



Date: September 30, 2013

From: Center for Consumer Information and Insurance Oversight, Centers for Medicare & Medicaid Services

Title: Affordable Insurance Exchanges Guidance

Subject: Members of Congress and Staff Accessing Coverage through Health Insurance Exchanges (Marketplaces)

Q. How will Members of Congress and Congressional staff access health insurance coverage through an Exchange as directed by Office of Personnel Management (OPM) regulations implementing the Affordable Care Act?

A. Section 1312(d)(3)(D) of the Affordable Care Act provides that the only health plans that the federal government may make available to Members of Congress and certain congressional staff with respect to their service as such are health plans offered through an Exchange, also known as a Health Insurance Marketplace. Section 1312 further defines congressional staff as those employed by the official office of a Member of Congress. A final rule published by OPM provides that Members of Congress will designate those on their staff who are eligible to purchase their health insurance from an Exchange and establishes the Small Business Health Options Program (SHOP) as the channel through which such staff and Members of Congress may enroll in qualified health plans.

Consistent with the OPM rule, this guidance clarifies that offices of the Members of Congress are considered qualified employers eligible to offer coverage to Members and designated Congressional staff through the appropriate SHOP as determined by OPM. CMS clarifies that offices of the Members of Congress, as qualified employers, are eligible to participate in a SHOP regardless of the size and offering requirements set forth in the definition of “qualified employer” in the Exchange final rule,¹ provided that the office offers coverage to those full-time employees who are determined by statute to purchase health insurance from an Exchange for the purpose of the government contribution.

¹ Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers; Final Rule and Interim Final Rule; published March 27, 2012, at 77 FR 18310 (<http://www.gpo.gov/fdsys/pkg/FR-2012-03-27/pdf/2012-6125.pdf>). 45 CFR 155.20 provides that “[q]ualified employer means small employer that elects to make, at a minimum, all full-time employees of such employer eligible for one or more QHPs in the small group market offered through a SHOP.”