Vermont's Proposal to Waive Affordable Care Act Requirement to Establish an Internet Portal for the Small Business Health Options Program (SHOP) Per Section 1332, Waivers for State Innovation

Submitted by the Department of Vermont Health Access with assistance from the Director of Health Care Reform, March 15, 2016

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Executive Summary

Vermont has long been at the forefront of health care reform. It has set up its health benefits exchange to ensure sustainability and full consumer protection and choice. As a result, it had the highest total small group enrollment out of all of the state-based exchanges in 2014. This success occurred in part because employers could enroll directly with health insurance issuers instead of through an Internet portal. As a result, Vermont is seeking to maintain its current system by requesting a waiver of the federal requirement that employers enroll through an Internet portal. Under a 1332 Waiver for State Innovation:

- The only plans available for purchase are qualified health plans with VHC certification
- Enrollment takes place through the issuer instead of through a VHC website
- There is no minimum participation requirement
- Full employee choice of QHPs is available
- Insurance carriers administer premium processing
- Insurance carriers provide required employer and employee notices
- Vermont provides an appeal process as needed for eligibility concerns as well as certification of eligibility for purposes of the small business tax credit
- Health insurance issuers report enrollment data to the federal government

Vermont will meet the all of the 1332 waiver parameters:

- Equivalent or greater scope of coverage: Vermont's proposal will maintain seamless coverage for all small employers currently covered while allowing streamlined access for large employers in 2018.
- Equivalent or greater affordability of coverage: Vermont's proposal will provide coverage that is as affordable as current plans by requiring enrollment in QHPs subject to rigorous rate review oversight.
- Equivalent comprehensiveness of coverage: Vermont's proposal will maintain coverage with the same essential health benefits as provided today.
- Deficit neutral: Vermont's proposal will not increase the federal deficit because it will maintain its current enrollment system and funding mechanism.
- No impact on federally-facilitated marketplace: Because Vermont maintains a state-based marketplace, this proposal will not impact the federally-facilitated marketplace.
- No impact on other public programs: Vermont's proposal will not impact public coverage programs, such as Medicaid and the Children's Health Insurance Program.
- Meaningful public input: Vermont provided and will continue to provide opportunities for public input prior to and after submission of its 1332 application.

Characteristics of Vermont's Health Insurance Market

Vermont is a rural state with a population of approximately 625,000 people.[1] It consistently ranks near the top of the list for healthiest state in the nation[2] and lowest uninsured rate in the country.[3] It has a long history of health care innovation and had such consumer protections as guaranteed issue and community rating in the individual and small group market well before the ACA put them into place.[4]

For these and other reasons, Vermont's insurance market is unique. It currently has only two health insurance issuers offering individual and small group coverage to a total of approximately 75,000 lives: Blue Cross Blue Shield of Vermont[5] (BCBSVT) and MVP Health Care[6] (MVP). Furthermore, Vermont merged its small group and individual markets. It also required that all individual or small group plans be sold through its health benefits exchange, Vermont Health Connect (VHC).[7] Merging the pools and limiting outside enrollment helps to ensure that plan costs remain low and that VHC continues to be sustainable despite Vermont's small population.

Vermont also has rigorous oversight of its small group and individual market. As mentioned above, all plans offered must be qualified health plans that are chosen by VHC. Vermont Health Connect has 8 standard plan designs to assist with direct comparison between health insurance issuers, including 2 standard catastrophic insurance plans offered to those under 30. The insurance carriers are also encouraged to submit a limited number of their own innovative plan designs, with a focus on quality and wellness. Any standard plan designs go through a stakeholder process and are presented to Vermont's independent health care oversight entity, the Green Mountain Care Board (GMCB), where they go through a public process before board approval. Non-standard plan designs that are developed by QHP health insurance issuers are reviewed by Vermont's Department of Financial Regulation for compliance and then go through a certification process with the Department of Vermont Health Access. Once plan design and benefits are established, the plans are subject to the rate review process. The health insurance issuers file their rates with the GMCB and the GMCB posts the filed rate requests on its website. Vermont's nonprofit health care advocacy organization, the Health Care Advocate, may enter an appearance as a party to the rate review on behalf of Vermont's consumers. All Vermonters may submit public comments on the proposed rates. Next, the GMCB posts on its website an actuarial analysis of the requested rates, based on statutory criteria, as well as an opinion from

