

Subpart H—Exchange Functions: Small Business Health Options Program (SHOP)

§ 155.700 Standards for the establishment of a SHOP.

(a) *General requirement.* An Exchange must provide for the establishment of a SHOP that meets the requirements of this subpart and is designed to assist qualified employers and facilitate the enrollment of qualified employees into qualified health plans.

(b) *Definition.* For the purposes of this subpart:

Group participation rule means a requirement relating to the minimum number of participants or beneficiaries that must be enrolled in relation to a specified percentage or number of eligible individuals or employees of an employer.

§ 155.705 Functions of a SHOP.

(a) *Exchange functions that apply to SHOP.* The SHOP must carry out all the required functions of an Exchange described in this subpart and in subparts C, E, and K of this part, except:

- (1) Requirements related to individual eligibility determinations in subpart D of this part;
- (2) Requirements related to enrollment of qualified individuals described in subpart E of this part;

- (3) The requirement to issue certificates of exemption in accordance with §155.200(b); and
- (4) Requirements related to the payment of premiums by individuals, Indian tribes, tribal organizations and urban Indian organizations under §155.240.

(b) *Unique functions of a SHOP.* The SHOP must also provide the following unique functions:

(1) *Enrollment and eligibility functions.* The SHOP must adhere to the requirements outlined in §§155.710, 155.715, 155.720, 155.725, and 155.730.

(2) *Employer choice requirements.* With regard to QHPs offered through the SHOP, the SHOP must allow a qualified employer to select a level of coverage as described in section 1302(d)(1) of the Affordable Care Act, in which all QHPs within that level are made available to the qualified employees of the employer.

(3) *SHOP options with respect to employer choice requirements.* With regard to QHPs offered through the SHOP, the SHOP may allow a qualified employer to make one or more QHPs available to qualified employees by a method other than the method described in paragraph (b)(2) of this section.

(4) *Premium aggregation.* The SHOP must perform the following functions related to premium payment administration:

- (i) 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 qualified employer;
- (ii) Collect from each employer the total amount due and make payments to QHP issuers in the SHOP for all enrollees; and
- (iii) Maintain books, records, documents, and other evidence of accounting procedures and practices of the premium aggregation program for each benefit year for at least 10 years.

(5) *QHP Certification.* With respect to certification of QHPs in the small group market, the SHOP must ensure each QHP meets the requirements specified in §156.285 of this subchapter.

(6) *Rates and rate changes.* The SHOP must—

(i) Require all QHP issuers to make any change to rates at a uniform time that is either quarterly, monthly, or annually; and

(ii) Prohibit all QHP issuers from varying rates for a qualified employer during the employer's plan year.

(7) *QHP availability in merged markets.* If a State merges the individual market and the small group market risk pools in accordance with section 1312(c)(3) of the Affordable Care Act, the SHOP may permit a qualified employee to enroll in any QHP meeting the following requirements of the small group market:

(i) Deductible maximums described in section 1302(c) of the Affordable Care Act; and

(ii) Levels of coverage described in section 1302(d) of the Affordable Care Act.

(8) *QHP availability in unmerged markets.* If a State does not merge the individual and small group market risk pools, the SHOP must permit each qualified employee to enroll only in QHPs in the small group market.

(9) *SHOP expansion to large group market.* If a State elects to expand the SHOP to the large group market, a SHOP must allow issuers of health insurance coverage in the large group market in the State to offer QHPs in such market through a SHOP beginning in 2017 provided that a large employer meets the qualified employer requirements other than that it be a small employer.

(10) *Participation rules.* The SHOP may authorize uniform group participation rules for the offering of health insurance coverage in the SHOP. If the SHOP authorizes a minimum participation rate, such rate must be based on the rate of employee participation in the SHOP, not on the rate of employee participation in any particular QHP or QHPs of any particular issuer.

(11) *Premium calculator.* In the SHOP, the premium calculator described in §155.205(b)(6) must facilitate the comparison of available QHPs after the application of any applicable employer contribution in lieu of any advance payment of the premium tax credit and any cost-sharing reductions.

§ 155.710 Eligibility standards for SHOP.

(a) *General requirement.* The SHOP must permit qualified employers to purchase coverage for qualified employees through the SHOP.

(b) *Employer eligibility requirements.* An employer is a qualified employer eligible to purchase coverage through a SHOP if such employer—

(1) Is a small employer;

(2) Elects to offer, at a minimum, all full-time employees coverage in a QHP through a SHOP; and

(3) Either—

(i) Has its principal business address in the Exchange service area and offers coverage to all its full-time employees through that SHOP; or

(ii) Offers coverage to each eligible employee through the SHOP serving that employee's primary worksite.

