

Small Business Health Options Program (SHOP)

March 8, 2013

SHOP Overview and Plan Management Considerations.



Background

The Small Business Health Options Program (SHOP) is a program operated by the exchange through which a qualified employer can provide its employees and their dependents with access to one or more QHPs. The SHOP program is for employers with up to 100 employees, although states can choose to limit SHOP participation to employers with up to 50 employees through plan years beginning prior to January, 2016. The Arkansas Insurance Department (AID) has chosen to limit the SHOP exchange to employers with 50 employees until 2016 and has decided not to merge the individual and small group markets for plan year 2014. After plan year 2016, small employers with up to 100 employees will be allowed to participate.

Because Arkansas is a Federal Partnership Exchange (FPE), SHOP plans will be submitted to AID for review, and AID will recommend QHPs to the SHOP exchange for certification. SHOP plans will be required to comply with all QHP criteria, and AID will use the same processes and procedures to recommend SHOP plans to the exchange for certification. Employers will be able to apply for SHOP eligibility through the Federally-Facilitated Exchange (FFE). The FFE will display SHOP plans on the portal and will facilitate employer enrollment in the SHOP program, employee plan enrollment, and payment of premiums.

SHOP Overview

Requirements for Issuers

Issuers offering plans in the individual market are required to offer at least one plan in the small group market at the silver and gold metal A/V levels if they have at least 20 percent market share for small group plans in the state.¹ Issuers must also ensure that QHPs offered on the exchange are offered at the same price outside the exchange. Additionally, catastrophic plans are not allowed to be offered through the SHOP exchange. Issuers must ensure that a minimum actuarial value of 60% is achieved for SHOP plans.

QHP issuers can only increase SHOP plan rates at a uniform time that is either monthly, quarterly or annually and cannot change QHP rates for an employer during a plan year. SHOP plans have an additional annual limitation on deductibles of \$2,000 in the case of a plan covering an individual and \$4,000 in the case of a plan covering dependents or other family compositions.

¹ HHS Notice of Benefit and Payment Final Rule

Employee Choice

45 CFR 155.705 requires that the SHOP exchange permit employers to select a metallic level wherein employees could choose any QHP within that cost-sharing amount. Alternatively, employers could choose one or more QHPs that would be offered. In other words, an issuer could choose the silver metallic level, and employees would be able to choose from all silver plans offered on the exchange. The FFE would facilitate the enrollment and premium payment of the plans.

Note: the March 1, 2013 proposed rules amends 45 CFR 155.706; the federally-facilitated exchange will only allow employers to choose one QHP in plan year 2014. Beginning in plan year 2015, employers will be able to offer plans as described in 45 CFR 155.705. The FFE will also not pay aggregate premiums to issuers until plan year 2015.

Method of Counting Employees to Determine SHOP Eligibility

Through 2016, only small employer groups (fewer than 50 employees) may purchase SHOP QHPs. The method of counting employees in proposed rule 77 FR 73186 requires that full-time employees are counted as well as part-time employees who work more than 30 hours per week.² Employees who are eligible for other public health options such as Medicare do not count as eligible employees.

Minimum Participation Rate

45 CFR 155.705(b) defines a minimum participation rate for employer enrollment in SHOP QHPs of 70%. The rate is based on the rate of employer participation in the SHOP and not in any particular QHP. Exchange proposed rule 77 FR 73186 establishes a 70% minimum participation rate for SHOP enrollment, but permits the FF-SHOP to adopt a different participation rate if (1) A State law sets the rate; or (2) A higher or lower rate is customarily used by the majority of QHP issuers in that State for products in the State's small group market outside the SHOP.³ AID believes that small group carriers in Arkansas typically use a 75% minimum participation rate and can recommend the use of this rate to the FF-SHOP.

² IRS code 4980H(c)(2)(e)

³ **45 CFR 155.705(b)**

(10) Participation rules. The SHOP may authorize uniform group participation rules for the offering of health insurance coverage in the SHOP. If the SHOP authorizes a minimum participation rate, such rate must be based on the rate of employee participation in the SHOP, not on the rate of employee participation in any particular QHP or QHPs of any particular issuer.

Proposed Rule 77 FR 73186

Because we believe risk selection based on employee decisions to participate is likely without a minimum participation rate, we propose a minimum participation rate for the FF-SHOP of 70 percent, calculated at the level

Employer Contributions

45 CFR 155.725(c)(2) allows employers to define premium contributions for SHOP enrollees. For example, employers could define a contribution amount or percentage for individual employees, a uniform rate for all employees, tiered rates for types of employees, or fixed dollar amounts based on a reference plan. In order to be eligible for employer tax credits, employers must contribute 50% to employee coverage. Employer contributions methods are not currently regulated by AID.

Application of Rating Requirements to SHOP

In the February 27th, 2013, Market Reform Regulations proposed rules, HHS clarified the group rating requirements for SHOP. The total premium charged to the group cannot be an aggregate or average, but must be equivalent to the sum of the individual premiums of covered participants and beneficiaries:

...The total premium charged to the group is determined by summing the premiums of covered participants and beneficiaries in accordance with paragraph (c)(1) or (c)(2) of this section, as applicable. Nothing in this section precludes a state from requiring issuers to offer, or an issuer from voluntarily offering, to a group, premiums that are based on average enrollee amounts, provided that the total group premium is the same total amount derived in accordance with paragraph (c)(1) or (c)(2) of this section, as applicable.⁴

Role of Agents and Brokers

The FFE will provide information regarding licensed agents and brokers who have completed registration and training with the FFE. Agents and brokers can assist qualified individuals, employers, or employees in QHP enrollment. In the individual and SHOP exchange, issuers are required to pay the same brokers compensation offered in the state outside the exchange.⁵

of the FF-SHOP. This rate is based on consultations with issuer organizations and regulators about customary minimum participation rates and would apply to all qualified employers in the FF-SHOP serving a given State. Because State law, regulation, and market practices vary from State to State, we also propose an option for the FF-SHOP to adopt a different uniform minimum participation rate in a State with a FF-SHOP if there is evidence that: (1) A State law sets the rate; or (2) A higher or lower rate is customarily used by the majority of QHP issuers in that State for products in the State's small group market outside the SHOP.

⁴ 45 CFR 147.102

⁵ HHS Notice of Benefit and Payment Final Rule

SHOP Enrollment Periods

The SHOP must permit a qualified employer to purchase coverage for its small group at any point during the year. The employer's plan year must consist of the 12-month period beginning with the qualified employer's effective date of coverage. New employees or newly qualified employees (employees who become qualified) during the plan year must be allowed to enroll upon qualification. The FFE SHOP will notify enrollees of open enrollment periods.

In the annual plan renewal period, employers may change the employer contribution, the metallic level of coverage offered and/or QHPs offered to qualified employees.

In the case of a SHOP plan decertification or other loss of minimum essential benefit coverage at the minimum required value through the SHOP employer plan, employees must be granted a special enrollment period pursuant to proposed rule 45 CFR §155.725 during which they can enroll in another QHP offered in the *SHOP Exchange*.

Multi-State Plans

MSPs must participate in SHOP consistent with the requirements for QHP issuers offering plans in the individual market.