[1] http://quickfacts.census.gov/qfd/states/50000.html
[2] Vermont ranked second behind Hawaii for healthiest state. http://www.americashealthrankings.org/reports/annual
[3] Vermont ranked second or the same as Massachusetts for lowest uninsured rate at 3.7 percent. http://www.leg.state.vt.us/jfo/healthcare/Uninsured_Rate_in_Vermont_and_Massachusetts.pdf
[4] These protections were established in 1992.
[5] As of January 2016, BCBSVT has a total small employer and individual count of 69,794 lives.
[6] As of January 2016, MVP has a total small employer and individual count of 5,816 lives
[7] This changed pursuant to Act 54 of 2015. Vermonters may purchase QHPs off the exchange but these are the only products available in the individual market. 33 V.S.A. § 1803(b)(4).

Vermont's Department of Financial Regulation regarding the solvency of the health insurance carrier. Within 30 days, the GMCB holds a public hearing on the filing and will decide to approve, modify, or disapprove the rate. [8]

After the plans are approved through the GMCB, they then must go through a selection process with Vermont's health program agency, the Department of Vermont Health Access (DVHA)[9] before they are offered through VHC. Here, DVHA will certify that the plans meet all state access requirements and promote quality and wellness. [10]

Vermont's past and current focus on consumer protections and public input ensures coverage in the small group and individual market remain affordable while emphasizing access to providers, quality health care outcomes, and wellness.

Implementation of a State-Based Marketplace and Lessons Learned

The Affordable Care Act mandated the establishment of a health benefits exchange in all states by 2014. Since October 1, 2013, Vermont Health Connect has been operational as Vermont's health benefits exchange. Prior to this federally mandated launch date, the State executed contracts and took internal steps to implement all required exchange functions, including qualified health plan (QHP) certification, customer support, and streamlined eligibility and enrollment. Vermont designed its state-based exchange to determine Medicaid eligibility, provide additional state subsidies, process premium payments and provide small employers with full choice of QHPs.

With respect to the development of the information technology (IT) system, in December 2012, the state entered into a contract with CGI Technologies and Solutions, Inc. (CGI), to perform software integration and hosting services for the exchange. While VHC provided open enrollment for 2014 coverage as required, it was limited by deficiencies in functionality of the VHC IT platform, inhibiting several operations for individual plans and group market enrollment altogether. In particular, functionality to allow employers and their employees to enroll in VHC plans (the VHC SHOP) was not deployed successfully in time for employers to enroll employees into coverage for January 1, 2014. As a result, after consultation with CCIIO, employers in the small group market were encouraged to enroll directly in QHPs through Vermont's insurance carriers. Due in part to this direct enrollment with the insurance carriers, Vermont had the highest total small group enrollment out of all of the state-based exchanges in 2014. [11]

[8] Green Mountain Care Board, "How Rates Are Reviewed," http://ratereview.vermont.gov/how_reviewed
[9] Vermont Health Connect is located within the Department of Vermont Health Access (DVHA).
[10] 33 V.S.A. § 1806.
[11] In 2014, Vermont had 33,696 individuals enrolled in its SHOP QHPs. The next highest state was Utah with over 20,000 fewer people at 10,900. GAO, "Small Business Health Insurance Exchanges: Low Initial Enrollment Likely Due to Multiple Evolving Factors, Nov.2014, http://gao.gov/assets/670/666873.pdf

For 2015 and 2016, Vermont took advantage of CCIIO's transitional flexibilities for State-based SHOP direct enrollment [12] and small employers continued to directly enroll with health insurance issuers. This allowed Vermont to concentrate its resources on developing a fully functional marketplace for the individual market. During this time, VHC, in partnership with health insurance issuers:

- made full choice of VHC's QHP plans available to employers to offer to their employees, regardless of metal level or QHP health insurance issuer. QHP health insurance issuers must allow employers to offer the full range of their QHPs to employees.[13] Employers may also offer QHPs from both QHP health insurance issuers by administering the plan selection internally.
- ensured seamless transition between small group plans and individual qualified health plans, so that any cost sharing paid under a qualified health plan during the calendar year would be credited to an individual's new qualified health plan during the course of the calendar year, in the event the individual moved from the individual to the small group market and vice-versa.

