



Supplemental 2018 Plan Invitation for SHOP Direct Enrollment

Updated March 9, 2018
Response Required by March 19, 2018

Due to clarification received by the Centers for Medicare and Medicaid Services pertaining to the requirement for Marketplaces to maintain administration of current groups, this Supplemental Invitation has been amended in relevant part to reflect those changes. Accordingly, all dates for required response from Insurers have been extended by one week. However, in order to ensure timely certification, we urge Insurers to respond as soon as practicable.

Background

On April 18, 2017, NY State of Health (“NYSOH”) issued an Invitation and Requirements for Insurer Certification and Recertification for Participation in 2018 (the “Invitation”) to all licensed insurers in the State to apply to participate in NYSOH in 2018, including the NYSOH Small Business Marketplace or “SHOP.” In November 2017 the United States Department of Health and Human Services issued the Notice of Benefit and Payment Parameters for 2019,¹ which gave states significant flexibility in administration of the Small Business Marketplace. More specifically, the proposed federal rules, expected to be finalized shortly, allow eligible small employers to enroll in SHOP-certified Qualified Health Plans (“QHPs”) directly through an insurer and still receive federal small business tax credits. Pursuant to CMS guidance notifying state based SHOPS that they may implement the proposed rule on or after January 1, 2018,² NYSOH will adopt this change in federal rules to simplify the enrollment process for small groups by aligning SHOP with the off-exchange small group insurance market, making tax credits more easily accessible to New York’s small businesses and facilitating insurer and state administrative processes.

¹ Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2019, 82 Fed. Reg. 51052 (proposed Nov. 2, 2017), available at <https://www.federalregister.gov/d/2017-23599>.

² Centers for Medicare and Medicaid Services, “CMS to Allow Small Businesses and Issuers New Flexibilities in the Small Business Health Options Program (SHOP) For Plan Year 2018,” October 27, 2017, available at <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/New-Flexibilities-SHOP-2018.pdf>.

Purpose

NYSOH is issuing this Supplemental 2018 Plan Invitation (the “Supplemental Invitation”) in light of the significant impact this change in federal regulation has on the operations of the SHOP. This Supplemental Invitation is open to all New York State insurers eligible under the terms of the April 18, 2017 Invitation, including insurers that currently offer SHOP products and those that do not. This Invitation provides insurers the opportunity to submit to NYSOH additional small group products, previously approved by the NYS Department of Financial Services (“DFS”) for issuance in 2018, for sale on the SHOP starting in April 2018 for coverage effective July 2018 and later.

The sections that follow describe changes in SHOP policies and procedures needed to implement the federal regulation and the requirements for NYSOH certification of additional small group products.

As used in this Supplemental Invitation, “**New Employer Groups**” means employer groups not enrolled in coverage through the SHOP and applying for coverage through SHOP on or after April 1, 2018.

“**Current SHOP Employer Groups**” means employer groups who applied for SHOP coverage prior to April 1, 2018 and whose coverage remains active.

SHOP Program Changes

The following changes will apply to the SHOP program requirements contained in the April 2017 Health Plan Invitation. All other SHOP program requirements, including the requirement to offer QHPs at all metal levels, remain for the 2018 calendar year.

Minimum Participation Requirements

SHOP rules will be aligned with the outside (non-SHOP) small group insurance market. Although insurers are strongly encouraged to refrain from imposing any minimum participation requirements in the small group market, insurers (other than HMOs) may impose minimum participation requirements in the small group market. However, if a small group cannot meet the insurer’s minimum participation requirements, an insurer must still permit the group to enroll during an annual open enrollment period that begins November 15 and extends through December 15 of each year. The annual open enrollment period applies to coverage issued or renewed between November 15 and December 15 and coverage

applied for between November 15 and December 15 with an effective date of January 1. Insurers may impose minimum participation requirements on renewal outside of the open enrollment period but only to the extent the same requirements were imposed upon the group's initial application for coverage.

For coverage issued on SHOP prior to April 1, 2018, insurers were not permitted to impose minimum participation requirements. Therefore, insurers may not impose minimum participation requirements mid-plan year or upon renewal for Current SHOP Employer Groups. For New Employer Groups, insurers may impose minimum participation requirements that are consistent with such requirements used for its off-SHOP small group business.

Limit on Number of Qualified Health Plans Offered on SHOP

Effective April 1, 2018, NYSOH will remove the limit on the number of health plans that an insurer can offer on the SHOP to maximize the number of QHPs that qualify for small business federal tax credits.

