



## *RESOLUTION*

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

**To define additional “exceptional circumstances” permitting a Special Enrollment Period related to losing minimum essential coverage mid-month and an SEP related to the shared responsibility payment.**

**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 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**, 45 C.F.R. §155.420(d)(1) – (8) & (10) establishes a series of circumstances in which Qualified Health Plans (QHPs) must permit qualified individuals to receive a 60-day special enrollment period (SEP) to enroll in the Individual Exchange marketplace outside an Open Enrollment Period;

**WHEREAS**, 45 C.F.R. §155.420(d)(9) permits the Exchange to define “exceptional circumstances” establishing additional SEPs;

**WHEREAS**, individuals and families that lose minimum essential coverage mid-month experience a coverage gap under current special enrollment period regulations;

**WHEREAS**, several other state-based marketplaces have created special enrollment periods similar to the one created by the FFM for individuals who have paid and/or were not aware of the shared responsibility payment established under 26 U.S.C. §5000A(b) (the “tax penalty”);

**WHEREAS**, Authority staff recognized the above market conditions and developed a list of additional “exceptional circumstances” for consideration by the Standing Advisory Board; and

**WHEREAS**, on February 26, 2015, the Standing Advisory Board received the staff recommendations, deliberated on establishing a special enrollment period for those losing minimum essential coverage mid-month and a special enrollment period related to the shared responsibility payment, took public comment and unanimously approved the recommendations to the Executive Board;

**NOW, THEREFORE, BE IT RESOLVED** that the Executive Board hereby adopts the following: The District of Columbia Health Benefit Exchange Authority will consider it an “exceptional circumstance,” permitting a new special enrollment period (SEP), when an applicant or enrollee does not select a plan during Initial Enrollment, Open Enrollment, or a SEP granted on other grounds, due to one of the following circumstances:

MID-MONTH LOSS OF MINIMUM ESSENTIAL COVERAGE SEP

If an individual is losing minimum essential coverage, as defined by 26 U.S.C. §5000A(f), on a date other than the last day of a month. The triggering event shall be the date of the loss of coverage and the length of the special enrollment period shall be sixty (60) days before the day of the loss of coverage. The effective date shall be the first day of the month in which the prior coverage is terminating. In compliance with federal law, this special enrollment period shall not be available to individuals seeking advance payments of premium tax credits.

SHARED RESPONSIBILTY PAYMENT SEP

If an individual:

- 1) Paid the shared responsibility payment established under 26 U.S.C. §5000A(b) when filing their 2014 federal income taxes; or
- 2) Did not become aware or did not understand the implications of the shared responsibility payment under 26 U.S.C. §5000A(b) until after February 15, 2015 in connection with preparing their federal income tax return for 2014.
  - a. This special enrollment period shall last from March 15, 2015 through April 30, 2015.
  - b. Additionally, this special enrollment period shall be extended to October 15, 2015 for individuals who have met the additional condition of having requested an income tax return filing extension under 26 U.S.C. §6081.
  - c. Effective dates under this special enrollment period shall be established per 45 C.F.R. §155.420(b)(1).

**I HEREBY CERTIFY** that the foregoing Resolution was adopted on this 9th day of March, 2015, by the Executive Board of the District of Columbia Health Benefit Exchange Authority in an open meeting.

\_\_\_\_\_/s/\_\_\_\_\_  
Khalid Pitts, Secretary/Treasurer  
District of Columbia Health Benefits Exchange Authority

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March 9, 2015  
Date