



RESOLUTION

EXECUTIVE BOARD OF THE DISTRICT OF COLUMBIA HEALTH BENEFIT EXCHANGE AUTHORITY

To create an “exceptional circumstance” Special Enrollment Period for individuals with DACA status gaining eligibility for the Individual/Family marketplace enrollment.

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 can access coverage, 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) establish a series of circumstances in which QHPs must permit qualified individuals and their dependents to receive special enrollment periods (SEPs) to enroll in the Individual/Family marketplace outside an Open Enrollment Period;

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

WHEREAS, the ACA requires that, to enroll in a Qualified Health Plan (QHP) through an Exchange, including eligibility for APTCs and CSRs, an individual must be either a citizen or national of the United States or be “lawfully present” in the United States;

WHEREAS, the original exchange regulations promulgated by the Centers for Medicare and Medicaid Services (CMS) on July 15, 2011 adopted a definition of “lawfully present” from the Medicaid and CHIP program, which excludes Deferred Action for Childhood Arrivals (DACA) recipients from eligibility;

WHEREAS, on May 8, 2024, CMS promulgated a regulatory change to the definition of “lawfully present” for the purpose of QHP eligibility to allow enrollment of DACA recipients in QHPs, with APTC/CSR, starting November 1, 2024; and

WHEREAS, on October 16, 2024, the Standing Advisory Board voted unanimously to recommend that the Executive Board establish a SEP to allow DACA recipients to enroll in QHPs outside the Open Enrollment Period.

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

Individual & Family Marketplace

- *SEP Eligibility* - An exceptional circumstance special enrollment period shall be available in the Individual/Family marketplace to individuals with a DACA immigration status.
- *Effective Date of Coverage* - The effective date of coverage shall be the first day of the month in which the individual selects a plan, the first day of the month following plan selection, or November 1, 2024, at the option of the individual. If enrolling in family coverage, dependents may have the same effective date as the individual enrolling based on DACA status.

I HEREBY CERTIFY that the foregoing Resolution was adopted on this 19 day of November 2024, 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

Date