(c) *Participating in multiple SHOPS.* If an employer meets the criteria in paragraph (b) of this section and makes the election described in (b)(3)(ii) of this section, a SHOP shall allow the employer to offer coverage to those employees whose primary worksite is in the SHOP's service area.

(d) *Continuing eligibility.* The SHOP must treat a qualified employer which ceases to be a small employer solely by reason of an increase in the number of employees of such employer as a qualified employer until the qualified employer otherwise fails to meet the eligibility criteria of this section or elects to no longer purchase coverage for qualified employees through the SHOP.

(e) *Employee eligibility requirements.* An employee is a qualified employee eligible to enroll in coverage through a SHOP if such employee receives an offer of coverage from a qualified employer.

§ 155.715 Eligibility determination process for SHOP.

(a) *General requirement.* Before permitting the purchase of coverage in a QHP, the SHOP must determine that the employer or individual who requests coverage is eligible in accordance with the requirements of §155.710.

(b) *Applications.* The SHOP must accept a SHOP single employer application form from employers and the SHOP single employee application form from employees wishing to elect coverage through the SHOP, in accordance with the relevant standards of §155.730.

(c) *Verification of eligibility.* For the purpose of verifying employer and employee eligibility, the SHOP—

(1) Must verify that an individual applicant is identified by the employer as an employee to whom the qualified employer has offered coverage and must otherwise accept the information attested to within the application unless the information is inconsistent with the employer-provided information;

(2) May establish, in addition to or in lieu of reliance on the application, additional methods to verify the information provided by the applicant on the applicable application;

(3) Must collect only the minimum information necessary for verification of eligibility in accordance with the eligibility standards described in §155.710; and

(4) May not perform individual eligibility determinations described in sections 1411(b)(2) or 1411(c) of the Affordable Care Act.

(d) *Eligibility adjustment period.* (1) When the information submitted on the SHOP single employer application is inconsistent with the eligibility standards described in §155.710, the SHOP must—

(i) Make a reasonable effort to identify and address the causes of such inconsistency, including through typographical or other clerical errors;

(ii) Notify the employer of the inconsistency;

(iii) Provide the employer with a period of 30 days from the date on which the notice described in paragraph (d)(1)(ii) of this section is sent to the employer to either present satisfactory documentary evidence to support the employer's application, or resolve the inconsistency; and

(iv) If, after the 30-day period described in paragraph (d)(1)(iii) of this section, the SHOP has not received satisfactory documentary evidence, the SHOP must—

(A) Notify the employer of its denial of eligibility in accordance with paragraph (e) of this section and of the employer's right to appeal such determination; and

(B) If the employer was enrolled pending the confirmation or verification of eligibility information, discontinue the employer's participation in the SHOP at the end of the month following the month in which the notice is sent.

(2) For an individual requesting eligibility to enroll in a QHP through the SHOP for whom the SHOP receives information on the application inconsistent with the employer provided information, the SHOP must—

(i) Make a reasonable effort to identify and address the causes of such inconsistency, including through typographical or other clerical errors;

(ii) Notify the individual of the inability to substantiate his or her employee status;

(iii) Provide the employee with a period of 30 days from the date on which the notice described in paragraph (d)(2)(ii) of this section is sent to the employee to either present satisfactory documentary evidence to support the employee's application, or resolve the inconsistency; and

(iv) If, after the 30-day period described in paragraph (d)(2)(iii) of this section, the SHOP has not received satisfactory documentary evidence, the SHOP must notify the employee of its denial of eligibility in accordance with paragraph (f) of this section.

(e) *Notification of employer eligibility.* The SHOP must provide an employer requesting eligibility to purchase coverage with a notice of approval or denial of eligibility and the employer's right to appeal such eligibility determination.

(f) *Notification of employee eligibility.* The SHOP must notify an employee seeking to enroll in a QHP offered through the SHOP of the determination by the SHOP whether the individual is eligible in accordance with §155.710 and the employee's right to appeal such determination.

(g) *Notification of employer withdrawal from SHOP.* If a qualified employer ceases to purchase coverage through the SHOP, the SHOP must ensure that—

- (1) Each QHP terminates the coverage of the employer's qualified employees enrolled in the QHP through the SHOP; and
- (2) Each of the employer's qualified employees enrolled in a QHP through the SHOP is notified of the termination of coverage prior to such termination. Such notification must also provide information about other potential sources of coverage, including access to individual market coverage through the Exchange.

§ 155.720 Enrollment of employees into QHPs under SHOP.