Pediatric Dental Coverage Requirements

Consistent with current practice, the availability of pediatric dental benefits offered through Stand Alone Dental Plans will satisfy the pediatric dental requirement. NYSOH will continue to certify Stand Alone Dental Plans and display these products on the Marketplace website. Insurers participating on the SHOP as of January 1, 2018 will not need to make any changes to their current SHOP-certified QHPs. Insurers not participating on the SHOP in 2018 will follow the requirements consistent with the outside (non-SHOP) small group insurance market; all insurers will be required to offer pediatric dental benefits either embedded with medical benefits or through an offer of a NYSOH-certified Stand Alone Dental Plan provided by the same or separate insurer approved to issue NYSOH-certified Stand Alone Dental Plans.

NYSOH Revised SHOP Enrollment Process

NYSOH will retain responsibility for certifying health plans as QHPs, certifying eligibility of employers to purchase through SHOP, and adjudicating employer eligibility appeals related to the small business' eligibility to purchase through the SHOP. NYSOH will also continue to maintain an anonymous shopping

tool on its website that displays certified QHPs, for which small business tax credits may be available to the employer, as well as Stand Alone Dental Plans. Insurers will assume responsibility for employee eligibility determinations and enrollment and the day to day administration of SHOP employer groups as described below.

In order for an employer to apply to be certified as eligible to purchase SHOP-certified products, the employer, insurer, or SHOP certified broker authorized by the employer, will complete an abbreviated employer eligibility application on the NYSOH SHOP portal that includes only the following information: business name, EIN, main contact first name/last name, email, phone number, primary business address, FTE count, eligible employee count, physical location in NYS attestation, and 1-100 FTE's attestation. As it does today, NYSOH will verify the information submitted with independent data sources to confirm that the applicant is a bona fide NYS business. If eligible, NYSOH will issue a written notice to the employer confirming eligibility to purchase SHOP certified products and advising the employer that they must enroll in a SHOP certified QHP to be eligible to receive the federal small employer tax credit, if otherwise qualified. The employer will also be instructed to keep a copy of the letter to give to their tax preparer.

Employers who are determined to be ineligible to purchase SHOP certified products will receive a notice of denial from NYSOH, which includes appeal rights and the process and timeline for filing an appeal. NYSOH will continue to administer appeals of employer eligibility determinations. Insurers will not be responsible for appeals related to employer eligibility to purchase through SHOP.

New Employer Groups

Starting in April 2018, New Employer Groups will complete an abbreviated application on the NYSOH web portal. NYSOH will validate that the employer is a bona fide NYS business through independent data sources. If successfully validated, the employer will receive a written determination from NYSOH that it is eligible to purchase SHOP certified QHPs. The determination will be valid for the tax year in which it is issued. To illustrate, a SHOP eligibility decision made by NYSOH in April 2018 will be valid for the business' 2018 tax year. The employer will be instructed to retain a copy of the letter to provide to their tax preparer. The employer will enroll directly with the insurer.

As of April 1, 2018, for New Employer Groups, insurers will assume the following functions currently performed by NYSOH for SHOP groups:

- Group set up and enrollment;
- Enrollment, disenrollment, and coverage changes for individual enrollees of the group;
- Employee eligibility determination in accordance with the group contract;
- Adjudication of employee eligibility appeals;
- Premium billing and collection.

Transition of Current SHOP Employer Groups

The process described above will be applicable to Current SHOP Employer Groups for their new coverage year, effective July 2018 and later. NYSOH will continue to handle annual re-determinations of employer eligibility to purchase SHOP certified QHPs. For renewals effective July 2018 and thereafter, insurers will handle group set up and enrollment; enrollment, disenrollment, and coverage changes for individual enrollees of the group; employee eligibility determinations in accordance with the group contract; adjudication of employee eligibility appeals; premium billing and collection.

NYSOH will work in collaboration with insurers, employers and designated brokers to ensure a smooth transition of the administration of Current SHOP Employer Groups as follows. **Consistent with proposed federal rules, NYSOH will continue to administer groups with plan years that began in 2017 or that began before July 1, 2018. Upon renewal of Current SHOP Employer Groups' coverage plan year, administration of Current SHOP Employer Groups will be transferred from NYSOH to insurers, including processing any changes or new enrollments to these groups; determining employee eligibility; premium billing and collection; and handling appeals regarding employee eligibility. In effect, the transition of administration will "roll off" upon Current SHOP Employer Groups' renewal.** NYSOH will retain responsibility for issuing premium invoices to employers and collecting and remitting premiums to insurers for coverage months through **the end of each Current SHOP Employer Group's Plan Year**. NYSOH will likewise retain responsibility for reconciling coverage and premium payments for coverage months up to **the end of each Current SHOP Employer Group's Plan Year**.

