

# Health Care Authority

## Frequently Asked Questions

**Issue: Re-enrollment in Basic Health for Members disenrolled on March 1 because of their citizenship or immigration status**

### What is the situation?

**The Lawsuit** - A class action lawsuit against the Health Care Authority (HCA) was recently filed challenging HCA's disenrollment of individuals from Basic Health (BH) on March 1, 2011, due to the members' immigration status. The case is *Unthaksinkun v. Porter*, No. C11-00588JLR and is currently pending in the United States District Court for the Western District of Washington.

**The Order** - On September 28, 2011 the court issued an Order requiring HCA to offer re-enrollment in Basic Health to approximately 11,000 members who were disenrolled this past March because of their immigration status. The judge ruled that people who are "lawfully present" in the United States should not be excluded from Basic Health if they are otherwise eligible. The judge also ruled that all immigrants who were disenrolled on March 1 were entitled to a better notice explaining why they were being disenrolled and what they could do to try to keep their coverage.

**Class Action** - The Court's September 28 Order allowed the case to go forward as a class action and defined two classes of individuals who are affected by the case:

- **Equal Protection Class** – individuals who were disenrolled on March 1, 2011 because of their citizenship or immigration status who are lawfully present in the United States.
- **Due Process Class** – individuals who received notices from HCA that they would be disenrolled on March 1, 2011 because of their citizenship or immigration status.

### FAQ

- 1. Who can re-enroll?**  
Members of either class may reenroll as long as they (or their sponsor) pay their premium.
- 2. How do members re-enroll?**  
Members or their sponsors need to pay their premium and ask for coverage if they were disenrolled because of their immigration status in March 2011.
- 3. When are re-enrollments effective?**  
December 1, 2011, unless members request their coverage to begin January 1, 2012. Members who need services for September, October, and/or November 2011 may request reenrollment for those months upon payment of all premiums.
- 4. What premium will I have to pay to re-enroll?**  
Class members who do not have sponsors (organizations that have agreed to pay their Basic Health premiums) will generally have to pay the same monthly premium they were charged before their disenrollment in March of 2011. Basic Health is sending each class member without a sponsor a billing statement that lists this premium. Class members' whose income has changed can send proof of this to Basic Health, and we will determine if their premiums should now be lower. More information about this is found in question #10.
- 5. When are Premiums due?**
  - For December coverage - BH must receive payment for December coverage by the regularly scheduled due date, November 21, 2011.
  - For January coverage - Class members who ask to re-enroll beginning in January should pay their premium by December 22, 2011 to avoid any delay in accessing services.
  - Class members will still be able to re-enroll if HCA receives a request and a premium payment by December 31, 2011.

