

February 28, 2013

Marilyn Tavenner  
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Submitted via Email: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov)

**Re:** Data Collection to Support Eligibility Determinations for Insurance Affordability Programs and Enrollment through Affordable Insurance Exchanges, Medicaid and Children's Health Insurance Program – CMS-10440 (OCN:0938-NEW)

Data Collection to Support Eligibility Determinations and Enrollment for Employees in the Small Business Health Options Program – CMS-10438 (OCN:0938-NEW)

Data Collection to Support Eligibility Determinations and Enrollment for Small Businesses in the Small Business Health Options Program – CMS-10439 (OCN:0938-NEW)

Dear Ms. Tavenner:

The Blue Cross and Blue Shield Association ("BCBSA") appreciates the opportunity to provide comments on the: "Data Collection to Support Eligibility Determinations for Insurance Affordability Programs and Enrollment through Affordable Insurance Exchanges, Medicaid and Children's Health Insurance Program" ("Individual Application"); Data Collections to Support Eligibility Determinations and Enrollment for Employees in the Small Business Health Options Program" ("Employee Application"); and "Data Collection to Support Eligibility Determinations and Enrollment for Small Businesses in the Small Business Health Options Program" ("Employer Application") as referenced in the *Federal Register* on January 29, 2013 [78 *Fed. Reg.* 6109-6111].

BCBSA is a national federation of 38 independent, community-based, and locally-operated Blue Cross and Blue Shield companies ("Plans") that collectively provide health care coverage for 100 million – one in three – Americans. Blue Cross and Blue Shield Plans offer coverage in every market and every zip code in America. Plans also partner with the government in Medicare, Medicaid, the Children's Health Insurance Program, and the Federal Employees Health Benefits Program.

BCBSA is concerned that we are commenting on these "eligibility" applications without a clear understanding of the entire enrollment process, including the shopping experience. For example, it appears paper versions of the application may only be for eligibility purposes as they do not contain many of the elements in the electronic version needed for final enrollment.

We are extremely concerned if consumers are not able to complete the entire enrollment process via paper, particularly if this applies to the individual market subsidy eligible population. Many of these persons are older and not as technically savvy and are more comfortable with paper. We are also concerned that the applications lack information explaining both the entire

## BCBSA Comments on Eligibility Applications

enrollment process and why certain data elements are needed (i.e. income, information on household members not seeking insurance coverage, etc.)

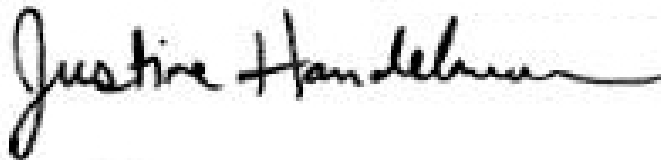
In addition, we are concerned with the length of the applications, particularly the Individual Applications for persons seeking subsidies. While we realize that most of the information is necessary, we strongly urge CMS to evaluate the need for all data elements being collected as well as the sequence they are gathered in. For example, the questions on ethnicity are optional and could be moved to the end, similar to how this is typically handled in consumer research.

These applications, along with the other enrollment materials, are critical to ensuring that the open enrollment period is successful in attracting a proportionate share of lower cost persons, as well as people who have high cost health conditions. We strongly urge that in addition to obtaining technical feedback on these applications that CMS continue to conduct consumer research to understand how consumers view, react and complete these applications and the entire enrollment process.

Our detailed comments for the online and paper versions of the Individual Application, the Employee Application and the Employer Application are attached.

We appreciate your consideration of our comments. We look forward to continuing to work with the Departments on implementation issues related to the Affordable Care Act. If you have any questions or would like further information about these applications please contact Richard White at (202) 626-8613 or at [Richard.White@bcbsa.com](mailto:Richard.White@bcbsa.com).

Sincerely,

A handwritten signature in black ink that reads "Justine Handelman". The signature is fluid and cursive, with a long horizontal flourish at the end.

Justine Handelman  
Vice President, Legislative and Regulatory Policy  
Blue Cross and Blue Shield Association

**BCBSA Detailed Comments on Data Collection to Support Eligibility Determinations for Insurance Affordability Programs and Enrollment through Affordable Insurance Exchanges, Medicaid and Children’s Health Insurance Program**

**GENERAL COMMENTS**

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**A. Revise language in the “Get Help Section” on the Individual Non-subsidy Application**

**Issue:** A literal reading of the last sentence of the “Get help with costs” section implies that a household of four making as much as \$92,000 per year would be eligible for Medicaid or CHIP.

*Paper Application for Individual non-subsidy - Page 1, “Get help with costs”*

**Recommendation:** BCBSA recommends that “free or low cost coverage” be replaced with “get help with costs”.

**Rationale:** Earlier in this section the phrase “Free or low-cost insurance” references Medicaid or CHIP. Using this same language later in the section may confuse applicants.

**B. Provide a clearer explanation of which household members must be included on the online application**

**Issue:** The online application does not provide a clear explanation as to which household members must provide information or the purpose for collecting this information. In addition, the application’s listing of various types of family members may lead people to believe that all household members listed will be enrolled on the same policy.

