

**New York Health Benefit Exchange &  
Small Business Health Options Program (SHOP)**  
**Frequently Asked Questions for Agents and Brokers**  
*May 9, 2013*

**Carrier Participation in the Exchange**

1. Q: What carriers have officially agreed to participate in the SHOP exchange?

A: The number of plans and carriers participating in the SHOP will be available when the Qualified Health Plan certification is completed at the end of July.

2. Q: When can we expect additional guidance on the choices available through the SHOP Exchange regarding the employers' ability to select multiple carriers or multiple metal levels? Do you anticipate that this will in fact be an option at the employee level?

A: New York State believes based on survey results that employee choice is an important option for small businesses. It is our intent to move forward to make this functionality available to small employers when the Exchange launches on October 1, 2013.

3. Q: Will the Exchange break down the regional rating areas in New York State? Will the Exchange offer all carriers and plans throughout the state or offer different options within regions?

A: Revised Attachment C of the health plan invitation ([www.healthbenefitexchange.ny.gov/invitation](http://www.healthbenefitexchange.ny.gov/invitation)) shows the rating regions for NYS. Different options will be available in different areas of the state.

4. Q: When will we be able to see plans, carriers, rates and plan designs on the Exchange website?

A: This information will be available in July, after the Qualified Health Plan certification process has been completed.

5. Q: Will carriers have the choice of participating in the SHOP or not?

A: Yes, health insurers have the option of participating in only the Individual Exchange, only the SHOP Exchange or in both Exchanges.

6. Q: Will the carriers have underwriting requirements within the Exchange?

A: Medical underwriting is not permitted in the individual and small group markets in New York and will not be permitted in the Individual or SHOP Exchanges. For more information on rate

development, visit the DFS website that includes the filing requirements for Insurers:  
<http://dfs.ny.gov/insurance/ihealth.htm#fileny>

7. Q: Will the Exchange provide information about the comparative strength of the various carrier provider networks in a given area?

A: Provider networks will be available for consumers and small businesses during the shopping experience.

8. Q: Are updates regarding the provider networks available?

A: The Invitation for Health Insurer and Dental Plan Participation in the New York Health Benefit Exchange, posted on our website (<http://www.healthbenefitexchange.ny.gov/invitation>) indicates the requirements that insurers must meet to submit an adequate provider network. Provider networks will be listed with each QHP on the Exchange Portal beginning October 1, 2013, and updated regularly, thereafter.

### **Commissions and Contracting with Carriers**

1. Q: Will the Exchange set producer commissions?

A: No. Commissions will be set and paid by the carriers. However, commissions must be the same for products sold both inside and outside the Exchange.

2. Q: Will Exchange enrollees be charged an extra cost for using a broker?

A: Commissions will continue to be built into premiums whether a broker is used or not, so no extra cost will be charged to enrollees for using a broker.

3. Q: Will the Exchange be able to let consumers know what brokers are set with which carriers?

A: Yes, brokers will have the ability to list the carriers they are affiliated with when they register on the broker portal. Consumers will be able to search for a broker based on their carrier affiliations.

### **Employer Eligibility for SHOP Exchange**

1. Q: What size business can have access to the SHOP Exchange?

A: In New York, the SHOP Exchange is available for small businesses with 50 or fewer eligible employees. The ACA requires that states adopt the small business definition as 100 or fewer

employees starting in 2016. Starting in 2017, the ACA permits the state to allow large employers to participate in the SHOP Exchange. (Also see Question 3 below related to sole proprietors).

2. Q: Carriers currently have minimum premium contribution and participation requirements. Even though the Exchange will not have these requirements, will the carriers on the Exchange be able to have such requirements?

A: No. Minimum participation or minimum premium contribution requirements will not be permitted in the SHOP.

3. Q: When a business only has one employee to insure, is the policy written in the Individual or SHOP Exchange?

A: Small businesses with 50 or fewer eligible employees are able to participate in the SHOP.

Businesses that don't have at least one eligible employee are sole proprietors and are required to purchase individual insurance through the individual Exchange where they may be eligible for tax credits. Eligible employee refers to an employee who is not the proprietor's spouse.

4. Q: Will the SHOP Exchange require small employers to provide tax documentation (i.e., NYS-45) prior to approval?

A: Yes. However, to reduce the documentation requirement on small businesses, the Exchange is working on a process to electronically validate the NYS Form 45.

5. Q: Is an employer required to pay into the employees' health insurance through the Exchange?

A: No, there is no minimum premium contribution requirement for the SHOP Exchange.

