

**DRAFT FOR EXECUTIVE BOARD CONSIDERATION
RESOLUTION OF THE EXECUTIVE BOARD
DISTRICT OF COLUMBIA
HEALTH BENEFIT EXCHANGE AUTHORITY**

To establish the minimum employer contribution and minimum employee participation standards within the District of Columbia Small Business Health Options Program (SHOP) marketplace.

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)(2)) requires the Authority to establish a SHOP Exchange 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, §1201 of the ACA made guaranteed renewability a requirement in the small group and individual marketplace (§2703 of the Public Health Service Act, 42 U.S.C. 300gg-2)), and made non-compliance with material plan provisions relating to participation or contribution rules an exception allowing non-renewal of group coverage (42 U.S.C. 300gg-2(b)(3));

WHEREAS, 45 C.F.R. §147.106(b)(3)(i) defines “employer contribution rule” as a requirement relating to the minimum level or amount of employer contribution toward the premium for enrollment of participants and beneficiaries;

WHEREAS, 45 C.F.R. §147.106(b)(3)(ii) defines “group participation rule” as 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;

WHEREAS, 45 C.F.R. §§155.705(b)(10) & 156.285(e) permit SHOP Exchanges to restrict participating QHP issuers to a uniform group participation rule for the offering of health insurance coverage in the SHOP, with the caveat that 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;

WHEREAS, minimum contribution and participation requirements do not apply to employers who enroll during an annual open enrollment;

WHEREAS, employers have broad flexibility in the amount and percentage they can choose to contribute to help pay for health insurance for their workers;

WHEREAS, on March 26, 2013, the Employer and Employee Choice Working Group presented a non-consensus recommendation, for referral to the Board’s Insurance Working

Committee, relating to minimum SHOP employer contribution and minimum SHOP employee participation; and

WHEREAS, on March 28, 2013, the Insurance Working Committee deliberated on the “employer contribution rule” and the “group participation rule”, at a meeting open to the public, and approved a recommendation for Board consideration.

NOW, THEREFORE, BE IT RESOLVED that the Executive Board hereby approves the following recommendation presented by the Insurance Working Committee based on current market practices:

Minimum Contribution and Participation Requirements:

As a requirement to offer coverage through the SHOP Exchange, an issuer’s contribution rate must be at 50% of the employee’s individual reference plan premium and participation rate at 2/3 of qualified SHOP employees who do not waive coverage due to having coverage elsewhere.

I HEREBY CERTIFY that the foregoing Resolution was adopted on this _____ day of _____, 2013, by the Executive Board of the District of Columbia Health Benefit Exchange Authority in an open meeting.

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