*Online Application for Individual - Page 9-17, Part IV, “Family & household”*

**Recommendation:** BCBSA recommends that the application provide a clear explanation of which household members the applicant must include on the application and why, similar to the paper application for persons applying for the individual subsidy. This explanation should be made early in the process. The explanation should clearly state that just because a relationship type is listed in the drop down box on pages 11 and 12 does not mean that such family members are eligible to be enrolled on the same policy as the applicant.

**Rationale:** Persons applying for coverage are accustomed to only having to provide information for those individuals seeking coverage. It is not customary industry practice for applicants to be required to provide information for persons in their household for which they are not seeking coverage. Thus, the requirement for an applicant to provide information for additional household members beyond those being covered needs to be clearly explained.

**C. Encourage applicants to submit completed applications**

**Issue:** The “What happens next” section of the application seems to encourage the submission of incomplete applications by asking individuals to submit their applications even if they don’t have all of the requested information.

*Paper Application for Individual subsidy - Page 1, “What happens next”*

*Paper Application for Individual non-subsidy - Page 1, "What happens next"*

**Recommendation:** BCBSA recommends that the language be reworded to encourage the submission of completed applications. Additionally, the instructions should also clearly articulate that the application is for eligibility determinations only and that actual plan enrollment is a separate process and will occur after an eligibility determination has been made. The instructions should state that the eligibility determination is based upon the receipt of all of the necessary information and that the more complete an application is the faster it will be completed. Finally, rather than referring to a 1-2 week timeframe for the eligibility determination process, any reference to processing time should be made from an end-to-end perspective through final enrollment and point out that if required information is not provided it will take longer.

**Rationale:** Incomplete applications will take significantly more time to process than the 1-2 week timeframe noted in the application and thus could result in delays of coverage effective dates for applicants. Since all required information will be necessary to process the application, applicants should be encouraged to submit completed applications to ensure they receive eligibility determinations and access to coverage in a timely manner.

If language regarding partially complete submissions is to remain, additional language should be added indicating that incomplete applications can lead to delays in the determination of eligibility and potentially in coverage effective dates.

With respect to the timeframe for determinations, including only the timeframe for the eligibility determination may mislead consumers to believe that their coverage will become effective in 1-2 weeks.

#### **D. Require a valid residential address**

**Issue:** The application allows applicants to provide only a mailing address if they do not have, or choose not to provide, a home address.

*Paper Application for Individual subsidy - Page 2, Step 1, "Tell us about yourself"*

*Paper Application for Individual non-subsidy - Page 2, Step 1, "Tell us about yourself"*

*Online Application for Individual subsidy - Page 4, Part I, "Create an account"*

**Recommendation:** A valid home or residential address should be required on the application. A separate mailing address should only be permitted if the applicant provides a valid residential address. Exceptions to this should only be permitted for persons who are moving and do not have a new residential address or for homeless persons; however, these persons should be required to provide a residential address once obtained.

**Rationale:** A residential address is necessary for proper rating of all applicants. In fact, the Market Reforms Final Rule, bases an applicant's eligibility for coverage on their place of residence. Permitting applicants to forgo providing a residence address is in direct conflict with the Proposed Rule. Additionally, allowing an applicant to obtain coverage without providing a valid residence address could lead to significant gaming and/or fraud. Applicants would be able to obtain lower cost coverage simply by providing a mailing address in a lower cost rating area or even in another state's exchange - something that could very easily be accomplished by obtaining a post office box in the lower-cost rating area or in the other state.

Not requiring a valid residential address could also lead to issues with issuer licensing and/or service areas. If an applicant who does not reside in an issuer's licensed service area were to obtain a mailing address in the service area, the issuer would be out of compliance if it offered coverage to the applicant. This is of particular concern for HMOs and Blue Cross and Blue Shield Plans which have very distinct service areas.

BCBSA recognizes that exceptions to the residence requirement are warranted for individuals who are moving and do not yet have a permanent address or for any homeless persons. We are sympathetic to these unique situations and ask that homeless persons be required to provide a residential address should they obtain one and that anyone moving at a minimum provides the zip code in which they anticipate living.

#### **E. Provide clarity on requirements for related to additional languages beyond English**

**Issue:** It is unclear what additional languages beyond English the application will be made available in and what additional requirements surrounding other materials in different languages will be required.

*Paper Application for Individual subsidy - Page 2, Step 1, "Tell us about yourself"*

*Paper Application for Individual non-subsidy - Page 2, Step 1, "Tell us about yourself"*

*Online Application for Individual subsidy - Page 4, Part I, "Create an account"*

**Recommendation:** BCBSA recommends that CMS issue guidance detailing the specific languages in which the application will be made available as well as any requirements for issuers related to additional languages.