6. Q: Will the SHOP Exchange collect premiums from employers or employees to pay for health insurance coverage?

A: The SHOP Exchange will collect premiums directly from employers and will pay the carriers directly. Employers will continue to collect premiums from their employees through payroll deduction or another mechanism.

## **Enrollment Periods**

1. Q: What are the enrollment periods for the Exchange?

A: The Exchange starts accepting applications on October 1, 2013 for a January 1, 2014 effective date for both individuals and small employers. The first open enrollment period for the Individual Exchange begins on October 1, 2013 and ends on March 31, 2014. Small businesses may purchase coverage through the SHOP Exchange at any time during the year.

2. Q: Can a small business purchase coverage in the Exchange mid-year as their current plan ends? How will plan years work for small business open enrollment?

A: Yes, small businesses can purchase coverage in the Exchange mid-year. Employers may elect a coverage effective date the first of any month beginning in January 2014. Coverage will be effective for 12 months from the effective date, with no change in premium.

## **General Exchange Questions**

1. Q: What are the benefits for a small employer of using the SHOP Exchange?

A: Starting in 2014, the SHOP Exchange is the only place eligible small businesses can receive the federal Small Business Health Care Tax Credit. Additionally, the Exchange will enable small employers to offer their employees more plan options, allow small employers to set a “defined contribution” toward coverage, and ease the administrative aspects of offering coverage for small employers.

2. Q: Is New York going to make employee choice available given the fact that the federal Exchanges have put this feature off until 2015?

A: New York State believes that the employee choice model is an important option for small businesses. It is our intent to move forward to make this functionality available when the Exchange launches on October 1, 2013.

3. Q: If an employee covered by an Exchange plan terminates employment, will COBRA apply?

A: Yes. COBRA and NYS continuation laws will apply.

4. Q: Will the SHOP Exchange in New York be regional, or will one Exchange serve all of the state?

A: New York is establishing a statewide Exchange. Insurers and rates, however, will vary by region across the state.

5. Q: Will rates for individuals vary by age group?

A: No. New York is a pure community rated state, so rates will not vary by age.

6. Q: New York State currently has many mandated benefits, such as Timothy's Law and the autism law requirements. Will these mandated benefits be included in plans offered on the Exchange? Will employer groups be able to choose benefits?

A: All state small group market and most non-group market mandated benefits, as well as Essential Health Benefits mandated by the Affordable Care Act, will apply to plans offered on the Exchange.

7. Q: Can Multi-State Health Plans participate in both the SHOP and Individual Exchange, or just on the Individual Exchange?

A: Multi-State Plans can choose to offer products in both the Individual and SHOP Exchanges or begin in the Individual Exchange and expand to the SHOP over time.

8. Q: Will individuals currently enrolled in Family Health Plus or Child Health Plus be redirected into the Exchange?

A: Applicants for all Insurance Affordability Programs (Medicaid, CHP, and Advanced Premium Tax Credits) will be processed through the Exchange. Most Family Health Plus enrollees will be transitioned to Medicaid. Effective January 1, 2014, parents with incomes between 138%-150% of the Federal Poverty Level will be enrolled in coverage through the Exchange and the state will pay for the costs of premiums for this coverage.

9. Q: How lengthy will the SHOP application be?

A: The online SHOP application is estimated to take 30 minutes to complete.

10. Q: Once the SHOP accepts companies of 51 to 100 employees, will those companies' rates become community rated?

A: Yes. In 2016, the definition of small employer expands to include employers with up to 100 employees. Once that happens, those products will be community rated throughout NYS.

11. Q: If an employer is based in New York, but has satellite offices in other states. Do we have to offer plans from the NY SHOP Exchange to all of our employees or can we offer plans from the various Exchanges where each of the satellite offices are located?

A: Pursuant to the employer eligibility requirements listed in section 45 CFR § 155.710(b-c), eligible employers can purchase coverage through a SHOP if their principal business address is in the Exchange service area and they offer coverage to all full-time employees through that SHOP, or if they offer coverage to each eligible employee through the SHOP serving that employee's primary worksite. For example, if an eligible employer has its principal business address in New York, but has work sites in New York and Connecticut, it can choose to offer plans for the New York based employees through the New York SHOP exchange and the Connecticut based employees through the Connecticut exchange; or it can offer coverage through the New York SHOP exchange to all of the employees.

12. Q: Will employee contributions for employer-sponsored coverage purchased through SHOP be considered pre-tax?

A: Yes, if the employer sets up a Section 125 plan.

13. Q: Will Medicare Advantage plans be included in the Exchange?

A: No.