(a) *General requirements.* The SHOP must process the SHOP single employee applications of qualified employees to the applicable QHP issuers and facilitate the enrollment of qualified employees in QHPs. All references to QHPs in this section refer to QHPs offered through the SHOP.

(b) *Enrollment timeline and process.* The SHOP must establish a uniform enrollment timeline and process for all QHP issuers and qualified employers to follow, which includes the following activities that must occur before the effective date of coverage for qualified employees:

- (1) Determination of employer eligibility for purchase of coverage in the SHOP as described in §155.715;
- (2) Qualified employer selection of QHPs offered through the SHOP to qualified employees, consistent with §155.705(b)(2) and (3);
- (3) Provision of a specific timeframe during which the qualified employer can select the level of coverage or QHP offering, as appropriate;
- (4) Provision of a specific timeframe for qualified employees to provide relevant information to complete the application process;
- (5) Determination and verification of employee eligibility for enrollment through the SHOP;
- (6) Processing enrollment of qualified employees into selected QHPs; and
- (7) Establishment of effective dates of employee coverage.

(c) *Transfer of enrollment information.* In order to enroll qualified employees of a qualified employer participating in the SHOP, the SHOP must—

- (1) Transmit enrollment information on behalf of qualified employees to QHP issuers in accordance with the timeline and process described in paragraph (b) of this section; and
- (2) Follow requirements set forth in §155.400(c) of this part.

(d) *Payment*. The SHOP must—

- (1) Follow requirements set forth in §155.705(b)(4) of this part; and
- (2) Terminate participation of qualified employers that do not comply with the process established in §155.705(b)(4).

(e) *Notification of effective date*. The SHOP must ensure that a QHP issuer notifies a qualified employee enrolled in a QHP of the effective date of coverage consistent with §156.260(b).

(f) *Records*. The SHOP must receive and maintain for at least 10 years records of enrollment in QHPs, including identification of—

- (1) Qualified employers participating in the SHOP; and
- (2) Qualified employees enrolled in QHPs.

(g) *Reconcile files*. The SHOP must reconcile enrollment information and employer participation information with QHPs on no less than a monthly basis.

(h) *Employee termination of coverage from a QHP*. If any employee terminates coverage from a QHP, the SHOP must notify the employee's employer.

(i) *Reporting requirement for tax administration purposes*. The SHOP must report to the IRS employer participation, employer contribution, and employee enrollment information in a time and format to be determined by HHS.

§ 155.725 Enrollment periods under SHOP.

(a) *General requirements*. The SHOP must—

- (1) Adhere to the start of the initial open enrollment period set forth in §155.410;
- (2) Ensure that enrollment transactions are sent to QHP issuers and that such issuers adhere to coverage effective dates in accordance with §156.260 of this subchapter; and
- (3) Provide the special enrollment periods described in §155.420 excluding paragraphs (d)(3) and (6).

(b) *Rolling enrollment in the SHOP*. The 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.

(c) *Annual employer election period*. The SHOP must provide qualified employers with a period of no less than 30 days prior to the completion of the employer's plan year and before the annual employee open enrollment period, in which the qualified employer may change its participation in the SHOP for the next plan year, including—

- (1) The method by which the qualified employer makes QHPs available to qualified employees pursuant to §155.705(b)(2) and (3);
- (2) The employer contribution towards the premium cost of coverage;
- (3) The level of coverage offered to qualified employees as described in §155.705(b)(2) and (3);

and

- (4) The QHP or QHPs offered to qualified employees in accordance with §155.705.

(d) *Annual employer election period notice*. The SHOP must provide notification to a qualified employer of the annual election period in advance of such period.

(e) *Annual employee open enrollment period*. The SHOP must establish a standardized 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.

(f) *Annual employee open enrollment period notice*. The SHOP must provide notification to a qualified employee of the annual open enrollment period in advance of such period.

(g) *Newly qualified employees.* The SHOP must provide an employee who becomes a qualified employee outside of the initial or annual open enrollment period an enrollment period to seek coverage in a QHP beginning on the first day of becoming a qualified employee.

(h) *Effective dates.* The SHOP must establish effective dates of coverage for qualified employees consistent with the effective dates of coverage described in §155.720.

(i) *Renewal of coverage.* If a qualified employee enrolled in a QHP through the SHOP remains eligible for coverage, such employee will remain in the QHP selected the previous year unless—

(1) The qualified employee terminates coverage from such QHP in accordance with standards identified in §155.430;

(2) The qualified employee enrolls in another QHP if such option exists; or

(3) The QHP is no longer available to the qualified employee.