**Rationale:** It is unclear what the requirements will be for providing materials and service in languages beyond English, including the applications and customer service. There is a significant lead-time required if these requirements go beyond what is required today. Additionally, requiring issuers to provide materials in multiple languages will undoubtedly increase administrative costs and will thus adversely affect the affordability of available plans. We urge CMS to issue guidance specifying the additional languages of the application and what documents or services issuers will be required to provide in each language.

Finally, should the multiple language requirements related to the applications require additional forms of customer service similar to those required for SBCs, BCBSA feels that the costs and responsibilities for providing such services should be provided by the exchange. Eligibility determination is a responsibility solely of the exchange and as such the exchange should be responsible for providing all required services related to eligibility determinations.

#### **F. Provide clarity regarding whether an applicant should repeat their information in Step 2 if they want insurance for themselves**

**Issue:** The directions are unclear regarding whether a person should repeat their information in Step 2 if they want insurance for themselves.

*Paper Application for Individual subsidy - Page 2, Step 1, "Tell us about yourself and Step 2"*

*Paper Application for Individual non-subsidy - Page 2, Step 1, "Tell us about yourself and Step 2"*

**Recommendation:** The instructions for Step 1 and Step 2 should be reworded to clearly state whether a person should repeat their information in Step 2 if they want insurance for themselves. Clearer instructions will reduce applicant confusion and aid in the submission of completed applications.

**Rationale:** Step 2 asks for duplicative information from Step 1 and it is thus unclear if the information requested in Step 2 is for the applicant or the applicant's spouse and dependents. As the applications are currently worded, this lack of clarity will cause significant confusion for applicants and may result in an incomplete submission of the applicant's information.

#### **G. Revise the relationship question in a format that provides answers consistent with an 834 transaction**

**Issue:** The "Relationship to you?" field is free form, which will result in unstructured responses.

*Paper Application for Individual subsidy - Page 3, Step 2, "Tell us about your family"*  
*Paper Application for Individual non-subsidy - Page 3, Step 2, "Tell us about your family"*

**Recommendation:** BCBSA recommends that the application have a structured set of relationship terms that align with the relationship coding structure of the 834 enrollment transaction. Additionally, the application should state that just because a relationship is listed does not mean that the person will be eligible for coverage on the same policy as the applicant.

**Rationale:** The application uses a free form, blank space for the description of the relationship between the additional applicants and the subscriber which invites an unstructured response. This will complicate the subsequent transfer of the response to the standard set of relationship codes used in the 834 enrollment transaction. Providing the applicant with a structured set of relationship terms to choose from that align with the relationship coding structure of the 834 enrollment transaction will address this issue.

#### **H. Designate persons included in the application by alpha character**

**Issue:** The numerical nomenclature used to refer to each applicant or household member is confusing given the "steps" are also numerical (i.e. Step 2: Person 1).

*Paper Application for Individual subsidy - Page 3, Step 2, "Tell us about your family"*  
*Paper Application for Individual non-subsidy - Page 3, Step 2, "Tell us about your family"*

**Recommendation:** BCBSA recommends that the Persons be distinguished by letters (i.e. A, B, C, etc.)

**Rationale:** The numerical nomenclature used to refer to each applicant or household member is confusing given that the "steps" of the application are also numerical. BCBSA feels that an alphabetical methodology for "Persons" would be more straightforward and easier to follow.

#### **I. Relocate the request for ethnicity information**

**Issue:** The request for information regarding each applicant's ethnicity should be moved to the end of the application.

*Paper Application for Individual subsidy - Page 3, Step 2, "Tell us about your family"*

*Paper Application for Individual non-subsidy - Page 3, Step 2, "Tell us about your family"*

**Recommendation:** BCBSA recommends that all questions related to an applicant's ethnicity be moved to the end of the application

**Rationale:** The collection of ethnicity information is marked as optional on the application. As the application can already be viewed as lengthy by a potential applicant, BCBSA feels that all non-essential or optional information should be moved to the end of the application to streamline the application process and ensure that all required information is collected first.

BCBSA also asks that any ethnicity information collected as part of the application be shared with issuers. Understanding the diverse population of customers that an issuers serves will enable issuers to better tailor quality improvement and other outreach activities used for at risk or other eligible enrollees.

## **J. Provide clarity regarding qualification for financial assistance**

**Issue:** The question asking if the applicant would like help paying medical bills from the past three months is ambiguous and as worded will lead to an unnecessarily high rate of "yes" answers to the question.

*Paper Application for Individual subsidy - Page 3, Step 2, "Tell us about your family"*

*Paper Application for Individual non-subsidy - Page 3, Step 2, "Tell us about your family"*

**Recommendation:** BCBSA recommends that the question either be eliminated or reworded to clarify and clearly state that assistance in paying past bills is only available to Medicaid beneficiaries that meet specific income criteria and that applicants must complete the income attestation section to determine if they qualify for such assistance.

**Rationale:** Due to the question's ambiguity it is highly likely that a large portion of applicants, seeing the potential for free help in paying bills, would answer "yes". As currently worded the question does not establish any parameters of income, amount of medical bills or any other criteria by which applicants would qualify for assistance in paying their medical bills. The question is therefore misleading and confusing. It should be eliminated or reworded to clearly state that assistance in paying medical bills is tied to Medicaid eligibility. We note that in the online application this question is imbedded in the section related to Medicaid eligibility questions.

