

Brief Notes

News for
Brokers and Consultants

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Applies to: Small Employer market plans offered off the Small Business Health Options Program (SHOP)

2014 Affordable Care Act Provisions Affecting Small Employer Plan Eligibility and Underwriting Rules

Following up on *Brief Notes Volume 23, Number 965*, Horizon Blue Cross Blue Shield of New Jersey offers this summary of how provisions of the Affordable Care Act (ACA) affect several of the eligibility and underwriting rules that apply to small employer health benefits plans issued on or after January 1, 2014. This information reflects the adopted Small Employer Health Benefits Program rules.

If you have questions on these provisions or need help enrolling a customer in one of our group or Individual health plans, please contact your Horizon BCBSNJ sales executive or account manager.

Eligible Small Employer Groups

To be eligible for small employer coverage, a group must satisfy either the state or federal definition of a Small Employer as follows:

- *State definition (counts eligible employees)*

A Small Employer is any person, firm, corporation, partnership or political subdivision that:

- Has a New Jersey business location;
- Is actively engaged in business that employed an average of at least one but not more than 50 *eligible employees* on business days during the preceding calendar year; and
- Employs at least one eligible employee on the first day of the plan year.

- *Federal definition (counts employees)*

A Small Employer:

- Has a New Jersey business location;
- Employed an average of at least one but not more than 50 *employees* on business days during the preceding calendar year; and
- Employs at least one employee on the first day of the plan year.

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Horizon Blue Cross Blue Shield of New Jersey



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The requirement that a group must also have a majority of eligible employees working at a New Jersey business location no longer applies. However, for Horizon HMO plans, eligible employees must live, work or reside in New Jersey.

Eligible employees

An eligible small employer may offer coverage to eligible employees and their eligible dependents. An eligible employee is a full-time bona fide employee who works a normal work week of 25 or more hours.

Independent contractors and leased employees are not considered eligible employees. More information about independent contractors is available below.

Independent contractors

For new small employer groups that enroll on or after January 1, 2014, independent contractors are not eligible for coverage.

For existing small employer groups that cover independent contractors, coverage for independent contractors will terminate upon the group's anniversary date on or after January 1, 2014.

Although independent contractors will experience a loss of coverage under the group health plan, it is not due to a COBRA or New Jersey Continuation qualifying event. That means independent contractors do not have rights to elect COBRA continuation or New Jersey Group Continuation. They may purchase Individual coverage if they meet the eligibility requirements.

Ineligible groups

Groups that consist only of a sole proprietor or partners and do not have any common law employees do not meet the definition of a Small Employer.

For example, a husband and wife group that does not employ other common law employees is not eligible for small employer coverage. This applies whether the spouse is paid via K-1 or W-2.

Special Enrollment Periods to obtain Individual Coverage

Members of small employer groups who lose minimum essential coverage for certain reasons may be eligible to purchase Individual coverage outside of the open enrollment period. An eligible individual has a Special Enrollment Period of 60 days from the loss of group coverage to select an Individual plan either on or off the Health Insurance Marketplace.

Reasons for the loss of coverage include, but are not limited to:

- Non-renewal of a pre-ACA group plan on anniversary in 2014.
- Termination of independent contractor coverage.
- Group fails to meet the definition of a Small Employer.
- Group fails to meet participation requirements.
- Divorce.
- Legal separation.
- Death of the policyholder.
- Reaching dependent age limitation.
- Termination of employment.
- Reduction in the number of work hours.
- Employer fails to pay the premium.

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Standalone Pediatric Dental (SAPD) Plans

Beginning January 1, 2014, all small employer group health plans must provide pediatric dental benefits as part of the required essential health benefits package.

Our health plan offerings do not include pediatric dental benefits. However, small employers may choose from two SAPD plans offered by Horizon BCBSNJ. Our SAPD plans are Marketplace-certified and compliment the medical offering to provide the complete essential health benefits package:

- *Horizon Young Grins* requires that dental services be obtained from an in-network provider. There is no reimbursement for out-of-network care.
- *Horizon Young Grins Plus* offers a higher reimbursement level when an in-network dentist provides care. It also offers a lower-level out-of-network benefit when care is obtained from a nonparticipating provider.

These plans are available for children under 19 years of age.

If the small employer does not purchase a SAPD plan from Horizon BCBSNJ, the group must provide reasonable assurance that they purchased a Marketplace-certified SAPD plan from another carrier.

Employee Open Enrollment Period

The Employee Open Enrollment Period is a 30-day period selected by the employer. The Employee Open Enrollment Period must begin no more than 90 days prior to the group's anniversary date.

During the Employee Open Enrollment Period:

- Employees and dependents who are eligible under the group's plan but who are Late Enrollees may enroll for coverage under the group's plan; and
- Employees and dependents who are covered under the group's plan may elect coverage under a different policy, if any, offered by the group.

Late Enrollees and Pre-Existing Condition Limitations

A Late Enrollee is an eligible employee or dependent who requests enrollment under the group's plan more than 30 days after first becoming eligible.

When assigning effective dates for Late Enrollees on Member Maintenance, use the following rules:

- For health plans issued prior to January 1, 2014:
 - Late Enrollees' coverage becomes effective on or after the date the broker or Horizon BCBSNJ receives the application.
 - For claims with dates of service before January 1, 2014, Late Enrollees may be subject to a pre-existing condition limitation.
 - For claims with dates on or after January 1, 2014, Late Enrollees are not subject to a pre-existing condition limitation.
- For health plans issued on or after January 1, 2014:
 - Late Enrollees' coverage will be delayed. The employee may apply during the Employee Open Enrollment Period and coverage will become effective on the group's anniversary date.
 - Late Enrollees are not subject to a pre-existing condition limitation.

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Dependent Under Age 31 Continuation

Over-age dependents covered under Dependent Under Age 31 continuation (DU31) through a small employer plan that is issued on or after January 1, 2014, will be billed the premium rate that applies based on the age of the dependent.

If a person did not qualify as an Over-age dependent, but subsequently meets all the requirements, the person can enroll as follows:

- If the person applies within 30 days of meeting all the requirements for an over-age dependent, his or her DU31 coverage will become effective on the date he or she meets all the requirements of an over-age dependent.
- If the person applies after 30 days of meeting all of the requirements for an over-age dependent, coverage will be delayed. The dependent may subsequently enroll during the group's Employee Open Enrollment Period and coverage will become effective on the group's anniversary date.

Change to Small Employer Group Billing Frequency

Horizon BCBSNJ is standardizing the frequency of its small group billing. All small employer groups will be billed on a monthly basis.

If a group currently is not billed monthly, this change will take effect prior to the group's 2014 renewal date and before the group is converted to a new plan that complies with the ACA. Once the group is converted to a new plan, the group will be invoiced each month.

Moving Customers from the Small Employer Market to the 51-plus Market

Group customers currently enrolled in small employer plans that employ an average of 51 or more *eligible employees* (state definition) or 51 or more *employees* (federal definition) on business days during the preceding calendar year will be terminated upon their anniversary dates in 2014 with 30 days advance written notice because these groups no longer meet the definition of a small employer.

Groups that are no longer eligible for coverage in the Small Employer market should work with their brokers and Horizon BCBSNJ sales executives to apply for coverage in the 51-plus market.

If you have questions on these provisions, please contact your Horizon BCBSNJ sales executive or account manager.