



## RESOLUTION

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

**To define additional time-limited “exceptional circumstances” for a Special Enrollment Period related to the enactment of a new District of Columbia Individual Responsibility Requirement.**

**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)–(13) establish a series of circumstances in which QHPs must permit qualified individuals to receive special enrollment periods (SEPs) 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” for SEPs;

**WHEREAS**, Authority staff continuously monitor market conditions, including “exceptional circumstances” definitions established by other marketplaces;

**WHEREAS**, On December 22, 2017, the Federal Government enacted *the Tax Cuts and Jobs Act of 2017* which effectively terminated the ACA’s individual responsibility requirement (also referred to as the individual mandate) by reducing the tax penalty to \$0, effective January 1, 2019;

**WHEREAS**, On January 10, 2018, Mayor Bowser charged the DC Health Benefit Exchange Authority ACA Working Group to reconvene to “*consider whether there are actions the District of Columbia should take in light of the repeal of the individual mandate.*”;

**WHEREAS**, On February 14, 2018, the ACA Working Group unanimously voted to recommend that the District fill the void left by the federal government by enacting an individual responsibility provision requiring District residents to maintain qualifying coverage or pay a penalty on their District taxes, unless they qualify for an exemption;

**WHEREAS**, On February 21, 2018, the Health Benefit Exchange Authority Executive Board unanimously voted to recommend a District individual responsibility requirement as developed by the ACA Working Group;

**WHEREAS**, On September 5, 2018, the Fiscal Year 2019 Budget Support Act of 2018 was enacted, which included a new District of Columbia individual health insurance responsibility requirement effective January 1, 2019;

**WHEREAS**, on January 30, 2019, the Standing Advisory Board met to consider implementation of the individual health insurance responsibility requirement and unanimously approved a recommendation to the Executive Board to adopt a SEP to permit a special enrollment opportunity for those who learn of the new District of Columbia individual responsibility requirement when filing their 2018 District income taxes.

**NOW, THEREFORE, BE IT RESOLVED** that the Executive Board hereby adopts the following:

A new time-limited special enrollment period for individuals who did not become aware or did not understand the implications of the District of Columbia's Individual Health Insurance Responsibility Requirement (D.C. Code §47-5102) until after February 6, 2019, in connection with preparing their 2018 District of Columbia income tax return.

- a) This special enrollment period is available to individuals, and their dependents, for a limited time period. The length of the period differs based on the date the individual first files their 2018 District of Columbia income tax return, or if they request this special enrollment period prior to filing the return.
  - i. Individuals who first file their 2018 District of Columbia income tax return on or before April 15, 2019, may only request this special enrollment period between February 7, 2019 and April 30, 2019.
  - ii. Individuals who first file their 2018 District of Columbia income tax return after April 15, 2019, may only request this special enrollment period between April 16, 2019 and October 31, 2019.
  - iii. Individuals who, as of the date they contact the Authority to request the special enrollment period provided for by this resolution, have not filed their 2018 District of Columbia income tax return, may only request this special enrollment February 7, 2019 and October 31, 2019.
- b) The triggering event for this special enrollment period, which must be within a date as permitted by paragraph (a), is the earlier of:
  - i. the day the individual first files their 2018 District of Columbia income tax return as described in sub-section (a)(i) or (ii); or
  - ii. in the case of an individual who contacts the Authority prior to filing their 2018 District of Columbia income tax return, pursuant to sub-section (a)(iii), the day the individual contacts the Authority to request the special enrollment period

described in this resolution.

- c) This special enrollment period shall last for 60 days from the date of the triggering event.
- d) This special enrollment period may only be granted once to an individual.

Duration

This special enrollment period shall be limited to the 2018 tax season as described above.

Effective Dates

The effective date of coverage selected during these special enrollment periods will be the first of the month following plan selection.

**I HEREBY CERTIFY** that the foregoing Resolution was adopted on this 13th day of February, 2019, 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

2/13/2019\_\_\_\_\_  
Date