## **K. Reword questions related to the availability of employer sponsored coverage**

**Issue:** The questions related to the availability and affordability of employer-sponsored coverage are ambiguous and will create significant confusion for applicants.

*Paper Application for Individual subsidy - Page 15, Step 3, "Your Family's Health Insurance"*

*Online Application for Individual subsidy - Page 34, Part XIII, "Health coverage access"*

**Recommendation:** BCBSA recommends that the questions related to the availability and affordability of employer-sponsored coverage be reworded to clarify and define the standards of affordability.

**Rationale:** Many of the questions asked will create significant confusion and uncertainty for the applicant and need clarification. The questions ask such things as “Do plans meet the “minimum value standard,” which consumers do not understand and whether the employer sponsored coverage is “affordable.” Affordability is a very subjective standard. Given almost all consumers feel that health insurance coverage is expensive, it is highly probable that most applicants will indicate that employer coverage is unaffordable, even those employees contributing less than \$100 a month towards their coverage. The purpose of these questions is to determine whether employer-sponsored coverage meets the affordability standards for the applicant. As such, the questions should be reworded to provide more clarity as to how affordability is defined. This will improve the accuracy and consistency of an applicant’s answers.

#### **L. Provide stronger certification language**

**Issue:** The current certification simply states “there may be a penalty if I am not truthful.” This statement is not strong enough and does not outline potentially the most severe penalty for providing false information which is rescission of coverage.

*Paper Application for Individual subsidy - Page 18, Step 5, “Read and sign application”*  
*Paper Application for Individual non-subsidy - Page 6, Step 4, “Read and sign application”*  
*Online Application for Individual subsidy - Page 57, Part XVIII, “Review & sign”*

**Recommendation:** BCBSA recommends that the certification be strengthened to state that in the cases of fraud or material misrepresentation an applicant may have their coverage rescinded retroactively and be responsible for any claims paid. At a minimum, BCBSA recommends that the certification state: “there may be a penalty if I am not truthful, up to and including the loss of coverage back to the effective date.”

**Rationale:** The current certification is not nearly strong enough and does not articulate the specific penalties that will result from untruthfulness. If applicants do not perceive the penalties to be substantial, they will have minimal incentive to be truthful. Language similar to what we recommended is customary on insurance applications today. Additionally, certification language should reference the reconciliation process that will occur with the applicant’s following year tax return. This warning will help to further deter untruthfulness.

#### **M. Clarify language around who should provide the second signature**

**Issue:** The application provides space for two signatures, yet does not provide instruction as to whether a second signature is required and if so, by whom.

*Paper Application for Individual subsidy - Page 18, Step 5, “Read and sign application”*  
*Paper Application for Individual non-subsidy - Page 6, Step 4, “Read and sign application”*

**Recommendation:** BCBSA recommends that the second signature field either be deleted or instructions be provided as to whom else is required to sign the application.

**Rationale:** Providing space for a second signature without providing instruction as to if or by whom a second signature is required creates confusion on the part of applicants. If a second signature is required and an applicant fails to provide one, as they were not aware it was required, this could cause delays with the eligibility determination and coverage effective dates.



## N. Provide the income parameters necessary to qualify for financial assistance

**Issue:** The online application pushes all applicants to apply for financial assistance even though a large number of applicants will not qualify. This unnecessarily lengthens what is an already a long application for those who are not eligible for subsidies.

*Online Application for Individual subsidy - Page 8, Part IV, “Help paying for coverage”*

**Recommendation:** BCBSA recommends that in the effort to streamline the application process, the application should clearly list the income parameters both individuals and families must fall within to qualify for any form of financial assistance.

**Rationale:** Clearly stating the income parameters necessary to qualify for financial assistance will save significant time for individuals who wouldn’t otherwise qualify. As financial assistance is only available to applicants whose income is below 400% of FPL, if an applicant states that their income falls outside of the 400% threshold, the online application should take them immediately to section XXIII to complete the application for non-financial assistance. Encouraging applicants who clearly are not eligible for subsidies to complete the income screening section will significantly lengthen the application process for them and could cause applicants to abandon the application process all together.

## O. Missing data elements on Individual applications

**Issue:** Several additional data elements that are essential to properly enroll and administer the individual applicant appear to be missing from the application.

*Online Application for Individuals – Various Places*  
*Paper Applications for Individuals – Various Places*

**Recommendation:** BCBSA recommends that CMS add the following data elements to the application.

Field	Rationale
Date of complete application	When an application is completed, including a QHP enrollment selection, QHP issuers will need to know when to make coverage effective based on the enrollment date.
Primary care physician or primary medical group designation (if required)	HMO enrollment process forms currently require this information. Primary care dentist should also be provided if applicable.
COB information (yes/no, plan, ID)	Other coverage information such as other private insurance, COBRA, Medicare number for Medicare beneficiaries, etc. for applicant and dependents
Preference for premium billing	QHP issuers will need to know if individuals prefer to be billed monthly or quarterly (if QHP issuers allow the option for quarterly billing) and whether they prefer to receive electronic or paper bills.