- 6. When are Premiums due for retroactive coverage?**  
Class members who want their Basic Health coverage to begin in September, October or November of 2011 (retroactive coverage) must ask for this coverage and send in their premiums for all months of coverage they are seeking. Basic Health must receive the request for coverage and premiums no later than December 31, 2011.
- 7. What if a Class member doesn't ask for re-enrollment or send in their premium by December 31, 2011?**  
Class members must generally ask to be re-enrolled in Basic Health and HCA must receive their premiums by December 31, 2011. Otherwise, they may not re-enroll as part of the process required by the court's Orders unless they can show that there are extenuating circumstances for not paying their premium to HCA by December 31, 2011.
- 8. What if a Class member had their premium paid by a Basic Health sponsoring organization?**  
HCA has contacted Basic Health sponsors to notify them that they can choose to re-enroll any previously sponsored class member. Sponsors have until November 9, 2011 to confirm whether they will resume sponsorship. If a sponsor chooses not to resume sponsorship of a class member, we will offer members individual coverage.
- 9. Are members eligible to re-enroll if they were disenrolled from Basic Health in March because they did not meet the Basic Health eligibility requirements? (Over age 64, over 133% FPL)**  
These individuals are not considered part of the classes affected by the court order and will remain disenrolled. Similarly, individuals who were disenrolled from Basic Health for other reasons, such as non-payment of premiums, are not part of this group. If you have any questions about the reasons you were disenrolled in March of 2011, you can call HCA or the lawyers listed at the bottom of this FAQ.
- 10. What if my household income changed since I was disenrolled in March? Can my premium be lowered?**  
If your income has changed, you may send in proof of the change for us to review. If your countable household income has gone down since February of this year, and you send us proof, we will recalculate your premium. Rules about how we count income are available at [WAC 182-24-025](#).
- 11. I would like to re-enroll, but if I do, the total household premium for everyone on BH in my household will be too high for us to afford. Can enrolled family members drop Basic Health coverage to lower the total household premium?**  
Yes. However members who voluntarily disenroll are subject to a 12 month waiting period before they may be considered eligible to be added to the Wait List for re-enrollment. If your income has changed, you may send in proof of the change for BH to review.
- 12. Can class members add other dependents during Open Enrollment (OE)?**  
Yes. Qualifying events such as birth and marriage will apply and may help to lower the monthly premiums. However, members not a part of the class will be added for family size only - they will not be added for coverage.
- 13. Can class members change their plans when they re-enroll?**  
Class members will be re-enrolled in the same health plan they were enrolled in at the time of disenrollment, unless they are otherwise eligible to change plans (for example, if they have moved from one service area to another since they were disenrolled and their "old" plan is not available or there is another plan available at a lower cost).
- 14. Will class members be notified of these changes in other languages than English?**  
Yes. HCA will provide notices in Spanish, Russian, Vietnamese, Chinese, and Korean and will provide an interpreter or accommodations for a disability to anyone who needs help understanding or communicating with HCA about this.
- 15. What happens to enrollment packets that are undeliverable by the Post Office?**  
They are returned to Basic Health within 4-5 days. Every effort is made to determine the new address for any class member whose notices are returned by the post office and then to re-mail the information to the correct address. If your address has changed, please contact us to speed up re-mailing.

- 16. Can class members on other wait list exempt programs such as Maternity Medical return to Basic Health?**  
Yes. Class members will be treated as if they had not been disenrolled from BH in accordance with Wait List exemption rules.
- 17. What happens if a member has met all or part of their deductible for a coverage year?**  
The deductible, coinsurance, and out-of-pocket maximum *do not* begin over for class members.
- 18. What if a class member reports they are over income or otherwise not eligible?**  
If you re-enroll and the Health Care Authority decides you are no longer eligible for Basic Health, we will send you a letter telling you that you are being disenrolled for that reason, along with your rights to appeal that decision and receive Basic Health services while you appeal.
- 19. How do I show a class member is lawfully present?**  
If we are able to determine that a class member is lawfully present in the United States, we will not ask the member for more information about this. If we do not have enough information to determine that a re-enrolled class member is lawfully present, we will mail the class member a form (“Continued Eligibility Determination”) requiring documents that prove he or she is lawfully present. This information will not be shared with immigration authorities. A list of documents that provide proof of lawful presence will be included with the Continued Eligibility Determination form and is available at [http://www.basicealth.hca.wa.gov/documents/immigration\\_statuses.pdf](http://www.basicealth.hca.wa.gov/documents/immigration_statuses.pdf).
- 20. Are class members required to re-enroll?**  
Class members are not required to re-enroll. They are simply being offered the opportunity to enroll.
- 21. If a member re-enrolls, will there be a waiting period before they can receive services for a pre-existing condition?**  
No.
- 22. How does a member submit requests to have services covered for the months for which they are retroactively enrolled?**  
Members who have been retroactively re-enrolled may submit the bills for past covered services to their plans.
- 23. How does a former BH member who was receiving Medicaid due to pregnancy or the post-partum extension during February and/or March 2011 reenroll?**  
Former BH members who were receiving Medicaid due to pregnancy or the post-partum extension during February and/or March 2011, but who were not re-enrolled in BH after Medicaid ended due to their immigration status, are eligible to re-enroll. Please contact us to be re-enrolled.

## Resources

For eligibility and enrollment questions:  
Basic Health (Health Care Authority)  
1-800-660-9840

For more information about the lawsuit:  
Northwest Health Law Advocates and Riddell Williams, P.S.  
206-389-1665 or 1-888-989-1665  
[basicealthcase@nohla.org](mailto:basicealthcase@nohla.org)

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