



# Health Care Reform

## LEGISLATIVE BRIEF

Brought to you by Wine Sergi & Company LLC

## HHS Proposes Delay to Key Aspect of SHOP Exchanges

Beginning in 2014, individuals and small employers will be able to purchase health insurance through online competitive marketplaces, or Exchanges. The Affordable Care Act (ACA) directs each state that chooses to operate an Exchange to also establish a Small Business Health Options Program (SHOP). According to the Department of Health and Human Services (HHS), the SHOP will assist eligible small employers in providing health insurance for their employees.

In addition, ACA directs HHS to establish and operate the federally-facilitated Exchange (FFE) in each state that does not establish its own Exchange. The FFE will include both individual market and SHOP components.

Small employers with up to 100 employees will be eligible to participate in the Exchanges. However, until 2016, states may limit employers' 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.

On March 11, 2013, HHS issued a [proposed rule](#) that would amend some of the standards for SHOP Exchanges. Most notably, the proposed rule would create a transition policy regarding an employee's choice of qualified health plans (QHPs) in the SHOP. **The transition policy would delay implementation of the employee choice model as a requirement for all SHOPs until 2015 plan years.**

At this point, the transition policy has not been finalized. However, it is a good indicator of the approach HHS intends to take with respect to implementing the SHOPs.

### FUNCTIONS OF SHOP

On March 27, 2012, HHS issued a [final rule](#) on establishment of the Exchanges. This final rule describes the minimum functions of a SHOP. The final rule provides that 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. In addition, the final rule permits SHOPs to allow a qualified employer to choose one QHP for its employees.

In a separate [final rule](#) issued in March 2013, HHS provided that the federally-facilitated SHOP (FF-SHOP) would give employers the choice of offering only a single QHP, as employers customarily do today, in addition to the choice of offering all QHPs at a single level of coverage.

### TRANSITION POLICY

In the proposed rule, HHS provides a transition policy for 2014 plan years that is intended to provide all SHOPs (both state SHOPs and the FF-SHOP) with additional time to prepare for the employee choice model.

Under the proposed transition policy, for plan years beginning on or after Jan. 1, 2014, and before Jan. 1, 2015, a state SHOP would not be required to permit qualified employers to offer their employees a choice of QHPs at a single level of coverage. However, a SHOP may decide to provide this option to employers for 2014 plan years.

In addition, for plan years beginning on or after Jan. 1, 2014, and before Jan. 1, 2015, FF-SHOPs would not allow qualified employers to offer their employees a choice of QHPs at a single level of coverage. For 2014 plan years, the FF-SHOP would assist employers in choosing a single QHP to offer their qualified employees.



## HHS Proposes Delay to Key Aspect of SHOP Exchanges

---

According to HHS, the transition policy would increase the stability of the small group market while providing small groups with the benefits of SHOP in 2014 (for example, choice among competing QHPs and access for qualifying small employers to the small business health insurance tax credit).

The 2012 final rule also included a premium aggregation function for the SHOP that was designed to assist employers whose employees were enrolled in multiple QHPs. Because this 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.

Wine Sergi & Company LLC will continue to monitor health care reform developments and will provide updated information as it becomes available.

---

This Legislative Brief is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice.

© 2013 Zywave, Inc. All rights reserved.

EEM 3/13