## BCBSA Comments on Eligibility Applications

Legal Guardian	Needed for child only policies.
Previous issuer (and authorization for selected QHP issuer to contact)	Coordination with a member's previous plan would allow for exchange of data for any disease management programs. Absent this information and authorization, a QHP issuer would need to seek consent to exchange data with other carriers after enrollment, adding administrative costs to the process.
Name of individual completing application	For accurately reflecting instances in which an agent or broker completes an application for an employer.
Broker Identification	For commission reporting, a broker ID (e.g. tax ID) is needed to determine specific brokers. Name may not be a unique identifier for brokers with common names.

**Rationale:** There are several additional data elements that issuers will need from the employee in order to load employees onto issuers' enrollment systems and administer benefits. These data fields are collected today as part of the enrollment process.

## Data Collection to Support Eligibility Determinations and Enrollment for Employees in the Small Business Health Options Program

### GENERAL COMMENTS

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#### A. Data collection should map to the 834 form

**Issue:** It is not clear if the application supports collection of data elements about the member necessary to populate the 834. This information is necessary to support the creation of an 834 enrollment transaction to be sent to the issuer.

*Issue exists on both the online & paper SHOP employee applications*

**Recommendation:** BCBSA recommends that CMS map the source of data to be transmitted in the SHOP-generated 834 to confirm that the form is generating all of its data through the employee application or other sources.

**Rationale:** The information the employee enters on the application will support the creation of an 834 enrollment transaction to be sent to the issuer. It is therefore imperative that the information collected on the application syncs with that of the 834 to ensure proper enrollment of groups and proper administration of benefits.

#### B. Provide clarification as to which employees are required to complete the application

**Issue:** It is not clear which employees should or are required to complete the application.

*Online Application for SHOP employees – Page 2, Part II, “Verify Eligibility”*

*Paper Application for SHOP employees - Page 2, Step 1, “Information about the employee”*

**Recommendation:** BCBSA recommends that the application provide clearer instructions on which employees are required to complete the application. We further recommend that the application include a warning that employees who are eligible for employer-based insurance may not be eligible for subsidies through the individual exchange. Also, if all employees are required to complete the application, additional language should be added to clarify that the requirement to complete an employee application does not necessarily mean that the employee is eligible for and enrolled in coverage.

**Rationale:** The application appears to require all employees to complete the employee application, yet does not provide any specific directions. It will be necessary to know if all employees are required to complete the application, or if just full-time employees or just those seeking coverage must complete the application. Employers will need this information to ensure that they are submitting completed applications and are in compliance with all applicable laws.

With respect to the recommended warning, employees should be made aware that if they are eligible to enroll in employer sponsored coverage, which meets the law’s minimum value and affordability tests, and the employee elects not to enroll, the employees will *not* be eligible for subsidies through the individual exchange.

Finally, the additional recommended language will clarify that filling out the application does not mean that employees are eligible for coverage.

### **C. Fix duplicative requests for applicant's social security number**

**Issue:** The employee application contains multiple requests for the applicant's social security number.

*Online Application for SHOP employees – Page 1, Part I, “Create an account” & Page 2, Part II, “Verify eligibility”*

**Recommendation:** BCBSA recommends that the employee application only require the applicant to provide their social security number once. Additionally, an explanation of why the applicant's social security number is needed should be provided.

**Rationale:** Requiring applicants to provide their social security number twice is duplicative and unnecessary and could cause confusion on the part of the applicant. As social security numbers are sensitive and personally identifiable data, CMS should provide an explanation of why this information is necessary and being requested.

Additionally, consistent with our comments contained earlier in this letter, BCBSA recommends that all non-required information be removed from the application.

### **D. Add additional categories to the “Other insurance coverage” question**

**Issue:** The list of other insurance coverage held by an applicant may not be exhaustive.

*Online Application for SHOP employees – Page 2, Part II, “Verify Eligibility”  
Paper Application for SHOP employees - Page 3, Step 3, “Don’t want SHOP coverage”*

**Recommendation:** BCBSA recommends that CMS add options for additional types of insurance including an option for “other insurance coverage” to allow for other types of insurance coverage that the applicant may have and an uninsured category.

**Rationale:** While the application contains an extensive list of other insurance coverage that applicants may have, this list may not be exhaustive. Inclusion of other types of insurance such as a Medicare number and an “other insurance” option would serve as a catch-all option to ensure the application collects all data related to any other insurance coverage the applicant may have.

Additionally, while the ACA requires most Americans to acquire insurance coverage, individuals may elect to forgo coverage. For this reason we recommend that a category for “uninsured” also be added to the other insurance coverage section of the application.

### **E. Provide stronger certification language**

**Issue:** The certification language (regarding truthfulness of the information supplied by the applicant) is not strong enough and does not do enough to encourage honesty and truthfulness on the part of applicants. Additionally, the absence of any language describing specific penalties associated with untruthfulness is likely to amplify this problem.

