



RESOLUTION

EXECUTIVE BOARD OF THE DISTRICT OF COLUMBIA HEALTH BENEFIT EXCHANGE AUTHORITY

To define additional “exceptional circumstances” for a Special Enrollment Period related to the enactment of the District of Columbia Individual Responsibility Requirement.

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)–(14) establish a series of circumstances in which QHPs must permit qualified individuals to receive special enrollment periods (SEPs) 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” for SEPs;

WHEREAS, Authority staff continuously monitor market conditions, including “exceptional circumstances” definitions established by other marketplaces;

WHEREAS, On December 22, 2017, the Federal Government enacted the Tax Cuts and Jobs Act of 2017 which effectively terminated the ACA’s individual responsibility requirement (also referred to as the individual mandate) by reducing the tax penalty to \$0, effective January 1, 2019;

WHEREAS, On January 10, 2018, Mayor Bowser charged the DC Health Benefit Exchange Authority ACA Working Group to reconvene to “*consider whether there are actions the District of Columbia should take in light of the repeal of the individual mandate.*”;

WHEREAS, On February 14, 2018, the ACA Working Group unanimously voted to recommend that the District fill the void left by the federal government by enacting an individual

responsibility provision requiring District residents to maintain qualifying coverage or pay a penalty on their District taxes, unless they qualify for an exemption;

WHEREAS, On February 21, 2018, the Health Benefit Exchange Authority Executive Board unanimously voted to recommend a District individual responsibility requirement as developed by the ACA Working Group;

WHEREAS, On September 5, 2018, the Fiscal Year 2019 Budget Support Act of 2018 was enacted, which included a new District of Columbia individual health insurance responsibility requirement effective January 1, 2019;

WHEREAS, on December 13, 2019, the Standing Advisory Board met to review implementation efforts related to the District's individual health insurance responsibility requirement and unanimously approved a recommendation to the Executive Board to adopt two new SEPs. The first permits a special enrollment opportunity for those who learn of the new District of Columbia individual responsibility requirement in the course of preparing their 2019 District income taxes, or shortly thereafter. The second permits a special enrollment opportunity for those who learn of the new District of Columbia individual responsibility requirement shortly after meeting the residency requirements to enroll in the individual market exchange.

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

2019 Tax Filing Season's Time-Limited Individual Market SEP

A new time-limited special enrollment period shall be available to District of Columbia tax filers, and their dependents, who first learn about the District of Columbia's Individual Health Insurance Responsibility Requirement (D.C. Code §47-5102) during the 2019 District of Columbia individual income tax return season, to enroll in an individual market plan.

- 1) The triggering event for this special enrollment period is when the tax filer learned of the IRR, but no later than the application tax filing deadline applicable for that individual. The applicable tax filing deadline for tax filers that do not file an extension is April 15, 2020, but is October 15, 2020 for those that file for an extension.
- 2) This special enrollment period shall last for 60 days from the date of the triggering event.
- 3) This special enrollment period may only be granted once to an individual and is not available to individuals who received the time-limited exceptional circumstance SEP associated with learning of the District's Individual Responsibility Requirement during calendar year 2019.

Individual Market SEP for New DC Residents Associated with Individual Responsibility Requirement

A special enrollment period shall be available to District of Columbia tax filers, and their

dependents, who newly meet the residency requirement to enroll in an individual market plan in the District.

- 1) The triggering event for this special enrollment period is the day the taxpayer meets the residency requirement pursuant to 45 C.F.R. §155.305(a)(3).
- 2) This special enrollment period shall last for 60 days from the date of the triggering event.

I HEREBY CERTIFY that the foregoing Resolution was adopted on this 8th day of January, 2020, by the Executive Board of the District of Columbia Health Benefit Exchange Authority in an open meeting.

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

1/8/2020
Date