



## RESOLUTION

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

**To extend the annual Small Business Health Options Program (SHOP) Open Enrollment Period through Calendar Year 2022 for small businesses newly offering coverage through the 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)(1) & (9)) requires the Authority to establish an American Health Benefit Exchange through which qualified employers can access coverage for qualified employees, 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. §147.104(b)(1)(i) permits the application of minimum participation and minimum contribution requirements in the small group market provided small groups are offered an annual enrollment period where eligibility is not conditioned on meeting the minimum participation or minimum contribution requirements;

**WHEREAS**, the April 8, 2013 Executive Board Resolution established a requirement that small businesses offer at least a 50% minimum contribution towards the employee’s individual reference plan premium (minimum contribution) and have at least 2/3 of qualified SHOP employees either participate in SHOP coverage or submit a waiver due to having other qualifying coverage (minimum participation) as a condition to offer coverage through the SHOP Exchange outside of the annual employer open enrollment period;

**WHEREAS**, the SHOP Exchange annual employer open enrollment period, where minimum participation and minimum contribution requirements do not apply, is for plan years that begin on January 1 of each calendar year;

**WHEREAS**, the Executive Board passed a resolution to extend the SHOP open enrollment for calendar year 2020 on January 8, 2020;

**WHEREAS**, on August 26, 2020, the Standing Advisory Board considered the staff recommendation to extend the annual SHOP open enrollment period through 2022 to provide additional flexibility to small businesses seeking to offer coverage to their employees and to study the impact of contribution and participation requirements in the District’s SHOP marketplace over three years;

**WHEREAS**, on August 26, 2020, the Standing Advisory Board composed of varied stakeholders such as DC Health Link consumers, insurers, brokers, consumer advocates, and others deliberated on the topic, including reviewing 2020 demographic data gathered on the uptake of this flexibility by small businesses, considering the economic impact of COVID-19, and considering public comment;

**WHEREAS**, on August 26, 2020, the Standing Advisory Board unanimously approved the recommendation;

WHEREAS, on September 9, 2020, the HBX Executive Board discussed the SAB recommendation and determined a more detailed review should be conducted by the HBX Executive Board Research and Data Analysis Committee;

WHEREAS, on September 16, 2020, the HBX Executive Board Research and Data Analysis Committee reviewed data on the employers not meeting minimum contribution or participation requirements under the federal SHOP Open Enrollment flexibility, and the flexibility extended by the HBX Executive Board through 2020, and data on the rest of the SHOP marketplace, including employers in arrears;

WHEREAS, on September 16, 2020, after deliberation, the HBX Executive Board Research and Data Analysis Committee approved by majority vote the recommendation below;

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

Extended SHOP Employer Open Enrollment Period:

Extending the annual SHOP employer open enrollment, during which the 50% minimum contribution and 2/3 minimum participation eligibility requirements will not apply to small businesses newly applying to offer SHOP coverage through calendar year 2022.

HBX will implement a monitoring plan as reviewed and approved by the HBX Executive Board Research and Data Analysis Committee.

**I HEREBY CERTIFY** that the foregoing Resolution was adopted on this \_\_\_\_\_ day of September, 2020, 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