*Online Application for SHOP employees – Page 6, Part V, “Review & sign”*

*Paper Application for SHOP employees - Page 2, Step 2, "Sign & date application"*

**Recommendation:** BCBSA recommends that the certification be strengthened to state that in the cases of fraud or material misrepresentation an applicant may have his or her coverage rescinded retroactively and be responsible for any claims paid. At a minimum, BCBSA recommends that the certification state: "there may be a penalty if I am not truthful, up to and including the loss of coverage back to the effective date."

**Rationale:** The current certification simply states "there may be a penalty if I am not truthful." This language is not nearly strong enough and does not articulate the specific penalties that would result from untruthfulness. If an applicant does not perceive the penalties to be substantial, there will be minimal incentive to be truthful. Articulating the specific penalties will serve as a powerful deterrent to dishonesty or material misrepresentation. Language relating to penalties for untruthfulness is customary on insurance applications today.

## **F. Revise the tobacco usage question**

**Issue:** The question regarding tobacco use does not ask whether the applicant intends to participate in a smoking cessation program.

*Online Application for SHOP employees – Page 4, Part III, "Information about employee"*

**Recommendation:** The tobacco usage question should include a question regarding whether the applicant intends to participate in a smoking cessation program. This is necessary to allow for effective administration of the tobacco usage rating factor, assuming the provisions related to this do not change in the Wellness NPRM.

**Rationale:** Information regarding whether the applicant intends to participate in a smoking cessation or wellness program is necessary for proper administration of the tobacco usage rating factor, because smokers who participate in smoking cessation programs are eligible for a lower premium than smokers who do not participate in such programs.

## **G. Revise the coordination of benefits question**

**Issue:** The question regarding coordination of benefits only asks for the name of the issuer which the applicant has other coverage through. This is not enough information for an issuer to be able to administer the coordination of benefits.

*Online Application for SHOP employees – Page 4, Part III, "Information about employee"*

**Recommendation:** BCBSA recommends that the coordination of benefits question gather all pertinent information regarding other coverage to enable issuers to perform coordination of benefits. At a minimum, we ask that the question request the policy number of the applicant's other coverage and the Medicare number for Medicare eligible applicants.

**Rationale:** Asking for only the name of the issuer of the applicant's other coverage does not provide sufficient information to enable the coordination of benefits. To effectively perform the coordination of benefits, issuers will need more substantive information regarding coverage, which at a minimum includes the policy number and for Medicare beneficiaries, their Medicare number.

## H. Explain the extensive list of dependents question

**Issue:** The list of possible dependent relationships is more extensive than currently found in typical insurance contracts, and will mislead applicants into thinking that all of the listed dependent types are eligible for coverage under a family policy. Again, the list of dependent relationships should synchronize with the relationship terms and codes as used in the 834 enrollment transaction to facilitate the enrollment set up file transmission to the issuer.

*Online Application for SHOP employees – Page 5, Part IV, “Dependents”*

**Recommendation:** BCBSA recommends that language be added to this section indicating that just because a person fits into one of the listed categories; it does not necessarily mean that they are eligible for coverage. According to the Market Reforms Final Rule issuers are not required to include members of a tax household on a family policy unless they otherwise qualify for family coverage as determined by the state.

In addition, certain other types of dependent coverage such as overage disabled children need to be added to the list of dependents because coverage of these dependents is often required by state law. Finally, information on disability status for dependents should be added to this section.

**Rationale:** The additional language is necessary to avoid misleading applicants into thinking that any dependent that fits into one of the listed categories is eligible for coverage.

Adding certain other types of dependents such as overage disabled children, to the list of dependents is necessary as coverage of these dependents is often required by state law. Unless the application collects this information, issuers will have no way of knowing that these dependents should indeed be covered under the family policy. Information on the disability status of dependents is necessary because disability can impact both whether an individual must be covered and because disability status triggers specific requirements of issuers, such as reasonable accommodation requirements.

## I. Missing data elements on SHOP employee applications

**Issue:** Several additional data elements that are essential to properly setting up the group and maintaining appear to be missing from the application.

*Online Application for SHOP employees – Various Places*

**Recommendation:** BCBSA recommends that CMS add the following data elements to the application.

Field	Rationale
Date of complete application	For tracking purposes.
Employee subgroup (e.g. union/non-union, or exempt/nonexempt)	For assigning appropriate sub-group if applicable.
Dental Plan	If offered as stand-alone on SHOP, application would need to allow employee to select a dental plan from

## BCBSA Comments on Eligibility Applications

	options made available by employer, and allow employees to select for individual employees and/or dependents rather than only for all.
Vision Plan	If applicable.

**Rationale:** There are several additional data elements that issuers will need from the employee in order to load employees onto issuers' enrollment systems and administer benefits. These data fields are collected today as part of the enrollment process.

