



## *RESOLUTION*

### **EXECUTIVE BOARD OF THE DISTRICT OF COLUMBIA HEALTH BENEFIT EXCHANGE AUTHORITY**

**To define additional “exceptional circumstances” permitting a Special Enrollment Period.**

**WHEREAS**, the Health Benefit Exchange Authority Establishment Act of 2011, effective March 4, 2012 (D.C. Law 19-94; D.C. Official Code § 31-3171.01 *et seq.*) (“Act”) created the District of Columbia Health Benefit Exchange Authority (“Authority”), an independent authority of the Government of the District of Columbia, and its governing Executive Board;

**WHEREAS**, §5 of the Act (D.C. Official Code §31-3171.04(a)(1) & (9)) requires the Authority to establish an American Health Benefit Exchange for individuals and families, including the establishment of enrollment periods, and §7 of the Act (D.C. Official Code §31-3171.06(a) & (b)) authorizes the Executive Board to take necessary lawful action to implement provisions of the Affordable Care Act of 2010 (“ACA”) (P.L. 111-148 & P.L. 111-152);

**WHEREAS**, 45 C.F.R. §155.420(d)(1) – (8) & (10) establishes a series of circumstances in which QHPs must permit qualified individuals to receive a 60-day special enrollment period (SEP) to enroll in the Individual Exchange marketplace outside an Open Enrollment Period;

**WHEREAS**, 45 C.F.R. §155.420(d)(9) permits the Exchange to define “exceptional circumstances” establishing additional SEPs;

**WHEREAS**, on May 9, 2013, the Executive Board defined several “exceptional circumstances” SEPs;

**WHEREAS**, after open enrollment ended, Authority staff conducted a survey of “exceptional circumstances” SEPs established by the federally-facilitated and other state-based American Health Benefit Exchanges and compiled a list of recommendations of additional “exceptional circumstances” for consideration and debate by the Standing Advisory Board; and

**WHEREAS**, on May 30, 2014, the Standing Advisory Board received the staff recommendations, deliberated on this topic, and unanimously approved recommendations to the Executive Board;

**NOW, THEREFORE, BE IT RESOLVED** that the Executive Board hereby adopts the following:

The District of Columbia Health Benefit Exchange Authority will consider it an “exceptional circumstance”, permitting a new special enrollment period (SEP), when an applicant or enrollee does not select a plan during Initial Enrollment, Open Enrollment, or an SEP granted on other grounds, due to one of the following circumstances. Unless otherwise indicated, effective dates follow the rules established in 45 C.F.R. §155.420(b)(1) and the length of the SEP shall be in accordance with 45 C.F.R. §155.420(c).

- 1) A natural disaster such as an earthquake, massive flooding, or hurricane prevented the consumer from enrolling during open enrollment or their special enrollment period. The triggering event shall be day of the disaster of the event, to include the last day in circumstances involving multi-day disasters.
- 2) A serious medical condition, such as an unexpected hospitalization or temporary cognitive disability prevented the consumer from enrolling during open enrollment or a special enrollment period for which they were otherwise eligible. The triggering event shall be based on the circumstances of the medical condition as determined by the Authority.
- 3) A DC Health Link system outage or an outage of federal or local data sources, around the plan selection deadline prevented a consumer from enrolling during open enrollment or a special enrollment period for which they were otherwise eligible. The triggering event shall be the day of the outage.
- 4) If a person is leaving an abusive spouse. The triggering event shall be the date the individual leaves the spouse.
- 5) If an individual receives a certificate of exemption from the individual mandate based on the eligibility standards described in 45 C.F.R. §155.605 for a month or months during the coverage year, and based on the circumstances attested to, or changes reported under 45 C.F.R. §155.620(b), he or she is no longer eligible for a exemption within a coverage year, but outside of an open enrollment period. The triggering event shall be 30 days prior to the date of ineligibility for the exemption.
- 6) If an individual is a current COBRA enrollee, he/she shall have until November 15, 2014 to voluntarily drop COBRA coverage and enroll in a DC Health Link plan.
- 7) If an individual is a member of AmeriCorps State and National, Volunteers in Service to America (VISTA), and National Civilian Community Corps (NCCC). The triggering event is either the day the individual begins or ends service with one of the three programs.
- 8) Getting divorced or legally separated. The triggering event is the date of the divorce or legal separation. Effective dates shall mirror those available based on marriage under 45 CFR §155.420(b)(2)(ii).
- 9) Entering into a domestic partnership, as permitted or recognized in D.C. Official Code § 32-702. The triggering event shall be the date the partnership is entered into. Effective

dates shall mirror those available based on marriage under 45 CFR §155.420(b)(2)(ii).

- 10) Being court-ordered to obtain health insurance coverage (a.k.a. “medical insurance coverage order”). This circumstance shall include when a person other than the applicant/enrollee is being ordered to obtain coverage for the applicant/enrollee. The triggering event shall be the date of the court order.
- 11) Losing access to employer-sponsored coverage because the employee is enrolling in Medicare. The triggering event is the date of the loss of coverage. Effective dates shall follow the rules under 45 C.F.R. 155.420(b)(2)(iv).
- 12) Losing access to COBRA because an employer that is responsible for submitting premiums fails to submit them on time. The triggering event shall be the date of the loss of coverage. The length of the SEP shall be based on circumstances as determined by the Authority. The effective date of coverage shall be based on circumstances as determined by the Authority with the intent of preventing gaps in health coverage for the consumer.

**I HEREBY CERTIFY** that the foregoing Resolution was adopted on this 11th day of June, 2014, by the Executive Board of the District of Columbia Health Benefit Exchange Authority in an open meeting.

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Khalid Pitts, Secretary/Treasurer  
District of Columbia Health Benefits Exchange Authority

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Date