14. Q: If a plan is offered in the Exchange and also offered out of the Exchange, will the premium for that plan be the same in and out of the Exchange?

A: Yes.

### **Healthy New York**

1. Q: Will the Healthy New York program still be available in 2014?

A: Healthy NY for individuals and sole proprietors will end on December 31, 2013. Healthy NY for small businesses will continue in 2014.

2. Q: What is the difference between Group and Sole Proprietors Healthy New York products?

A: Currently there are no differences. However, consistent with federal requirements, sole proprietors will purchase coverage as individuals beginning in 2014.

3. Q: Will Healthy New York benefits meet the Essential Health Benefits criteria?

A: Yes. Healthy New York coverage must be supplemented to meet Essential Health Benefits requirements. This modified HNY product will be available to new and existing qualifying small employers.

4. Q: Are enrollees in Healthy New York plans eligible for a tax credit?

A: No. Healthy New York for small businesses will be offered outside the SHOP Exchange and, therefore, federal Small Business Health Care Tax Credits will not apply.

### **Navigators**

1. Q: Is being a broker for the Exchange and being an In-Person Assistor/Navigator mutually exclusive?

A: The Request for Application issued by the Department of Health for the In-Person Assistor/Navigator program permitted brokers to apply. However, federal rules do not allow Navigators to receive consideration directly or indirectly from insurers, and thus, brokers must choose to be a navigator or be commissioned by a health insurer.

2. Q: Where can I find more information on the In-Person Assistor/Navigator Request for Applications?

A: The New York State Department of Health (DOH) has issued a “Consumer Assistance for the New York State Health Benefit Exchange: In-Person Assistors and Navigators” Request for Applications (RFA). The RFA is available for download on the Department's public website at:  
<http://www.health.ny.gov/funding/>.

### **Producer (Agent/Broker) Requirements and Portal**

1. Q: What are the Agents/Broker training and certification requirements for the Exchange?

A: Brokers and agents who distribute Exchange products will need to be certified by the Exchange. Brokers will have the choice of being certified for the SHOP Exchange or for the SHOP and Individual Exchange. Details about the training and certification process will be the subject of a future broker webinar.

2. Q: Will certification training for brokers and agents be available on the web or will it have to be done in a class room setting?

A: This is currently under discussion. We anticipate that course work required for SHOP and Individual Exchange certification will be available on line. Testing will likely be required in a classroom environment.

3. Q: Will Exchange broker education count towards the overall broker continuing education (CE) requirements?

A: Yes, the SHOP certification course will provide 8 CE credits. Continuing Education credits for the Individual Exchange certification is under discussion.

4. Q: Will licensed agents who represent a single carrier also be required to have SHOP broker certification?

A: Yes.

5. Q: If an independent agent works with a general agent for benefits, does the independent agent need to be certified? If an independent agent is licensed with the carriers, but deals through a general agency, does the independent agent need to be certified?

A: Yes. The independent agent needs to be certified. The certification would apply to both scenarios.

6. Q: If a broker is certified to sell SHOP products, can he or she still sell in a private exchange?

A: Yes.

7. Q: Will brokers also be allowed to enroll people in the Individual Exchange?

A: Yes, brokers can choose to become certified to enroll people in the Individual Exchange. More details will follow on the certification process.

8. Q: When will you provide broker advertising guidelines?

A: Guidelines will be incorporated into the SHOP Broker/Agent agreements, which are currently under development.



9. Q: How will the list of certified brokers be developed? Will the Exchange website show brokers within a certain mile radius of the individual/small business' zip code?

A: A list of brokers certified for Exchange products will be available on the website and by calling the customer service center. The search criterion for the website list is still being explored.

10. Q: As a certified Exchange broker, can I link to the dedicated broker Exchange portal from my website?

A: The Exchange plans to allow a link to the Exchange enrollment website from certified producers' websites.

11. Q: Will there be two separate dedicated broker portals, one for the Individual and one for the SHOP Exchange?

A: No, there will be only one broker portal used for enrollment for individuals and small businesses. However, the application requirements and process for individuals and small businesses will differ.

### **Small Business Health Care Tax Credit**

1. Q: What are the eligibility criteria for the small business tax credit available through the Exchange?

A: A small business may be eligible for the Small Business Health Care Tax Credit if it purchases a policy inside the Exchange and meets these criteria:

- Fewer than 25 employees
- Average salary of \$50,000 or less
- Contributes at least 50 percent toward employee premium costs (for an individual, not family)

The maximum credit is 50% of the employer contribution. The maximum credit for not-for-profit businesses is 35% of employer contribution.