§ 155.730 Application standards for SHOP.

(a) *General requirements.* Application forms used by the SHOP must meet the requirements set forth in this section.

(b) *Single employer application.* The SHOP must use a single application to determine employer eligibility and to collect information necessary for purchasing coverage. Such application must collect the following—

(1) Employer name and address of employer's locations;

(2) Number of employees;

(3) Employer Identification Number (EIN); and

(4) A list of qualified employees and their taxpayer identification numbers.

(c) *Single employee application.* The SHOP must use a single application for eligibility determination, QHP selection and enrollment for qualified employees and their dependents.

(d) *Model application.* The SHOP may use the model single employer application and the model single employee application provided by HHS.

(e) *Alternative employer and employee application.* The SHOP may use an alternative application if such application is approved by HHS and collects the following:

(1) In the case of the employer application, the information in described in paragraph (b); and

(2) In the case of the employee application, the information necessary to establish eligibility of the employee as a qualified employee and to complete the enrollment of the qualified employee and any dependents to be enrolled.

(f) *Filing.* The SHOP must allow an employer to file the SHOP single employer application and employees to file the single employee application in the form and manner described in §155.405(c).

(g) *Additional safeguards.* The SHOP may not provide to the employer any information collected on the employee application with respect to spouses or dependents other than the name, address, and birth date of the spouse or dependent.

Summary of Regulatory Changes

We are finalizing the provisions proposed in Sec. 156.285 of the proposed rule, with the following modifications in conformance with changes to part 155 subpart H: in new paragraph (b)(3) we clarified that a SHOP must offer an enrollment period to a newly qualified employee who becomes qualified outside of the initial or annual open enrollment period. In new paragraph (b)(4) we established that a SHOP must conform to the effective dates of coverage described in Sec. 156.260 and Sec. 155.720. In new paragraph (e) we clarified that QHP issuers participating in the SHOP may not impose minimum participation rules with respect to a QHP unless the SHOP authorizes the minimum participation rule in accordance with 155.705(b)(10). Finally, we made a limited number of technical changes to clarify the language in this section.

Sec. 156.285 Additional standards specific to SHOP.

(a) *SHOP rating and premium payment requirements.* QHP issuers offering a QHP through a SHOP must:

(1) Accept payment from the SHOP on behalf of a qualified employer or an enrollee in accordance with Sec. 155.705(b)(4) of this subchapter;

(2) Adhere to the SHOP timeline for rate setting as established in Sec. 155.705(b)(6) of this subchapter; and

(3) Charge the same contract rate for a plan year.

(b) *Enrollment periods for the SHOP.* QHP issuers offering a QHP through the SHOP must:

(1) Enroll a qualified employee in accordance with the qualified employer's annual employee open enrollment period described in Sec. 155.725 of this subchapter;

(2) Provide special enrollment periods described in Sec. 155.420 excluding paragraphs (d)(3) and (6);

(3) Provide an enrollment period for an employee who becomes a qualified employee outside of the initial or annual open enrollment period as described in Sec. 155.725(g) of this subchapter; and

(4) Adhere to effective dates of coverage in accordance with Sec. 156.260 and those established through Sec. 155.720 of this subchapter.

(c) *Enrollment process for the SHOP.* A QHP issuer offering a QHP through the SHOP must:

(1) Adhere to the enrollment timeline and process for the SHOP as described in Sec. 155.720(b) of this subchapter;

(2) Receive enrollment information in an electronic format, in accordance with the requirements in Sec. Sec. 155.260 and 155.270 of this subchapter, from the SHOP as described in Sec. 155.720(c);

(3) Provide new enrollees with the enrollment information package as described in Sec. 156.265(e);

(4) Reconcile enrollment files with the SHOP at least monthly;

(5) Acknowledge receipt of enrollment information in accordance with SHOP standards; and

(6) Enroll all qualified employees consistent with the plan year of the applicable qualified employer.

(d) *Termination of coverage in the SHOP.* QHP issuers offering a QHP through the SHOP must:

(1) Comply with the following requirements with respect to coverage

termination of enrollees in the SHOP:

(i) General requirements regarding termination of coverage established in Sec. 156.270(a);

(ii) Requirements for notices to be provided to enrollees and qualified employers in Sec. 156.270(b) and Sec. 156.290(b); and

(iii) Requirements regarding termination of coverage effective dates as set forth in Sec. 156.270(i).

(2) If a qualified employer chooses to withdraw from participation in the SHOP, the QHP issuer must terminate coverage for all enrollees of the withdrawing qualified employer.

