit package;

(B) When coverage under the plan was previously offered, the employee had coverage under any group health plan or health insurance coverage; and

(C) The employee satisfies the conditions of paragraph (a)(3)(i), (ii), or (iii) of this section and, if applicable, paragraph (a)(3)(iv) of this section.

(ii) *When dependent loses coverage.* (A) A dependent of a current employee (including the employee's spouse) and the employee each are eligible for special enrollment in any benefit package under the plan (subject to plan eligibility rules conditioning dependent enrollment on enrollment of the employee) if—

(1) The dependent and the employee are otherwise eligible to enroll in the benefit package;

(2) When coverage under the plan was previously offered, the dependent had coverage under any group health plan or health insurance coverage; and

(3) The dependent satisfies the conditions of paragraph (a)(3)(i), (ii), or (iii) of this section and, if applicable, paragraph (a)(3)(iv) of this section.

(B) However, the plan or issuer is not required to enroll any other dependent unless that dependent satisfies the criteria of this paragraph (a)(2)(ii), or the employee satisfies the criteria of paragraph (a)(2)(i) of this section.

(iii) *Examples.* The rules of this paragraph (a)(2) are illustrated by the following examples:

Example 1.

(i) *Facts.* Individual A works for Employer X. A, A's spouse, and A's dependent children are eligible but not enrolled for coverage under X's group health plan. A's spouse works for Employer Y and at the time coverage was offered

under X's plan, A was enrolled in coverage under Y's plan. Then, A loses eligibility for coverage under Y's plan.

(ii) *Conclusion.* In this *Example 1*, because A satisfies the conditions for special enrollment under paragraph (a)(2)(i) of this section, A, A's spouse, and A's dependent children are eligible for special enrollment under X's plan.

Example 2.

(i) *Facts.* Individual A and A's spouse are eligible but not enrolled for coverage under Group Health Plan P maintained by A's employer. When A was first presented with an opportunity to enroll A and A's spouse, they did not have other coverage. Later, A and A's spouse enroll in Group Health Plan Q maintained by the employer of A's spouse. During a subsequent open enrollment period in P, A and A's spouse did not enroll because of their coverage under Q. They then lose eligibility for coverage under Q.

(ii) *Conclusion.* In this *Example 2*, because A and A's spouse were covered under Q when they did not enroll in P during open enrollment, they satisfy the conditions for special enrollment under paragraphs (a)(2)(i) and (ii) of this section. Consequently, A and A's spouse are eligible for special enrollment under P.

Example 3.

(i) *Facts.* Individual B works for Employer X. B and B's spouse are eligible but not enrolled for coverage under X's group health plan. B's spouse works for Employer Y and at the time coverage was offered under X's plan, B's spouse was enrolled in self-only coverage under Y's group health plan. Then, B's spouse loses eligibility for coverage under Y's plan.

(ii) *Conclusion.* In this *Example 3*, because B's spouse satisfies the conditions for special enrollment under paragraph (a)(2)(ii) of this section, both B and B's spouse are eligible for special enrollment under X's plan.

Example 4.

(i) *Facts.* Individual A works for Employer X. X maintains a group health plan with two benefit packages—an HMO option and an indemnity option. Self-only and family coverage are available under both options. A enrolls for self-only coverage in the HMO option. A's spouse works for Employer Y and was enrolled for self-only coverage under Y's plan at the time coverage was offered under X's plan. Then, A's spouse loses coverage under Y's plan. A requests special enrollment for A and A's spouse under the plan's indemnity option.

(ii) *Conclusion.* In this *Example 4*, because A's spouse satisfies the conditions for special enrollment under paragraph (a)(2)(ii) of this section, both A and A's spouse can enroll in either benefit package under X's plan. Therefore, if A requests enrollment in accordance with the requirements of this section, the plan must allow A and A's spouse to enroll in the indemnity option.

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