

**Recommendation Form for the
2015 Transition to Employee Choice
Due to HHS June 2, 2014 for FF-SHOP States**

Instructions: Please fill out the following form and attach your recommendation for a one year transition to employee choice including an evidence-based assessment of the full landscape of the small group market in your State.

State: Pennsylvania

Insurance Commissioner (signature):



Michael F. Considine

Pennsylvania Insurance Commissioner

Please adequately explain that it is in your expert judgment, based on a documented assessment of the full landscape of the small group market in your State that the 2015 Transition to Employee Choice would be in the best interest of small employers and their employees and dependents, given the likelihood that implementing employee choice would cause issuers to price their products and plans higher than they would otherwise price them. Please base your recommendation on discussions with those issuers expected to participate in the SHOP, including naming those issuers, and keep your recommendations specific to 2015 since this is a one year transitional policy.

Please see attached letter.



COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT
1326 STRAWBERRY SQUARE
HARRISBURG, PA 17120

THE COMMISSIONER

June 2, 2014

The Honorable Kathleen Sebelius
Secretary, U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Via electronic mail delivery to shop@cms.hhs.gov

Re: Employee Choice Function in FF-SHOP

Dear Secretary Sebelius:

I write to recommend that the employee choice functionality be transitioned into Pennsylvania's Federally-Facilitated Small Business Health Options (FF-SHOP) exchange after 2015. Allowing additional time for the implementation of the employee choice function is in the best interest of small businesses and their employees, given the likelihood that implementing employee choice in 2015 would lead to increased health insurance costs and negative impacts on the small group market.

A recent federal announcement requires state insurance commissioners to adequately explain why the Department of Health and Human Services (HHS) should not rush issuers to build the employee choice functionality. This announcement is another example of a troubling pattern from HHS on implementation of the Affordable Care Act (ACA) – decisions with the potential for negative impacts on consumers are handed to the states. While the Insurance Department (Department) remains concerned by the amount of flexibility HHS affords itself in what appears to be an effort to avoid accountability for any adverse outcomes from the implementation of the ACA, we nonetheless offer the following explanation of why implementation of employee choice in 2015 would increase costs, negatively impact small businesses, and unnecessarily waste resources.

To form this recommendation, the Department consulted with issuers conducting business within Pennsylvania's FF-SHOP. The Department received feedback from five issuers: Blue Cross of Northeastern PA, Capital Blue Cross, Highmark, Inc., Independence Blue Cross, and UPMC Health Plan. A majority of the issuers requested the implementation of employee choice take place after 2015, while one issuer sought the implementation in 2015.

All but one of the issuers raised concerns of higher costs associated with the implementation of employee choice in 2015, attributable to adverse selection, cautious pricing and operational costs. Issuers emphasized the increased potential for adverse selection, as individuals with greater medical needs may purchase benefit-rich plans, but pay insufficient premium dollars to

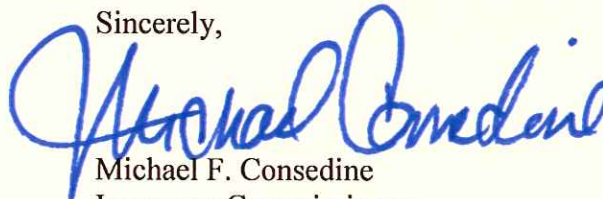
cover their medical costs. Issuers voiced an intention to cautiously price products, on account of speculation as to the specifics of the associated risk and the unknown mechanics of employee choice. Issuers also highlighted operational costs associated with the employee choice function, including providing member and broker support and the construction of infrastructure to support shopping, enrollment and premium billing among multiple issuers.

The increased costs associated with the 2015 implementation of employee choice would be passed along to small businesses. Higher costs would be forced upon small businesses that purchase health insurance, regardless of whether they participate in the FF-SHOP, as the increased costs would be spread across issuers' small employer pools. Higher premiums would directly affect small businesses' bottom lines, as many small businesses share the cost of premiums with their employees. Premium increases would limit small businesses' ability to spend on other aspects of their businesses, such as hiring, expanding or investing.

Just as Pennsylvania allowed issuers a transitional period to extend certain grandfathered policies when the Obama Administration altered the rules regarding implementation of certain market reform requirements, we similarly recommend allowing issuers a transitional period to prepare for the implementation of employee choice after 2015. The unpredictability of the ACA's implementation demands that our Department afford issuers the opportunity to prudently plan for a successful open enrollment period this fall, without unnecessarily expending resources on an uncertain functionality. Relief from such inefficient efforts will allow issuers to offer lower rates within the small group market, and alleviate some cost pressures on small businesses.

In my judgment, based upon consultation with health insurance issuers and an assessment of the landscape of the small group market in Pennsylvania, transitioning employee choice into the FF-SHOP after 2015 is in the best interest of Pennsylvanians and our insurance market.

Sincerely,



Michael F. Consedine
Insurance Commissioner