



RESOLUTION

EXECUTIVE BOARD OF THE DISTRICT OF COLUMBIA HEALTH BENEFIT EXCHANGE AUTHORITY

To establish a Special Enrollment Period starting December 16, 2018 through January 31, 2019 that effectively expands the upcoming plan year 2019 open enrollment period.

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, §5 of the Act (D.C. Official Code §31-3171.04(a)(2) & (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, §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, 45 C.F.R. §155.420(d) establishes a series of circumstances in which QHPs must permit qualified individuals to receive a special enrollment period (SEP) to enroll in the individual marketplace outside of an annual open enrollment period;

WHEREAS, 45 C.F.R. §155.420(d)(9) permits the Exchange to define “exceptional circumstances” establishing additional grounds for granting a SEP;

WHEREAS, on April 18, 2017, the Centers for Medicare & Medicaid Services (CMS) promulgated a final rule, “Patient Protection and Affordable Care Act; Market Stabilization” (Market Stabilization rule);

WHEREAS, in the Market Stabilization rule, CMS shortened the open enrollment period for plan year 2018 to six weeks, rather than the full three months previously required by federal regulation;

WHEREAS, 45 C.F.R. §155.410(e)(3) establishes that starting with the 2018 plan year, open enrollment runs from November 1 through December 15;

WHEREAS, in the Market Stabilization rule, CMS noted that State Based Exchanges may have operational difficulties transitioning to this shorter open enrollment period. CMS specifically noted that under “their [SBM] existing regulatory authority, those Exchanges may elect to supplement the open enrollment period with a special enrollment period, as a transitional measure, to account for those operational difficulties;”

WHEREAS, on April 17, 2018, the Centers for Medicare & Medicaid Services (CMS) promulgated a final rule, “Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2019” (2019 Payment Notice);

WHEREAS, the 2019 Payment Notice implemented regulatory changes to the individual marketplace that will require significant operational commitments, including changes to the advance premium tax credit eligibility verification process, fewer resources are available to make changes to open enrollment dates and associated processes;

WHEREAS, the SAB met on April 25, 2018 to consider staff recommendations with regard to the 2019 open enrollment period, deliberate on the topic, and took public comments;

WHEREAS, SAB members recognized that in the District the uninsured population remains hard to reach, necessitating time and resources to reach this population;

WHEREAS, SAB members recognized that HBX would encounter operational difficulties in the open enrollment period of November 1 through December 15 given multiple significant operational demands, including the highest volume of SHOP renewals and Congressional Open Enrollment;

WHEREAS, the SAB voted at the April 25, 2018 meeting and unanimously approved a recommendation to the Executive Board to use its existing authority to supplement the open enrollment period with a special enrollment period that would allow individuals seeking enrollment in the individual market from December 16, 2018 through January 31, 2019 to apply and select a plan.

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 Health Benefit Exchange Authority will consider that an “exceptional circumstance” exists for all Qualified Individuals seeking enrollment in the individual market from December 16, 2018 through January 31, 2019, permitting a new special enrollment period (SEP). The regular open enrollment period and the special enrollment period together provide for a three month period. Plan selections under this SEP must be made on or before January 31, 2019 and effective dates follow the rules under 45 C.F.R. §155.420(b)(1).

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