



Issued date: 05/08/13

Individuals and small employers will be able to purchase private health insurance through a new marketplace called “The Exchange” beginning in 2014. Each state that chooses to operate an Exchange must also establish a Small Business Health Options Program (“SHOP”) that assists eligible small businesses in providing health insurance options for their employees. HHS has also provided for a federally facilitated SHOP (“FF SHOP”) in states such as Texas and Louisiana that will not establish a state-based Exchange. Participation in the SHOP is strictly voluntary for small employers. However, beginning in 2014, purchasing group health coverage through a SHOP will be the only way for certain small employers to obtain a small business health care tax credit.

Special Enrollment

The special enrollment period for the SHOP aligns with the HIPAA Special Enrollment Rule, allowing individuals 30 days to request an election change for most applicable triggering events (e.g., an employee or dependent losing group coverage or an employee gaining a dependent through marriage, birth or adoption). Where an employee or dependent becomes eligible for Medicaid or SCHIP, the employee or dependent would have 60 days to request an election change.

Delay for Employee Choice Model

In a previous rule, both state-operated SHOPs and FF SHOPs were required to allow employers the option to offer employees all qualified health plans (“QHPs”) at a metal level of coverage (bronze, silver, gold, or platinum), chosen by the employer, and the SHOP could allow employers to offer one or more QHPs to qualified employees by other methods. However, there were some concerns as to whether (i) issuers could meet deadlines for submission of small group market QHPs given the new small group market rating rules; (ii) issuers could complete enrollment and accounting changes required to interact with the SHOP enrollment and premium aggregation systems required by employee choice; and (iii) there would be adequate time to educate employers, employees and brokers about the employer and employee choices available in the SHOP.

CMS now proposes that the employer choice requirements for both state-based SHOPs and FF SHOPs will be effective January 1, 2015. In 2014, state-based SHOPs (but not FF SHOPs) could elect to offer employee choice for plan years beginning before January 1, 2015. This transitional policy is intended to provide additional time to prepare for an employee choice model and to increase the stability of the small group market while providing small groups with the