

## **Proposed Extended Employer Open Enrollment Period Related to the Implementation of the District of Columbia Individual Responsibility Requirement**

**December 13, 2019**

**Background:** The Federal Government repealed the federal individual responsibility requirement penalty in the Tax Cuts and Jobs Act of 2017.

In order to fill the void left by the federal government and, to maintain lower premium increases, the District of Columbia implemented a local individual responsibility requirement modeled after the federal requirement. The requirement began on January 1, 2019 as the federal penalty went away December 31, 2018. The District's local individual responsibility requirement hasn't received the same level of media attention that the repeal of the federal penalty has. Therefore, there is concern that current District residents and those moving to the District may be unaware of the District requirement. It is anticipated that residents may learn about the requirement to have healthcare coverage or pay a penalty during the 2018 tax filing season.

The goal of this proposal is to provide additional flexibility to small businesses that are not currently offering coverage to enroll through DC Health Link SHOP and use the District's individual responsibility penalty as an opportunity to educate employers on the need for all District residents to have insurance.

The proposal would allow small businesses to offer coverage even if they are unable to meet the minimum contribution and participation requirements that generally apply in SHOP by extending the SHOP Open Enrollment. This would be an opportunity where the special employer eligibility rules that apply to January groups would be extended so that more small businesses can offer coverage to their District employees who may newly learn that they are subject to the District's IRR.

### **Description:**

The SHOP marketplace would extend the annual open enrollment period, where minimum contribution and minimum participation requirements do not apply, to small groups seeking to newly offer health insurance coverage to their employees for calendar year 2020. Under current SHOP rules, this annual open enrollment is only available for groups enrolling with a January effective date. This extended open enrollment period would be available to employers offering coverage going into effect during calendar year 2020.

Given District residents may not learn of the District's individual responsibility requirement (IRR) until it is applied to District residents filing their 2019 taxes, this extended open enrollment would give small businesses an opportunity to newly offer coverage if they learn their employees are subject to the IRR during the 2019 tax filing season. This would make it easier for small businesses to offer coverage if they are unable to meet the minimum contribution and minimum participation requirements, even if they miss the deadline for offering January coverage.

This would be a limited opportunity and any groups that take advantage of this extended open enrollment period and are unable to meet the minimum participation and/or contribution requirements would be offered the option to change their group's plan year to begin in January for the 2021 plan year so they can continue to take advantage of the annual open enrollment eligibility rules applicable to

January 1 groups. Any group that elects to keep a non-January plan year would then have to meet minimum participation and minimum contribution requirements upon renewal.