

# Flexibilities for State-based SHOP Direct Enrollment - Frequently-Asked Questions (FAQs)

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## *Flexibilities for Small Business Health Options Programs*

### **1. Can State-based Small Business Health Options Programs (SHOPs) allow direct enrollment for 2015? And 2016? Can employers who use direct enrollment to purchase a SHOP QHP in such circumstances access the Small Business Health Care Tax Credit, if they are otherwise eligible?**

Yes as a transition to full online functionality when certain criteria are met. Building on the direct enrollment process state-based SHOPs used in 2014, the Centers for Medicare & Medicaid Services (CMS) will consider requests from state-based SHOPs that are not yet able to provide for online enrollment to utilize a direct enrollment approach through SHOP Qualified Health Plan (QHP) issuers as a transitional measure. This direct enrollment approach should meet the following three criteria: 1) the employer applies for, and receives, a favorable eligibility determination from the SHOP either before or after enrollment is completed; 2) enrollment is in a SHOP QHP; and 3) the SHOP QHP issuer conducts enrollment consistent with all SHOP rules and policies. State-based SHOPs interested in taking this option must submit a plan, with specific implementation milestones and dates, to achieve the automated functionality needed to comply with CMS functional requirements for SHOP, including providing the capability to file an application for SHOP eligibility and complete enrollment via an Internet Web site. CMS expects that all State-based SHOPs will have online functionality in place for plan years beginning on or after January 1, 2017. Outside of a CMS-approved transition period, State-based SHOPs are not permitted to allow direct enrollment.

State-based SHOPs interested in taking this option should work with CMS and the Department of the Treasury to ensure that small employers who directly enroll with a QHP issuer in a state-based SHOP will be able to access the Small Business Health Care Tax Credit, if eligible. State-based SHOPs taking this option should also make clear to both employers and issuers that employers can, but are not required to, complete the enrollment process directly with a SHOP QHP issuer before receiving the SHOP's formal eligibility determination, and that an employer who does so might not be able to access the Small Business Healthcare Tax Credit if the employer is later determined ineligible to participate in the SHOP. State-based SHOPs that are not yet able to provide for online SHOP enrollment should contact CMS and the Department of the Treasury to determine how to establish direct enrollment as a transition policy to ensure

eligible small businesses may claim the Small Business Health Care Tax Credit. State-based SHOPs should not implement such a policy absent the approval of CMS and the Department of the Treasury.

## **2. Can states use existing, approved Section 1311 grant funds for the work of establishing SHOP online functionality and, if necessary, can states request a no cost extension?**

If the work of establishing SHOP online functionality is part of a state's approved work plan under its current Section 1311 grant award, states may use existing, approved grant funds for that work during an approved transition period so long as the funds are still available under the terms of the grant. States may also request a no cost extension to use grant funds on these activities in accordance with CMS' 1311 grants policy [[FAQs on the Use of 1311 Funds and No Cost Extensions](#)]. Requests will be reviewed accordingly by CMS.

## **3. What should issuers and a State-based SHOP tell small employers about direct enrollment in SHOP?**

In a State-based Marketplace using SHOP direct enrollment during a transition period, small employers will enroll in SHOP QHPs directly with SHOP issuers or by working with their agent or broker. In such a state, to claim the Small Business Health Care Tax Credit, an otherwise eligible small business must enroll in a SHOP QHP, and must also file an application to participate in the SHOP and receive a favorable determination of eligibility. When a State-based SHOP using direct enrollment provides notice of a favorable eligibility determination, it should also provide information to the small employer about how to file for the Small Business Health Care Tax Credit with the Internal Revenue Service. SHOP QHP issuers in a state where SHOP direct enrollment is permitted during a transition period can assist small employers in accessing the Small Business Health Care Tax Credit by making clear which QHP offerings are available through the SHOP and providing information to inform small employers who enroll in SHOP QHPs of the next steps to access the tax credit. For additional information, please visit: <https://www.healthcare.gov/small-businesses/provide-shop-coverage/small-business-tax-credits/>.