



# Health Care Reform

## LEGISLATIVE BRIEF

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## Small Business Health Options Program (SHOP) and Multi-state Plans

Beginning in 2014, the Affordable Care Act (ACA) requires online competitive marketplaces, or Exchanges, to be available in each state for individuals and small businesses to purchase health insurance coverage. The first open enrollment period for plans offered through ACA's Exchanges will begin on **Oct. 1, 2013**, for coverage starting Jan. 1, 2014.

Both state-operated Exchanges and the federally facilitated Exchange (FF Exchange) must include a **Small Business Health Options Program (SHOP)** component for small businesses to purchase health insurance coverage for their employees. According to the Department of Health and Human Services (HHS), SHOPs will allow small employers to provide their employees with a choice of health plan options and will give small businesses the same purchasing power as large businesses.

Additionally, ACA authorizes the **multi-state plan program** under the Exchanges so that families and small businesses that are spread out over more than one state will be able to select a health plan from the same health insurance issuer.

### ELIGIBLE SMALL EMPLOYERS

Small employers with up to 100 employees will be eligible to participate in the Exchanges. However, until 2016, states may limit participation in the Exchanges to businesses with up to 50 employees. Beginning in 2017, states may allow businesses with more than 100 employees to participate in the Exchanges.

To qualify to participate in a SHOP, an employer must qualify as a "small employer" for purposes of Exchange participation. In addition, the employer must:

- Elect to offer, at a minimum, all full-time employees coverage in a qualified health plan (QHP) through a SHOP; and
- Either have its primary office in the Exchange service area and offer all its employees coverage through that SHOP, or offer coverage to each eligible employee through the SHOP servicing the employee's primary worksite.

The SHOP's eligibility rules permit an employer to participate in more than one Exchange. In the SHOP, there are no residency standards for either the employer or employee. Small employers must either offer employees coverage through the SHOP serving the employer's primary business address or offer coverage to an employee through the SHOP serving the employee's primary work site.

In addition, as described more below, ACA's multi-state plan program (MSPP) requires every Exchange to offer at least two nationwide health plans.

Participation in a SHOP is voluntary for eligible small employers. However, beginning in 2014, a small employer that qualifies for ACA's small business health care tax credit must purchase coverage through an Exchange to be eligible for the tax credit. For 2014, the maximum small business health care tax credit increases from 35 percent to 50 percent of employer contributions toward health coverage (from 25 percent to 35 percent for tax-exempt small employers).

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## SHOP FUNCTIONS

On March 27, 2012, HHS issued a [final rule](#) on establishment of the Exchanges, which describes the minimum functions of a SHOP. A SHOP is generally required to carry out all Exchange functions, except for certain requirements related to individual coverage.

HHS has also indicated that the federally facilitated SHOP (FF-SHOP) will provide a number of tools and resources to help employers, employees, and agents and brokers in evaluating coverage choices and selecting a health plan. The FF-SHOP will allow employers to model different health coverage scenarios and it will provide administrative and consumer support. State-operated SHOPS may perform similar functions, depending on how the state decides to structure its small employer online marketplace.

In addition, states that choose to operate their own Exchanges may merge their individual and small group market risk pools and operate the SHOP with the individual market Exchange. If a state does not merge its individual and small group markets, it must permit each qualified employee to enroll only in QHPs in the small group market.

Also, in a set of [frequently asked questions](#) (FAQs) from May 10, 2013, HHS stated that it intends to issue a proposed rule allowing states that have received approval for their state-based Exchanges for 2014 to operate a state-based SHOP and let the federal government run the individual market Exchange.

### **Employee Choice Model and Proposed Delay**

A SHOP must allow employers the option to offer employees all QHPs at a level of coverage chosen by the employer—bronze, silver, gold or platinum. This is called the “employee choice model.” Under the employee choice model, the employer chooses a level of coverage and a contribution amount and employees then select any QHP at that level.

In addition, SHOPS may allow a qualified employer to choose one QHP for its employees. In a separate [final rule](#) issued in March 2013, HHS provided that the FF-SHOP will give employers the option of offering only a single QHP, as many employers do today, in addition to the employee choice model.

