

**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: South Carolina

Insurance Commissioner (signature):


**Raymond G. Farmer, Director
Department of Insurance
State of South Carolina**

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.

See attached letter.



South Carolina Department of Insurance

Capitol Center
1201 Main Street, Suite 1000
Columbia, South Carolina 29201

NIKKI R. HALEY
Governor

RAYMOND G. FARMER
Director

Mailing Address:
P.O. Box 100105, Columbia, S.C. 29202-3105
Telephone: (803) 737-6160

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

May 28, 2014

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

Re: Recommendation for 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 South Carolina. Our deadline for submission of rates and forms filing for issuers seeking to write in the FF-SHOP is June 4, 2014, which is after the June 2, 2014 deadline imposed for our response regarding this matter. As such, this recommendation is based upon our discussion with health insurance issuers that are expected to participate in the FF-SHOP in 2015. There are three issuers that are expected to file applications with HHS to participate in the FF-SHOP in South Carolina in 2015: (1) BlueChoice HealthPlan of South Carolina; (2) BlueCross BlueShield of South Carolina; and (3) Consumers' Choice Health Plan. Of these three, two have indicated that they would have to increase their prices if employee choice were to be implemented. They cited a variety of factors in their response to our inquiry, including the likelihood of adverse selection and higher administrative burdens that would increase costs as a result of the implementation of employee choice. The third carrier indicated that they did not believe that they would need to price their products and plans higher as a result of employee choice, but did express concerns regarding the operational readiness of the FF-SHOP for the 2015 Open Enrollment Period. We share the concerns raised by these issuers and the impact that they could have on the small employers and their employees and dependents that are seeking to participate in the FF-SHOP.

We recognize that the likelihood for adverse selection is tempered by the limitation of employee choice to available plans within a given metal level and, further, by the risk sharing mechanisms created under the ACA. However, this is offset by the fact that issuers have extremely limited experience upon which to base their prices given that South Carolina does not currently have this type of employee choice in the small group market. Based upon the interactions our agency has had with consumers seeking to participate in the Exchanges thus far, it is likely that employee selections could be biased as consumers make selections based upon a variety of factors, including provider network, cost sharing for specific

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benefits that a given consumer utilizes, inclusion (or lack thereof) of pediatric dental, deductibles (given the repeal of the annual limitation on deductibles in the small group market), and premiums.

It is, in my expert judgment and based upon the foregoing, in the best interest of small employers and their employees and dependents to delay employee choice by one year given the likelihood that implementation of employee choice would result in issuers pricing their products and plans higher than they otherwise would price them for the majority of QHP issuers that are expected to participate in the FF-SHOP during the 2015 plan year. As such, I am recommending that HHS implement the 2015 Transition to Employee Choice for the Federally-facilitated SHOP serving South Carolina. Should HHS accept this recommendation and proceed with a one-year delay, the South Carolina Department of Insurance, on behalf of the State of South Carolina as an Effective Rate Review State, will ensure that health insurance issuers are not factoring employee choice into their prices for the 2015 plan year through our review of the rates and form filings that correspond to the QHP applications submitted to HHS. This will include requiring an affirmative statement by each issuer's actuary that this option is not factored into their projections, assumptions, or ultimately, their prices. This process will ensure that small employers and their employees and dependents are receiving the full benefit via their premiums as a result of the 2015 Transition to Employee Choice.

This Transition will be the least disruptive to South Carolina consumers and health insurance issuers, who are continuing to adjust to the numerous changes occurring as a result of the ACA.

Sincerely,



Raymond G. Farmer

Cc: The Honorable Nikki R. Haley
Governor