

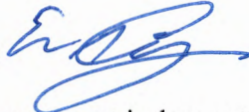
**Recommendation Form for the  
2015 Transition to Employee Choice  
Due to HHS June 2, 2014 for FF-SHOP States**

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**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:** Maine

**Insurance Commissioner (signature):**



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.**



STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL  
AND FINANCIAL REGULATION  
BUREAU OF INSURANCE  
34 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0034

Paul R. LePage  
GOVERNOR

Eric A. Cioppa  
Superintendent

June 2, 2014

The Honorable Kathleen Sebelius  
Secretary  
U.S. Department of Health & Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

Re: Recommendation for the 2015 Transition to Employee Choice

Dear Secretary Sebelius:

I am writing to advise that it is my recommendation that the Federally-facilitated SHOP provide for a one-year transition to employee choice in Maine. Our rate filings were required to be filed on May 30, 2014, before the June 2 deadline imposed for the request to delay employee choice, and only two weeks after the process for requesting an exemption from employee choice was announced. Our recommendation is based on discussions with the carriers expected to participate on the SHOP in 2015.

All three issuers expected to participate on the FF-SHOP in Maine have indicated their preference not to have employee choice for 2015. Harvard Group mentioned that they have taken the same position in each of the states they operate in. In our discussions with these issuers, they have all informed us that they would anticipate materially higher costs with employee choice, and this projection is supported by the other evidence my staff and I have reviewed, including academic studies and discussions with nonparticipating issuers. The anticipated higher costs would be driven both by higher administrative costs and by the increased opportunities for adverse selection if selection can occur at the employee level rather than the group level. There is enough variation between plans within a single metal level that restricting employee choice to a uniform metal level would not be sufficient to prevent adverse selection. Risk adjustment cannot mitigate this type of selection because it is a transfer payment between issuers. As such, it has no impact on the increased cost borne by the market as a whole when more high-risk individuals gravitate toward richer plans while more low-risk individuals gravitate toward leaner, less costly plans.

Anthem Blue Cross and Blue Shield of Maine, our largest small group issuer by market share, has urged us to request a transitional exemption, citing both adverse selection risk and administrative



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costs. They expressed concern that the cost remains unpredictable, and that it is “difficult to quantify a pricing impact.” They cite studies suggesting that even if selection is only allowed within the same metal level, the total impact on SHOP costs could be in the 3% to 5% range.

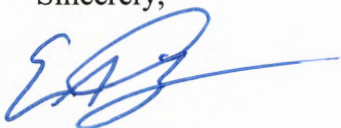
Maine Community Health Options (MCHO), our nonprofit CO-OP, said that while they generally support employee choice within the SHOP market, they had not accounted for that type of plan selection in the current rate calculations. They further stated: “In the presence of employee choice, we would expect employees with higher utilization expectations (higher morbidity) to gravitate to plans with greater benefits (e.g., Gold level, Community Advantage). While this behavior is already accounted for within the IFP market and factored into our pricing there, our small group pricing has anticipated employer selection of coverage for the entire group to maintain somewhat of a muting effect that health condition / need-based demand otherwise places on selection of coverage. If left to individual choice within the group, we would anticipate a higher morbidity in our richer plan designs and thus would need to adjust premium upwards to accommodate the expected increase in claims costs.”

Aetna writes small group coverage off-Exchange, but will not be participating in the SHOP. They will be entering the individual market initially for 2015 off-Exchange, with a possibility of joining the Exchange in the future, but have indicated a reluctance to offer individual coverage on the Exchange if that will entail a requirement to offer SHOP coverage as well. UnitedHealthcare, our other active small group carrier, will also operate only off the Exchange.

Maine has had some significant experience with choice of cost-sharing driving adverse selection. Healthier people in our individual market gravitated toward higher-deductible plans. Once adverse selection made the lowest tier unaffordable, high claims people would move into what used to be considered a “high-deductible plan,” and that would trigger a spiral where healthier people moved out of that tier and into an even higher-deductible plan.

A one-year transition would be of great assistance to our market in addressing these concerns. Both employers and issuers would have additional time to prepare. The states that have opted into employee choice could serve as a pilot project for the national market, giving issuers an experience base that will allow more accurate cost predictions for their 2016 rate filings, and will allow them to study best practices for mitigating the anticipated cost drivers.

Sincerely,

A handwritten signature in blue ink, appearing to read 'E. Cioppa', with a long horizontal flourish extending to the right.

Eric A. Cioppa  
Superintendent of Insurance