## **Data Collection to Support Eligibility Determinations and Enrollment for Small Businesses in the Small Business Health Options Program**

### **GENERAL COMMENTS**

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#### **A. Revise the request for personally identifiable information for the account creator**

**Issue:** The current employer application requires the user to input personal information including home address and social security number in order to create an account.

*Online Application for SHOP employers - Page 1, Part I, "Create an account"*

**Recommendation:** BCBSA recommends that the employer application not require the collection of personally identifiable information such as social security number and birth date for the account creator.

**Rationale:** The requirement to provide personally identifiable information serves no purpose in the employer application. If the purpose is to identify a contact person for the group application, page two of the application already allows for the designation of a contact person. BCBSA feels that the address field should be relabeled as "business address" if that is what is desired, and the question pertaining to social security number should be deleted.

If the requirement that the account creator provide personally identifiable information is to remain on the application, CMS should clearly explain the necessity of obtaining this information, and how it will be used. This is particularly pertinent for the social security number and date of birth.

#### **B. Collect information on commonly owned businesses**

**Issue:** The application does not solicit information on commonly owned businesses.

*Online Application for SHOP employers – Page 2, Part II, "Employer Information"*  
*Paper Application for SHOP employers - Page 2, Step 1, "Employer Information"*

**Recommendation:** BCBSA recommends that the application be modified to collect information on these types of businesses.

**Rationale:** Common ownership is needed to understand if a company is an "applicable large employer" as it relates to the employer responsibility provisions of the ACA.

#### **C. Provide a clear and consistent definition of employees**

**Issue:** While the employer application requires the employer to attest to the number of employees, it does not provide any language or definition on how the number of employees is to be counted or determined.

*Online Application for SHOP employers – Page 4, Part IV, "Employee roster"*  
*Paper Application for SHOP employers - Page 3, Step 3, "List full-time employees"*



**Recommendation:** BCBSA recommends that the application provide a clear definition of an employee consistent with previously issued guidance. The definition should account for states that have defined the small group market differently. Additionally, information needs to be collected on the total number of full time equivalents (i.e. including part-time workers) as issuers need this in order to comply with Medicare secondary payer requirements. We also note that the current attestation is only for 50 or fewer employees. We seek clarification on how the attestation will be written for states which have opted to go to a higher number of employees in defining the small group market.

Finally, there is no reference made to sole proprietor eligibility. BCBSA recommends that language be included on the application clearly stating that sole proprietorships are not eligible for employer coverage and that they must apply for coverage in the individual market.

**Rationale:** Requiring employers to attest to the number of employees without a clear definition of a full-time employee will cause significant confusion on the part of employers, who likely will use a very subjective definition in determining the number of their employees. Additionally, the lack of a definition could also result in material misrepresentation on the part of employers as they may consider full time employees as working more hours than is required by CMS regulation.

Additionally, information on the total number of full time equivalents in the group is necessary for proper TEFRA & Medicare Secondary Payer reporting. This language is a customary requirement as part of the group set up process for most issuers today. This can be accomplished through a series of questions or by having the employer list all employees, including part-time employees and indicating their status.

The recommended revision to the attestation is necessary to accommodate states that have (or will) make SHOP coverage available to employers with over 50 employees.

The recommended language on sole proprietor eligibility is necessary to redirect any such individuals who seek SHOP coverage to the individual market.

#### **D. Determination of rating area for SHOP coverage**

**Issue:** The SHOP application for employers does not specify the rating area that will be used for employees that reside outside of the employer's rating area.

*Online Application for SHOP employers – Page 2, Part II, “Employer Information”*  
*Paper Application for SHOP employers - Page 2, Step 1,” Employer Information”*

**Recommendation:** BCBSA recommends that CMS provide guidance and clarification on how issuers must rate employees residing in rating areas different than that of their employer.

**Rationale:** Issuers need to understand the rules regarding how to establish rates for employers who have employees residing in rating areas outside of the employer's rating area. It is our understanding that the rating area is based on the employer location; however, many issuers have requirements regarding the number of employees that must reside in the primary rating area. BCBSA seeks further clarification as to how CMS will treat the rating of employer groups with employees residing across different rating areas.

#### **E. Provide space for a separate employer billing address and billing contact**

**Issue:** The employer application does not provide space for the employer to provide a separate billing address or billing contact.

*Online Application for SHOP employers – Page 2, Part II, “Employer Information”*

**Recommendation:** BCBSA recommends that the application include a section for the employer to provide a billing contact and a separate billing address for cases where an employer has a billing address separate from their mailing address.

**Rationale:** Often, an employer may have a billing address that is separate and distinct from its contact address. Employers may use a P.O. Box for billing purposes or have all billing sent to a bill payment agency. Similar to the employee applications, a new field should be added to allow employers to specify a different billing address.

Additionally, a field for a billing contact is necessary to assist the issuer in resolving any billing-related issues that may arise with the group, including any required MLR rebate checks. While an exchange may act as the premium aggregator and bill the group directly, there will undoubtedly be situations in which discrepancies or issues arise between premium payments owed and premium payments received. In these and other instances, issuers will need a billing contact to resolve any issues that may arise.

