



# Complex Cases: Assisting Victims of Domestic Violence



*Center for Consumer  
Information and  
Insurance Oversight  
(CCIIO)*

*April 29, 2016*

# Scenario: Assisting Victims of Domestic Violence

## Sonya, 37 years old, Married, Mother of One Child

- Sonya experienced domestic violence perpetrated by her husband a month ago. Sonya is still legally married to her husband; however, she has filed a restraining order against her husband and moved to a new house.
- Sonya has a 4-year old daughter, Sophia, who lives with her year-round.
- Sonya works as an office assistant at a small business and earns \$28,000 annually. Her employer does **not** offer health insurance benefits to its employees.
- Sonya wants to enroll in coverage separate from her abusive husband and is interested in getting coverage for her and her daughter through the Marketplace. However, it is outside the Marketplace's annual Open Enrollment Period.
- Sonya and her husband **will not be filing taxes jointly**. Sonya will be filing her taxes under the "married filing separately" category.
- Since Sonya is still legally married, but will not be filing taxes jointly with her husband, will Sonya be eligible to receive financial assistance through the Marketplace for her and her daughter, if otherwise eligible? And, since it is outside of the Marketplace's annual Open Enrollment Period, will Sonya and her daughter be able to enroll in Marketplace coverage?

# Assisting Victims of Domestic Violence

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

# Is Sonya eligible for a special enrollment period to enroll in Marketplace coverage outside the Marketplace's annual Open Enrollment period?

- Yes. Victims of **domestic violence**, like Sonya, **and their dependents** (in this case, Sonya's daughter) who want to enroll in coverage apart from their abuser have experienced a qualifying event that qualifies them for a special enrollment period.
- Sonya must call the Marketplace Call Center to request this special enrollment period. This special enrollment period cannot be accessed through HealthCare.gov. After qualifying, Sonya has 60 days to select a plan.
- It is important to note that Sonya's daughter, as a dependent of a victim of domestic violence, is able to enroll in Marketplace coverage with her mother through this special enrollment period.
- Victims of **spousal abandonment** and their dependents may also qualify for this special enrollment period.
- It is also important to note that the victim of domestic violence (or spousal abandonment) does not need to be married to the perpetrator to 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; eligibility is based on self-attestation.
- For more details about this special enrollment period, click here: [https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Updated-Guidance-on-Victims-of-Domestic-Abuse-and-Spousal-Abandonment\\_7.pdf](https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Updated-Guidance-on-Victims-of-Domestic-Abuse-and-Spousal-Abandonment_7.pdf).

# Can Sonya receive cost-lowering financial assistance through the Marketplace?

- Yes. Sonya and her daughter can receive financial assistance through the Marketplace, as long as they are otherwise eligible.
- Generally, however, married consumers must file jointly to be eligible for financial assistance through the Marketplace. 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.
- *An assister should assure Sonya that she will not face any penalty for representing that she is not married on the application.*

# Eligibility for Financial Assistance

- Based on her household income and family size, Sonya 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 selected for herself and Sophia.
- Sonya can find out what financial assistance she could be eligible for by filling out a Marketplace application and submitting the application prior to calling the Marketplace Call Center to access the SEP for survivors of domestic violence. Because Sonya is applying outside open enrollment, she will not be able to actually select a plan until she is granted the SEP by the Call Center.
- Sonya's daughter Sophia may be determined to be eligible for a Marketplace plan with financial assistance as well, or for the Children's Health Insurance Program (CHIP), depending on her state's eligibility criteria.

# How to Apply for Coverage Using the SEP for Victims of Domestic Violence of Spousal Abandonment

- If Sonya wants to see if she is eligible Marketplace coverage and financial assistance through the Marketplace, she can fill out and submit an 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.
- Remember, when filling out the Marketplace application, Sonya should:
  - Indicate that she is **not married** on the application.
  - Indicate that her family size is 2 (Sonya and Sophia) and her income is \$28,000. She will **not** include her husband or his income on the application.
- Once Sonya has decided she wants to enroll in Marketplace coverage, she can access the special enrollment period for victims of domestic violence through the Marketplace Call Center at 1-800-318-2596 (TTY: 1-855-889-4325).
- After accessing the SEP through the Marketplace Call Center, Sonya can now compare plans and enroll in coverage. Sonya will have 60 days from the date the Call Center grants her the SEP to enroll in coverage.

# When Consumers File Their Taxes

- The Internal Revenue Service 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 Treasury Notice 2014-23.
- Married consumers who receive advanced premium tax credits and who have experienced domestic abuse or spousal abandonment must follow the IRS instructions for form 8962 to claim their premium tax credits on their tax return. To claim the premium tax credits, the consumer must be living apart from his/her spouse when they file their taxes.



# Eligibility for the Hardship Exemption

- If consumers who are victims of domestic violence or spousal abandonment choose not to enroll in a Marketplace plan or other health coverage option, they can apply for a hardship exemption which would allow them to be exempt from the individual shared responsibility fee for going without coverage for 3 or more consecutive months out of the year.
- On the hardship exemption application, consumers will need to indicate when the domestic violence started, 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 an exemption due to domestic violence or spousal abandonment, and the **form** for claiming an exemption, go to: <https://www.healthcare.gov/exemptions-tool/#/results/2015/details/domestic-violence>.