2. Q: Will a small business get a tax credit for purchasing any plans or just the silver level plan?

A: For small employers, neither the eligibility for nor the amount of the small business tax credit is linked to the metal level of the plan(s). As long as a small business meets the eligibility criteria, it is eligible for the tax credit regardless of the plan option(s) it offers to employees.

3. Q: In 2014 will the small business tax credit be available to employers participating in private exchanges?

A: No. Per the Affordable Care Act, in 2014 the Small Business Health Care Tax Credit will only be available through the official New York State Exchange.

4. Q: Can an employee get a tax credit in the SHOP exchange?

A: No. In the SHOP Exchange, the tax credit is available to an employer that meets the required tax credit eligibility criteria. The individual tax credit is only available in the Individual Exchange.

### **Individual and Family Tax Credits**

1. Q: What are the individual tax credits?

A: The Affordable Care Act makes available an Advanced Premium Tax Credit (APTC) for eligible enrollees (based on Federal Poverty Level income standards) in the Individual Exchange only. Eligibility for APTC will be calculated at the time of application based on enrollee's income.

Individuals and families with incomes up to 400% of the Federal Poverty Level are eligible for federal tax credits that will offset the cost of health insurance premiums in the Exchange (see below). This income level is equivalent to \$44,680 for an individual and \$92,200 for a family of four.

#### **2012 Annual Federal Poverty Guidelines**

Household Size	400% of Federal Poverty Level
1	\$44,680
2	\$60,520
3	\$76,360
4	\$92,200
5	\$108,040
6	\$123,880
7	\$139,720
8	\$155,560
For each additional person	\$15,840

Source: U.S. Department of Health and Human Services.

2. Q: Is the premium tax credit available to individuals right away at the time of purchase or at the end of year?
- A: The tax credit will be calculated as part of the application process and the individual may choose to apply all or part of the credit to reduce their monthly premium.
3. Q: Can an individual go to the Exchange, determine his/her tax credit and then buy a policy outside the Exchange, or does he/she have to buy the policy through the Exchange?
- A: Tax credits are only available if the policy is purchased through the Exchange.
4. Q: Will an individual get a tax credit for purchasing any plan or just the silver level plan?
- A: Individuals who are eligible for a premium tax credit can use it to purchase coverage at any of the Exchange plan metal levels (i.e., platinum, silver, gold and bronze). The amount of the premium tax credit is calculated based on the second lowest cost silver plan available in the Exchange. An individual who selects a higher cost metal tier will be responsible for paying the additional premium.
5. Q: Will an individual get cost-sharing credits for purchasing any plan or just a silver level plan?
- A: Cost-sharing credits are available to qualified individuals with incomes below 250% of the federal poverty level. Cost-sharing credits are available only on products in the silver tier.
6. Q: When an employer doesn't offer health insurance, what type of tax credit will the employee get towards a health plan in the Exchange?
- A: Individual premium tax credits are available in the Individual Exchange. Eligibility for the tax credit and its amount is based on the individual's income level and ineligibility for minimum essential health coverage through an employer or public health insurance program.

### **Other Affordable Care Act Topics**

1. Q: If an employer offers a premium contribution that makes coverage affordable based on the federal rules and an employee chooses to remain uninsured, does the Affordable Care Act penalty apply to the employer or the employee?
- A: In this case, the individual would be penalized. (Note that there is no employer penalty for small businesses; the Affordable Care Act employer penalty only applies to large employers.)

2. Q: The Affordable Care Act requirement for employers to notify employees of the existence of Exchanges has been delayed. What will the Health Benefit Exchange do if it is ready by the October 1, 2013 launch date and either there is no guidance on this from the feds or if the feds delay the implementation of their Exchanges?

A: Federal law requires that an Exchange be available in each state starting on January 1, 2014 and for an Exchange to begin accepting applications for enrollment in Qualified Health Plans on October 1, 2013. On May 9, 2013, the Federal government released guidance on the employer notification requirement. This federal guidance can be found at: <http://www.dol.gov/ebsa/pdf/tr13-02.pdf>

3. Q: Will HSAs and HRAs remain available?

A: Yes, an HSA or HRA may be paired with a bronze tier product.

4. Q: If an employer pays 100% of his/her employees' health insurance now, can he/she continue to do so?

A: Yes.

5. Q: What obligations do small businesses have for employees who waive the health plan option because of coverage taken from employee spouse coverage?

A: None.

6. Q: How does the federal government define full time work?

A: The federal definition of full time is an average of 30 hours per week.