

retroactive to the effective date of coverage or enrollment through the SHOP that the employer would have had if the employer had been correctly determined eligible, or prospective to the first day of the month following the date of the notice of the appeal decision.

(ii) If the employer is found ineligible under the decision, then the appeal decision is effective as of the date of the notice of the appeal decision.

(l) *Notice of appeal decision.* The appeals entity must issue written notice of the appeal decision to the employer and to the SHOP within 90 days of the date the appeal request is received.

(m) *Implementation of SHOP appeal decisions.* The SHOP must promptly implement the appeal decision upon receiving the notice under paragraph (l) of this section.

(n) *Appeal record.* Subject to the requirements of §155.550, the appeal record must be accessible to the employer in a convenient format and at a convenient time.

(o) *Applicability date.* The provisions of this section apply for plan years beginning on or after January 1, 2018.

[83 FR 17067, Apr. 17, 2018]

Subparts I–J [Reserved]

Subpart K—Exchange Functions: Certification of Qualified Health Plans

SOURCE: 77 FR 18467, Mar. 27, 2012, unless otherwise noted.

§ 155.1000 Certification standards for QHPs.

(a) *Definition.* The following definition applies in this subpart:

Multi-State plan means a health plan that is offered in accordance with section 1334 of the Affordable Care Act.

(b) *General requirement.* The Exchange must offer only health plans which have in effect a certification issued or are recognized as plans deemed certified for participation in an Exchange as a QHP, unless specifically provided for otherwise.

(c) *General certification criteria.* The Exchange may certify a health plan as a QHP in the Exchange if—

(1) The health insurance issuer provides evidence during the certification process in §155.1010 that it complies with the minimum certification requirements outlined in subpart C of part 156, as applicable; and

(2) The Exchange determines that making the health plan available is in the interest of the qualified individuals and qualified employers, except that the Exchange must not exclude a health plan—

(i) On the basis that such plan is a fee-for-service plan;

(ii) Through the imposition of premium price controls; or

(iii) On the basis that the health plan provides treatments necessary to prevent patients' deaths in circumstances the Exchange determines are inappropriate or too costly.

(d) *Special rule for SHOP.* Except when a QHP is decertified by the Exchange pursuant to §155.1080, in a SHOP that certifies QHPs on a calendar-year basis, the certification shall remain in effect for the duration of any plan year beginning in the calendar year for which the QHP was certified, even if the plan year ends after the calendar year for which the QHP was certified.

[77 FR 18467, Mar. 27, 2012, as amended at 80 FR 10870, Feb. 27, 2015]

§ 155.1010 Certification process for QHPs.

(a) *Certification procedures.* The Exchange must establish procedures for the certification of QHPs consistent with §155.1000(c).

(1) *Completion date.* The Exchange must complete the certification of the QHPs that will be offered during the open enrollment period prior to the beginning of such period, as outlined in §155.410.

(2) *Ongoing compliance.* The Exchange must monitor the QHP issuers for demonstration of ongoing compliance with the certification requirements in §155.1000(c).

(b) *Exchange recognition of plans deemed certified for participation in an Exchange.* Notwithstanding paragraph (a) of this section, an Exchange must recognize as certified QHPs:

(1) A multi-State plan certified by and under contract with the U.S. Office of Personnel Management.