(e) *Participation rules.* QHP issuers offering a QHP through the SHOP may impose group participation rules for the offering of health insurance coverage in connection with a QHP only if and to the extent authorized by the SHOP in accordance with Sec. 155.705 of this subchapter.

Appendix A: Data Elements for Application for SHOP Employee

Data Element	Details and Follow-up questions	Additional Information
Privacy Statement		
Accept terms	(Accept or Do not Accept)	Online Only; Online must accept terms to continue
Employee Information		
Employee Name	First, MI, Last, Suffix	
Date of Birth		
Sex	Male/Female	
Home Address	Address, City, State, Zip	
Mailing Address (if Different)	Address, City, State, Zip	
Phone Numbers	Primary, Secondary	
Option to select paper notices by mail		
Preferred Language		
Email address		
Tobacco Use	Yes/No	
Employer Business Name		
Race and Ethnicity	Allow users to select more than one: (White, Black or African American, American Indian or Alaska Native, Asian Indian, Chinese, Filipino, Japanese, Korean, Vietnamese, other Asian, Native Hawaiian, Guamanian or Chamorro, Samoan, Other Pacific Islander) If Hispanic/Latino/a: (Mexican, Mexican American, Chicano/a, Puerto Rican, Cuban, or another Hispanic, Latino/a, or Spanish origin)	Optional Response
American Indian/Alaskan Native	<ul style="list-style-type: none"> Name of tribe/pueblo 	
Select Health Coverage		
Type	<ul style="list-style-type: none"> Individual Family (if offered) 	
Health Plan	<ul style="list-style-type: none"> Health Plan Name Health Plan ID Number 	
Dental Plan	<ul style="list-style-type: none"> Dental Plan Name Dental Plan ID Number 	
Dependents (if applicable)		
Dependent Name	First, MI, Last, Suffix	
Date of Birth		
Relationship to Employee	Spouse, Child, etc.	
Sex	Male/Female	
Tobacco Use	Yes/No	
Address of individual living outside the home	<ul style="list-style-type: none"> Name of individual Address, City, State, Zip Phone E-mail Address 	
Signatures		
Signature	<ul style="list-style-type: none"> Signature Date 	May be electronic or telephonic online
Authorized Representative		
Name	First, MI, Last, Suffix	
Address	Address, Apartment Number, City, State, Zip	
Phone Number		
Email Address		
Signature of Employee	<ul style="list-style-type: none"> Signature Date 	
Permissions		

Appendix A: Data Elements for Application for SHOP Employer

Data Element	Details and Follow-up Questions	Additional Information
Privacy Statement		
Accept terms	(Accept or Do not Accept)	Online Only; Online must accept terms to continue
Employer Offering Coverage Information		
Employer Name		
Federal Tax ID Number		
Employer Address	Street Address, City, State, Zip	
Number of Full-time Equivalent Employees		
Attestation of offering coverage to all full-time employees		
Contact Information		
Name	First, MI, Last, Suffix	
Title		
Mailing Address (if different than employer address)	Address, City, State, Zip	
Phone Numbers	Primary, Secondary, Fax	
Option to select paper notices by mail		
Preferred Language		
Email address		
Secondary Contact Name (optional)	First, MI, Last, Suffix	
Secondary contact phone number		
Secondary contact email address		
Secondary contact authorizations	<ul style="list-style-type: none"> • Make changes to the account • Serve as back-up contact if primary can't be reached 	
Coverage Offered		
Cost Sharing Level	Choose: Bronze, Silver, Gold, or Platinum	
Benchmark Plan	Plan Name	
Offer of Dependent Coverage	Yes/No	
Employer Contribution	<ul style="list-style-type: none"> • Benchmark Plan ID number • % towards individual health coverage • % toward dependent coverage 	
Offer of standalone dental coverage	<ul style="list-style-type: none"> • Yes/No • Dental Benchmark Plan ID Number • % towards individual dental coverage • % toward dependent dental coverage 	
Desired Effective Date of Coverage		
Waiting Period for New Hires to Enroll	Choose: 0, 15, 30, 45, 60, or 90 days	
Employee List		
Employee Name	First, MI, Last, Suffix	Full-time Employees, including yourself, if applicable, as well as any part time employees offered coverage.
Date of Birth		
Social Security Number		
Other Coverage	Yes/No	
Signatures		

Appendix A: Data Elements for Application for SHOP Employer

Data Element	Details and Follow-up Questions	Additional Information
Payment Method		
Electronic Funds Transfer		
Credit Card	Credit Card type, Name on Credit Card, Credit Card Number, Expiration Date, Signature, Signature Date	
Check		
EFT	Checking Account Number, Routing Number	