



## RESOLUTION

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

**To define “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) 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; and

**WHEREAS**, on April 17, 2013, the Eligibility, Enrollment, and Churn Working Group deliberated on this topic and reached consensus recommendations to the Executive Board;

**NOW, THEREFORE, BE IT RESOLVED** that the Executive Board hereby approves the following consensus recommendations presented by the Eligibility, Enrollment, and Churn Working Group:

The District of Columbia Health Benefit Exchange will consider it an exceptional circumstance, permitting a new special enrollment period, 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 if the individual does not otherwise qualify for an SEP under the categories in 45 C.F.R. §155.420(d)(1) – (8):

- 1) Based on the individual’s self-attestation, he/she is eligible for Medicaid but the eligibility determination is pending paper verification of an eligibility factor and the

individual is ultimately determined ineligible for Medicaid after the enrollment period has expired. The first day of the SEP shall be the date of the notice of Medicaid ineligibility. This SEP would exclude Medicaid applicants who were denied due to their failure to timely provide the requested documentation.

- 2) An individual misses the Individual Exchange enrollment period while waiting for their employer to be approved for the SHOP. Under this scenario, an individual's employer applies to participate through SHOP during the individual open enrollment period and is ultimately denied due to not meeting minimum participation requirements. By the time the employee is notified that he/she cannot enroll through the SHOP, the individual's enrollment period has passed.
- 3) The individual's enrollment or non-enrollment in a QHP was unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of a QHP issuer, or its instrumentalities as evaluated and determined by the D.C. Department of Insurance, Securities, and Banking. In such cases, the Exchange may trigger the SEP and take such action as may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction.

**I HEREBY CERTIFY** that the foregoing Resolution was adopted on this 9th day of May, 2013, 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