#### **F. Provide clarity regarding which employees should be listed on the employer application**

**Issue:** It is unclear which employees should be listed on the employer application (the employee roster); just full-time employees or all employees covered by the SHOP.

*Online Application for SHOP employers – Page 4, Part IV, “Employee roster”*  
*Paper Application for SHOP employers - Page 3, Step 3, “Employee roster”*

**Recommendation:** BCBSA recommends that the instructions clearly indicate which employees should be listed on the application along with the definition of full time employees.

**Rationale:** BCBSA’s interpretation is that based on the paper application, the online employer application is for all full-time employees, not just those potentially being covered by the SHOP. However, clarity is needed to ensure consistency of the information being requested across both the paper and online applications. Employment status should also include state continuation of coverage requirements; specifically those in addition to COBRA.

Additionally, the definition of full-time employees should be clearly stated in this section of the application. Providing this definition will ensure that all employee information is being reported consistently by employers.

#### **G. Provide stronger certification language**

**Issue:** The certification language (regarding truthfulness of the information supplied by the applicant) is not strong enough and does not do enough to encourage honesty and truthfulness on the part of applicants. Additionally, the absence of any language describing specific penalties associated with untruthfulness is likely to amplify this problem.

*Online Application for SHOP employers – Page 5, Part V, “Review & sign”*  
*Paper Application for SHOP employers - Page 4, Step 4, “Sign & date application”*

**Recommendation:** BCBSA recommends that the certification be strengthened to state that in the cases of fraud or material misrepresentation, an applicant may have their coverage rescinded retroactively and be responsible for any claims paid. At a minimum, BCBSA recommends that the certification state: “there may be a penalty if I am not truthful up to and including the loss of coverage back to the effective date.”

**Rationale:** The current certification simply states “there may be a penalty if I am not truthful.” This language is not nearly strong enough and does not articulate the specific penalties that would result from untruthfulness. If an applicant does not perceive the penalties to be substantial, they will have minimal incentive to be truthful. Articulating the specific penalties will serve as a powerful deterrent to dishonesty or material misrepresentation. Language regarding penalties for untruthfulness is customary on insurance applications today.

#### **H. No contact provided to answer any questions employers may have regarding the application**

**Issue:** The paper application does not provide the employer with a proper contact whom they can reach out to regarding any questions or issues they have relative to completing the application. The application instructs the employer to contact the employer for help or assistance in completing the application.

*Paper Application for SHOP employers - Page 4, Step 5, “Need help”*

**Recommendation:** BCBSA recommends that this language be modified to provide a contact for employers who can address any questions or assistance needed with completing the application.

**Rationale:** As questions will undoubtedly arise regarding what information must be provided as part of the application, CMS should provide a valid contact for employers to reach out to regarding any questions they may have.

#### **I. Missing data elements on SHOP employer applications**

**Issue:** Several additional data elements that are essential to properly setting up the group and maintaining the group appear to be missing from the application.

*Online Application for SHOP employers – Various Places*

**Recommendation:** BCBSA recommends that CMS add the following data elements to the application.

Field	Rationale
Date of complete application	For tracking purposes.
Per TIN, employee status (full-time or part-time) <u>and date of hire</u>	QHP issuers need for tracking part-time employees if employer makes coverage available through SHOP. SHOP needs data for eligibility determination for SHOP

	and determining whether employer meets SHOP employer participation requirements.
Domestic Partner Coverage offered	Needed if a rider is required when covering domestic partners.
Employee Classes (if applicable)	For setting up sub groups within the plan (i.e. union/nonunion, exempt/nonexempt).
Other coverage – any current coverage provided to employees and the effective dates of such coverage	Necessary for COB.
Employer contribution – fixed dollar amount (in addition to percentage) and whether it varies by full-time or part-time worker	Necessary to accommodate various employer preferences for defined contribution approaches.
Coverage Offered – Employer designated QHP metal level	Necessary for employers to select a QHP metal level, including list of dental plan options selected by employer.
Effective date for new hires	Employers may choose to specify that coverage would begin on a particular date, such as the 1 <sup>st</sup> day of the month following date of hire (as a simplified alternative to choosing the number of days for a waiting period before enrolling since it is unclear whether “enrollment” refers to QHP coverage or SHOP program).
Broker Identification	For commission reporting, a broker ID (e.g. tax ID) is needed to determine specific brokers. Name may not be a unique identifier for brokers with common names.
Other types of insurance	The employer application should provide a section for employers to provide information regarding any other applicable insurance coverage they have. Specifically, the application should request information regarding workers compensation insurance to facilitate proper coordination of benefits.
Participation in multiple SHOPS	Many employers have work locations in multiple states and thus will participate in other states’ SHOPS. It will be beneficial to know any other SHOPS employers will participate in to promote quality of care and timely payment of claims.

**Rationale:** There are several additional data elements that issuers will need from the employer in order to load employees onto issuers’ enrollment systems and administer benefits. These data fields are collected today as part of the enrollment process.