

# SHOP Final Regulations

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# SHOP

- Health and Human Services issued three regulations in March
  - Exchange Regulations-March 13<sup>th</sup>, 2012
  - The Reinsurance, Risk Corridors and Risk Adjustment Rule-March 16<sup>th</sup>, 2012
  - Medicaid Eligibility Rule-March 16<sup>th</sup>, 2012
- SHOP final regulations are in the March 13<sup>th</sup> release of Exchange Regulation , Subpart H, 155.700-155.730  
<http://www.regulations.gov/#!documentDetail;D=HHS-OS-2011-0020-2420>

# Small Employer Exchange Provisions

- Exchanges must give employers the option to select a metal level, within which employees may select any QHP
- Exchanges may choose to allow choice across metal levels, or permit an employer to offer only a single plan
- Unless the Exchange merges the markets, employees may only select from the group QHPs – we are discussing impact on multiemployer, multi-contribution, and portability with HHS
- Insurers do not need to participate in both the small group and individual markets, but an Exchange can choose to implement such a participation requirement
- States may decide whether to implement a group employee participation rule, but if states choose to do so it must be at the Exchange, not QHP or insurer level
- Sole proprietors are not eligible for small employer Exchange participation, only individual Exchange participation

# SHOP Provisions

## Emphasis on State flexibility in designing the SHOP

- Employer Choice with plan selection
- Minimum Participation Requirements
- Carrier Participation in small group and individual market
- Consumer Assistance Tools including:
  - Premium Calculator functionality
  - Premium Aggregation
  - Websites with ancillary products

# Standards for Establishment of the SHOP

155.700(b) and 155.705 (b)(10)

Option of the States to add a group participation rule:

“A requirement relating to the minimum number of participants or beneficiaries that must be enrolled in relation to a specified percentage or number of eligible individuals or employees of an employer”

If states choose to implement a group employee Participation rule it must be at the Exchange, not QHP or insurer level

# Unique Functions of the SHOP

155.705(b)(2) and (b)(3)

## Employer Plan Choice

- SHOP must allow employers to select a level of coverage in which all QHPs within that level are made available to employees
- Final Rule adds flexibility in the employer plan offerings that can be offered on SHOP. For example, employer could offer plans across metal levels
- Task Force recommendation and how it frames our work  
<http://mn.gov/commerce/insurance/images/ExchTaskForceHealthRec.pdf>

# Unique Functions of a SHOP

155.705 (b)(4)

## Premium aggregation

SHOP must provide qualified employer with a monthly bill that:

- identifies the total amount due to QHP issuers
- includes the portion of each employee's premium that the employer is responsible for and the portion for which the employee is responsible
- SHOP will collect amounts due from employers and make payments to QHP issuers
- SHOP must maintain premium aggregation records for at least ten years

# Unique Functions of the SHOP

155.705(b)(7) and (b)(8)

QHP availability in merged and unmerged risk pools

How can the SHOP enhance portability?

Unless the Exchange merges the markets, employees may only select from the group QHPs – we are discussing the impact of the final rule on multi-employer, multi-contribution, and portability with HHS

# Unique Functions of a SHOP

155.705(b)(11)

Premium calculator

- Final rule adds a requirement that the SHOP must provide a premium calculator to facilitate comparisons of available QHPs after the application of any applicable employer contributions
- Minimum functions
- Future discussion topic what calculator functions would be helpful to small business employers and employees?

# Eligibility Standards for the SHOP

155.710

## Employer and Employee eligibility requirements

- Employers must meet the eligibility requirements for each SHOP in which they participate
- Fluctuations in group size  
Qualified employers do not lose eligibility solely as a result of gaining employees beyond the small group market definition

# Eligibility Determination Process for the SHOP

155.715

Final Rule outlines the methods and timing for determining employer and employee eligibility

- New – Consumer protections around privacy and notice rights, SHOP may only collect the minimum information necessary to verify eligibility, and no individual citizenship verification

# Eligibility Determination Process for the SHOP

155.715 Continued

- Guidelines for the overall process:
  - Single employer application and single employee form
  - Notify the employer or employee of inconsistencies between the applications and eligibility standards
  - Provide notice of eligibility denial and appeal rights
  - Provide a thirty day period for employers to resolve inconsistencies
  - Notification to employees when their employer ceases to purchase coverage through the SHOP, and information on coverage alternatives

# Enrollment of Employees into QHP's under SHOP

155.720

Final Rule outlines the activities of the SHOP to enroll employees into QHPs

## ➤ New in Final Rules:

- Carriers are not required to participate in both the SHOP and the individual Exchange-State discretion
- QHPs are responsible for notifying employees of their coverage effective dates
- SHOP must retain records for ten years and report employer participation and employee enrollment to the IRS for tax administration purposes

# Enrollment Periods under SHOP

155.725

## Employer Enrollment Period

- A new requirement that employers must have at least thirty days before the end of their plan year to make SHOP participation changes for the upcoming year

# Enrollment Periods under SHOP

155.725

## Employee enrollment periods

- Specifies the employee enrollment period must be at least thirty prior to the end of the plan year
- Broadens the scope of employees, to include more than just new hires, entitled to enroll at the time they become “qualified”
- Extends the special enrollment periods to the SHOP that are applicable in the individual Exchange

# Application Standards for SHOP

155.730

- Final Rule prohibits SHOPS from sharing information with employers about an employee's dependents other than name, dob, and address

# Further guidance pending

- Multiple employer plans
- Determining employer size
- Taft Hartley plans

# Discussion topics

- Minimum participation rule
- Employer choice
- Carrier participation in both market segments
- Assistance tools :
  - Premium calculator
  - Premium aggregation-monthly bill minimum of two requirements
  - Websites for ancillary products
- Single application, streamlining administrative process