Upon renewal of Current SHOP Employer Groups' coverage plan year, the process will be as follows:

- Employer obtains a SHOP employer eligibility determination from NYSOH;
- Employer applies for coverage directly with insurer or through a SHOP certified broker and enrolls in SHOP certified products.

For Current SHOP Employer Groups **new coverage plan year**, insurers will be responsible for:

- Group set up and enrollment;
- Enrollment, disenrollment, and coverage changes for individual enrollees of the group;
- Employee eligibility determination in accordance with the group contract;
- Adjudication of employee eligibility appeals;
- Premium billing and collection.

Process for Insurers to Designate Additional Products as “SHOP Certified” for 2018

Insurers Currently Participating on SHOP

Insurers participating on the SHOP as of January 1, 2018 will be required to continue offering products previously certified for 2018. In response to the Supplemental Invitation, during the Election Period, which will commence on the date of this invitation and end on **March 30, 2018**, insurers may select additional small group products previously approved by DFS to be offered through the SHOP in 2018. There will be no limit on the number of plans offered by an insurer on the SHOP and insurers are encouraged to offer all approved products to increase the availability of tax credits to employers.

Insurers Not Participating on the SHOP in 2018

Insurers not participating on the SHOP in 2018 may elect to offer products previously approved by the DFS for issuance in 2018 during the Election Period which will commence on the date of this invitation and end on **March 30, 2018**. Insurers must agree to offer at least one product at each metal level on the SHOP. There will be no limit on the number of plans offered by an insurer on the SHOP and insurers are encouraged to offer all approved products to increase the availability of tax credits to employers. Insurers that do not already have a contract in effect with NYSOH will be required to execute such a contract as a condition of offering products on the SHOP.

Process for Certification

To reduce the administrative burden for certifying additional SHOP QHPs, NYSOH will use the SERFF system to certify additional small group products. Insurers will only need to review one plan variation of SHOP offerings, specifically the Dependent Age 26, Family Planning, and Domestic Partner plan offering. Upon receipt of the insurer's completed Letter of Interest; including the list of products for which SHOP certification is sought by HIOS ID, the insurers will review the identified plans in SERFF. If corrections are needed NYSOH will open the identified SERFF binder filing to allow for insurer correction and submission to DFS and NYSOH for certification. If there are no corrections needed to the insurer's already-submitted 2018 "off" marketplace SERFF filings, the insurer will notify DFS and NYSOH which SERFF filings have been reviewed and approved. Any correction needed to the filing will be the responsibility of the insurer before submission to DFS and NYSOH. NYSOH will provide more detailed instructions on the SERFF process for adding additional plans following receipt of the insurer's Letter of Interest.

Letter of Interest

NYSOH requests insurers to submit the attached non-binding Letter of Interest as soon as is possible, but no later than **March 19, 2018** via electronic mail at the address below. Formal election of additional small group products is required by **March 30, 2018** and approval of the accuracy of information on the NYSOH website must be received by **April 4, 2018**.

NY State of Health
Small Business Marketplace
NYSoHSHOPdirect@health.ny.gov

Inquiries

All responses, questions, or requests for additional information concerning this Supplemental 2018 Invitation must be directed to the contact listed below by close of business on **March 19, 2018**. DOH will respond to questions in writing and questions and answers will be posted on the NYSOH website (nystateofhealth.ny.gov), unless the party submitting a question maintains that the question/answer will contain confidential and/or proprietary information. Inquiries of a technical nature (e.g., an inquiry

regarding access to SERFF), may result in either a written response or a referral to the appropriate individual for a verbal response.

Responses, questions, and information requests should be sent to: NYSOSHOPdirect@health.ny.gov



**LETTER OF INTEREST FOR DESIGNATION OF QUALIFIED HEALTH PLANS
AS SHOP-CERTIFIED**

This form should be received by the Small Business Marketplace no later than **March 12~~1~~9, 2018**.

I, _____, an authorized representative of _____, am submitting this Letter of Interest regarding the designation of NY Department of Financial Services (DFS) approved small group market Qualified Health Plans (QHPs) as “SHOP certified.”

Name:
Title:
Company:
Address:
Telephone:
E-mail Address:

Please sign (i) or (ii) below, as applicable and complete the attached form including HIOS numbers for individual products.

- (i) We intend to offer **all** DFS approved small group market QHPs as SHOP-certified; these are listed on the attached form.

Signature:

Date:

- (ii) We intend to offer the **specified** DFS approved small group market QHPs that are listed on the attached form as SHOP-certified.

Signature:

Date:



PRODUCTS FOR WHICH SHOP CERTIFICATION IS SOUGHT

HIOS ID	HIOS ID	HIOS ID