

Summary: This final SHOP rule amends existing regulations regarding –

- triggering events and special enrollment periods for qualified employees and their dependents, and
- implements a transitional policy regarding employees’ choice of qualified health plans (QHPs) in the SHOP.

This final rule consists of a provision to amend the duration of certain special enrollment periods to correspond to the duration in group market under HIPAA.

The rule also adds a triggering event that creates a special enrollment period for qualified employees and/or their eligible dependents when an employee or qualified dependent with coverage through the SHOP becomes eligible for State premium assistance under Medicaid or CHIP or loses eligibility for Medicaid or CHIP. HIPAA already includes this triggering event which was inadvertently omitted from the original list in §155.420(d).

This rule provides a transition so that SHOPS provide qualified employer’s the option to offer qualified employees a choice of any QHP at a single metal level starting with plan years beginning on or after January 1, 2015 instead of January 1, 2014. For plan years beginning in CY2014, qualified employers will offer qualified employees coverage through a single QHP in FF-SHOP. State-based SHOPS will have the flexibility to offer either employer or employees choice in 2014.

45 CFR PART 155—EXCHANGE ESTABLISHMENT STANDARDS AND OTHER RELATED STANDARDS UNDER THE AFFORDABLE CARE ACT

■ 1. The authority citation for part 155 continues to read as follows:

Authority: Title I of the Affordable Care Act, sections 1301, 1302, 1303, 1304, 1311, 1312, 1313, 1321, 1322, 1331, 1334, 1402, 1411, 1412, 1413.

■ 2. Section 155.705 is amended by revising paragraphs (b)(2) through (4) to read as follows:

§ 155.705 Functions of a SHOP.

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(b) * * *

(2) Employer choice requirements.

With regard to QHPs offered through the SHOP for plan years beginning **on or after** January 1, 2015, the SHOP must allow a qualified employer to select a level of coverage as described in section 1302(d)(1) of the Affordable Care Act, in which all QHPs within that level are made available to the qualified employees of the employer.

(3) SHOP options with respect to employer choice requirements.

(i) For plan years beginning before January 1, 2015, a SHOP may allow a qualified employer to make one or more QHPs available to qualified employees:

(A) By the method described in paragraph (b)(2) of this section, or

(B) By a method other than the method described in paragraph (b)(2) of this section.

- (ii) **For plan years beginning on or after January 1, 2015, a **SHOP**:**
- (A) Must allow an employer to make available to qualified employees all QHPs at the level of coverage selected by the employer as described in paragraph (b)(2) of this section, and
 - (B) May allow an employer to make one or more QHPs available to qualified employees by a method other than the method described in paragraph (b)(2) of this section.

(iii) **For plan years beginning before January 1, 2015, a **Federally-facilitated SHOP** will provide a qualified employer the choice to make available to qualified employees a single QHP.**

- (iv) **For plan years beginning on or after January 1, 2015, a **Federally- facilitated SHOP** will provide a qualified employer a choice of two methods to make QHPs available to qualified employees:**
- (A) The employer may choose a level of coverage as described in paragraph (b)(2) of this section, or
 - (B) The employer may choose a single QHP.

(4) (i) *Premium aggregation.*

Consistent with the effective dates set forth in paragraph (b)(4)(ii) of this section, the SHOP must perform the following functions related to premium payment administration:

- (A) Provide each qualified employer with a bill on a monthly basis that identifies the employer contribution, the employee contribution, and the total amount that is due to the QHP issuers from the qualified employer;
- (B) Collect from each employer the total amount due and make payments to QHP issuers in the SHOP for all enrollees; and
- (C) Maintain books, records, documents, and other evidence of accounting procedures and practices of the premium aggregation program for each benefit year for at least 10 years.

(ii) *Effective dates.*

- (A) A **State-based SHOP may elect** to perform these functions for plan years **beginning before** January 1, 2015, but need not do so.
- (B) A **Federally-facilitated SHOP will perform** these functions only in plan years beginning **on or after** January 1, 2015.

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■ 3. Section 155.725 is amended by:

■ A. Amending paragraph (a)(1) by adding “and” at the end of the paragraph.

■ B. Amending paragraph (a)(2) by removing “; and” and by adding a period in its place at the end of the paragraph.

■ C. Removing paragraph (a)(3), and

■ D. Adding paragraph (j).

The addition reads as follows:

§ 155.725 Enrollment periods under SHOP.

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(j)(1) Special enrollment periods.

The SHOP must provide special enrollment periods consistent with this section, during which certain qualified employees or a dependent of a qualified employee may enroll in QHPs and enrollees may change QHPs.

(2) The SHOP must provide a special enrollment period for a qualified employee or dependent of a qualified employee who:

- (i) Experiences an event described in § 155.420(d)(1), (2), (4), (5), (7), (8), or (9);
(Page 41883 of CFR)
- (ii) Loses eligibility for coverage under a Medicaid plan under title XIX of the Social Security Act or a State child health plan under title XXI of the Social Security Act; or
- (iii) Becomes eligible for assistance, with respect to coverage under a SHOP, under such Medicaid plan or a State child health plan (including any waiver or demonstration project conducted under or in relation to such a plan).

(3) A qualified employee or dependent of a qualified employee who experiences a qualifying event described in paragraph (j)(2) of this section has:

- (i) **Thirty (30) days** from the date of a triggering event described in paragraph (j)(2)(i) of this section to select a QHP through the SHOP; and
- (ii) **Sixty (60) days** from the date of a triggering event described in paragraph (j)(2)(ii) or
- (iii) of this section to select a QHP through the SHOP;

(4) A dependent of a qualified employee is not eligible for a special election period if the employer does not extend the offer of coverage to dependents.

(5) The effective dates of coverage are determined using the provisions of § 155.420(b).
(Page 41883 of CFR)

(6) Loss of minimum essential coverage is determined using the provisions of § 155.420(e).
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