

SHOP “Exceptional Circumstance” SEP Recommendation

SHOP employee living outside of the DC Metro area inadvertently enrolling in DC-Only network plan.

June 29, 2017

Problem: SHOP employees who live and work outside of the DC-metro area and inadvertently enroll in DC-Only network plans which they are unable to use.

SHOP employees that live outside of the DC-Metro area enroll, as a result of an error, in a DC-Only network plan, which they are unable to use due to the network coverage. Generally, employee error would not create an opportunity to make plan changes outside of open enrollment. However in this situation, employees that make this error are required to continue to pay for coverage that they are unable to use until the next open enrollment unless they have a qualifying event that would make them eligible for make mid-year plan changes.

- 1) Under 45 CFR §155.420(d)(4), an individual “whose enrollment or non-enrollment in a QHP is in unintentional, inadvertent, or erroneous, and is the result of the error, misrepresentation, misconduct, or inaction of ... a non-Exchange entity providing enrollment assistance or conducting enrollment activities” will have a special enrollment period to correct the harm. This provision extends to SHOP enrollee through 45 CFR §155.725(j). Generally this provision is available to consumers where they have experienced harm as the result of a non-exchange entity providing enrollment assistance, such as a broker, Navigator, assistor, or CAC.
- 2) However, where a SHOP employee commits an error in their plan selection, where they are enrolling without the assistance of a broker, the employee may not have the ability to correct the error. The SHOP team has found that when employees who live outside of the DC-Metro area enroll in a DC-Only network plan, there is a clear presumption that the plan selection was made in error and this error may result in an employee constructively being uninsured due to the network limitations. In these cases the employee may not have access to health insurance benefits, but the employee cannot make a plan change to correct this issue under existing special enrollment rules.

Recommended Solution:

The staff recommends creating a new “exceptional circumstance” to allow SHOP employees who live outside of the DC-Metro area who enroll in a DC-Only network plan in error, to have the ability to correct the error by making a mid-year plan change.

SEP Language:

- 13) A qualified employee, who resides outside of the DC-Metro area, whose enrollment in a QHP with a DC-only provider network is unintentional, inadvertent, or erroneous and is the result of the error.