



RESOLUTION

EXECUTIVE BOARD OF THE DISTRICT OF COLUMBIA HEALTH BENEFIT EXCHANGE AUTHORITY

To recommend local policy interventions for the District to regulate short-term, limited-duration health plans to protect and enhance market stability in the District’s individual health insurance market.

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 (“HBX”), an independent authority of the Government of the District of Columbia, and its governing Executive Board;

WHEREAS, Section 5 of the Act (D.C. Official Code § 31-3171.04(a)(1) and (2)) requires the Authority to establish an exchange for the individual and small group markets;

WHEREAS, §8 of the Act (D.C. Official Code §31-3171.07) requires the Authority to create a Standing Advisory Board (SAB), and consult with the SAB on certain matters, including any policy or operational issues within the Executive Board’s discretion;

WHEREAS, on October 12, 2017, the President issued an Executive Order to expand access to association health plans (AHPs) and short-term, limited-duration insurance;

WHEREAS, on February 21, 2018, the Internal Revenue Service (IRS), the Department of Labor (DOL), and the Centers for Medicare & Medicaid Services (CMS) (collectively, “the Departments”), promulgated a proposed rule, “Short-term, Limited-Duration Insurance” (Short-term rule);

WHEREAS, in the Short-term rule, the Departments proposed to amend existing regulations, which limit short-term, limited-duration plans to a term of less than three months, including renewals, to allow short-term, limited-duration plans to be sold for a term of up to 364 days;

WHEREAS, in the Short-term rule, the Departments proposed to require short-term, limited-duration plans to include a disclosure that this coverage is not required to comply with federal requirements for health insurance and that consumers should check the policy to understand what the policy covers;

WHEREAS, in the Short-term rule, the Departments have proposed to remove a previously required disclosure that short-term, limited-duration policies are not minimum essential coverage (MEC) starting in 2019;

WHEREAS, the SAB met on April 25, 2018 to consider staff recommendations related to short-term limited-duration plans, deliberate on the topics, and took public comments.

WHEREAS, the SAB heard presentations on short-term, limited-duration plans, the impact of the Department's proposal on the individual market in the District of Columbia, and related proposals other states have considered or implemented to stabilize their insurance markets, specifically focusing on a Maryland new law;

WHEREAS, the SAB received an assessment by actuaries estimating that the Department's proposal could result in individual market claims cost increases of up to 24.1% and in as many as 6,100 individuals leaving the individual market;

WHEREAS, the SAB discussed policy options to protect the District's individual market from the adverse effects of the Department's short-term, limited-duration proposal;

WHEREAS, the SAB discussed the role of short-term, limited duration plans for District residents outside of open enrollment;

WHEREAS, the SAB, recognized the continued importance of informing consumers that short-term, limited-duration plans are not MEC for purposes of satisfying the individual responsibility requirement and special enrollment period eligibility;

WHEREAS, the SAB met on May 7, 2018 to hold on a vote on the matters considered at the April 25, 2018 meeting and unanimously approved a recommendation to the Executive Board to recommend that the District consider local policy interventions to regulate short-term, limited-duration health plans to protect and enhance market stability in the District's individual health insurance market.

NOW, THEREFORE, BE IT RESOLVED that the Executive Board hereby adopts the consensus recommendation from the Standing Advisory Board as follows:

The District of Columbia act quickly to limit the expansion of short-term, limited-duration health plans in the District by enacting legislation, modeled on the new Maryland law, that modifies the definition of "short-term, limited-duration insurance" to mean health insurance coverage provided under a policy or contract with a carrier that: (1) has a policy term that is less than three months after the original effective date of the policy or contract; (2) may not be extended or renewed; (3) applies the same underwriting standards to all applicants regardless of whether they have previously been covered by short-term, limited-duration insurance; and (4) provides a prominent consumer disclaimer in the contract and any application materials, in at least 14-point font, stating that the coverage does not constitute minimum essential coverage for purposes of satisfying the individual responsibility requirement and other disclosures as the Commissioner may

require regarding the scope of short-term, limited-duration coverage, including the types of benefits and consumer protections that are and are not included.

I HEREBY CERTIFY that the foregoing Resolution was adopted on this 9th day of May, 2018, 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