On March 11, 2013, HHS issued a [proposed rule](#) that would **delay implementation of the employee choice model as a requirement for all SHOPS for one year, until 2015**. According to HHS, this approach would provide all SHOPS (both state SHOPS and the FF-SHOP) with additional time to prepare for the employee choice model. Under this proposed transition approach:

- *State-run Exchanges:* A state-run Exchange’s SHOP may provide the employee choice model for small employers in 2014, but is not required to provide this model until 2015.
- *FF Exchanges:* The FF-SHOP will not provide the employee choice model for small employers until 2015. For 2014 plan years, the FF-SHOP will assist employers in choosing a single QHP to offer their qualified employees.

### **Premium Aggregation and Calculator**

SHOPS must include a premium aggregation feature to help employers whose employees are enrolled in multiple QHPs. A SHOP will provide each qualified employer with a bill on a monthly basis that identifies the employer contribution, the employee contribution and the total amount that is due to the QHP issuers from the employer. The SHOP will collect the amount due from each employer and make payment to the QHP issuers in the SHOP for all enrollees. By facilitating aggregate billing, an employer can make one payment to the SHOP for the premiums of its employees’ QHP coverage.

Because this premium aggregation function will not be necessary in 2014 for SHOPS that delay implementation of the employee choice model, the proposed rule would make the premium aggregation function optional for plan years beginning before Jan. 1, 2015.

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In addition, a SHOP must provide a premium calculator to help employees determine their cost of coverage after any employer contribution. The calculator must compare available QHPs after the application of any applicable employer contribution and any advance payment of the premium tax credit and any cost-sharing reductions.

## EMPLOYER PARTICIPATION

The final Exchange rule from 2012 sets a uniform process and timeline for each employer seeking to participate in a SHOP. A SHOP must permit a qualified employer to purchase coverage for its small group at any point during the year. The employer's plan year must consist of the 12-month period beginning with the qualified employer's effective date of coverage.

Also, a SHOP must provide qualified employers with a period of no less than 30 days prior to the end of the employer's plan year and before the annual employee open enrollment period when the qualified employer may change its participation in the SHOP for the next plan year. For example, the qualified employer may change the employer contribution toward the premium cost of coverage or the level of coverage offered to employees. The SHOP must provide the qualified employer with advance notice of the annual election period.

Qualified employers are required to provide the SHOP with information about employees or dependents whose eligibility to purchase coverage through the employer in the SHOP has changed. This notice applies both to newly eligible employees and dependents as well as to those no longer eligible for coverage.

A SHOP must establish an annual open enrollment period of no less than 30 days for qualified employees prior to the completion of the applicable qualified employer's plan year and after that employer's annual election period. In addition, a SHOP must provide special enrollment periods as a result of certain triggering events.

## MULTI-STATE PLANS

ACA requires the Office of Personnel Management (OPM) to contract with at least two private health insurance issuers, one of which must be a nonprofit, to offer individual and small group coverage through multi-state plans on the Exchanges. On March 11, 2013, OPM issued a [final rule](#) to implement standards for the multi-state plan program (MSPP).

Multi-state plans will be administered by OPM and will be offered in all 50 states and the District of Columbia. These plans will offer a uniform benefits package in all states. The final rule specifies that the benefits package must be substantially equal to either the essential health benefits (EHB) benchmark plan in each state in which it operates or any EHB-benchmark plan selected by OPM. The OPM-selected EHB-benchmark plans are the three largest Federal Employees Health Benefits Program (FEHBP) plan options, with certain benefit supplements.

In addition, the final rule requires multi-state plan issuers to offer at least one plan at the silver level of coverage and at least one plan at the gold level of coverage. Coverage at the bronze or platinum levels is optional. Multi-state plans must also comply with ACA's cost-sharing limits and, in order to maintain a level playing field, issuers of multi-state plans must comply with specified ACA requirements, including guaranteed renewal, community rating, preexisting conditions and nondiscrimination.

**An issuer may phase in its MSPP coverage over four years, providing coverage in all states by 2017.** Thus, a multi-state plan may not be available in every state until 2017. For 2014, issuers must offer the multi-state plan in at least 60 percent of the states. This percentage goes up to 70 percent for 2015 and 85 percent for 2016.

The final rule requires multi-state plan issuers to provide SHOP coverage if they are required to do so by either state law in states with their own Exchanges or under the rules for the FF Exchange. The FF Exchange rules only require multi-state plan issuers to offer SHOP coverage if they or an affiliate has at least a 20 percent small group market share. A multi-state plan issuer must offer individual and small group coverage for states with merged markets. The rule also gives OPM discretion to allow the phase-in of SHOP coverage.

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