With federal flexibility for state-based SHOP direct enrollment ending in 2017, Vermont now faces the choice of: (1) building a SHOP Internet portal with uncertain IT outcomes and likely disruption of the small group market; or (2) waiving the requirement for an Internet portal and continuing small business direct enrollment into VHC QHP plans while maintaining all of the ACA's market reforms as well as Vermont's merged risk pool, full employee choice, and seamless transition between plans.

Proposed Waiver: Direct Purchase of Vermont Health Connect Plans from Health Insurance Carriers

Under a 1332 waiver, the state would seek to maintain the current configuration of its small group market by eliminating the requirement to have a small business exchange website for enrollment and premium processing. Specifically:

- The only plans available for purchase are qualified health plans with VHC certification
- Enrollment takes place through the issuer instead of through a VHC website
- There is no minimum participation requirement
- Full employee choice of QHPs is available
- Insurance carriers administer premium processing
- Insurance carriers provide required employer and employee notices

[12] Flexibilities for State-based SHOP Direct Enrollment—Frequently-Asked Questions (FAQs) https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/SBM-SHOP-Transitional-Flexibility-FAQ-Rev-5-29-2015.pdf

[13] HBEE 34.00.

- Vermont provides an appeal process as needed for eligibility concerns as well as certification of eligibility for purposes of the small business tax credit
- Health insurance issuers report enrollment data to the federal government

Waiving the SHOP Internet portal while maintaining each of the items listed above would maintain Vermont's current comprehensiveness and affordability of coverage, total number of Vermonters covered, without negatively affecting the federal deficit. Instead, the waiver would streamline access to a small group market that is already robust while saving costs and avoiding market disruption associated with implementation of other ACA small business exchange requirements.

In addition, should Vermont move to a federal Internet portal for the individual market at a future date, it would like to maintain its waiver of the SHOP Internet portal for the small group market.

The specific sections[14] for which Vermont requests a waiver and the reason for each request are outlined below:

Section	Summary	Explanation
§ 1311(b)(1)(B)	Requires establishment of an American Health Benefit Exchange, including a Small Business Health Options Program (SHOP) that is designed to assist qualified employers in facilitating the enrollment of their employees in QHPs and details responsibilities of the exchange	Vermont proposes to waive the requirement that it design a SHOP Internet portal to enroll employers and employees for small group QHPs. Instead, it will avoid disruption to its market through maintaining its current process of direct enrollment through insurance carriers while maintaining full employee choice.
§ 1311(c)(3)	Rating system based on quality and price of plan	This provision will continue to apply to QHPs for individuals. Small employer plans will be rated because they must be the same QHPs as offered to individuals. Vermont is requesting to waive the requirement that the ratings be available through a separate SHOP Internet portal. Health

[14] For an overview of all waivable provisions, see Appendix B.

		insurance issuers can continue to collect this data for the small group qualified health plan market, irrespective of the state operating a SHOP Internet portal.
§ 1311(c)(4)	Enrollee satisfaction system	This provision will continue to apply to QHPs for individuals. Vermont is requesting to waive the requirement that the satisfaction system be available through a separate SHOP Internet portal.
§ 1311(c)(5)	Internet portals may be used to direct qualified individuals and qualified employers to QHPs	This provision will continue to apply to QHPs for individuals. Vermont is requesting to waive the requirement that small employer plans be available through a separate SHOP Internet portal.
§ 1311(d)(1)	Specifies which entities are eligible to carry out responsibilities of the Exchange	This provision will continue to apply to QHPs for individuals. Vermont proposes to waive the SHOP Internet portal requirement.
§ 1311(d)(2)	Exchange shall make QHPs available to qualified individuals and qualified employers and offer stand-alone dental plans.	This provision will continue to apply to QHPs for individuals and small employers. All small employers will have access to QHPs and standalone dental plans, but Vermont proposes to waive the SHOP Internet portal requirement.
§ 1311(d)(4)(A)	Requirement that Exchange shall implement procedures for certification of plans	Vermont proposes to retain these provisions. Because QHPs will remain the same for individuals and small employers, these provisions will also apply to small employer plans.
§ 1311(d)(4)(B)	Requirement that Exchange shall provide for the operation of a toll-free telephone hotline	This provision will continue to apply to QHPs for individuals. Vermont proposes to waive the

		SHOP Internet portal requirement. QHP health insurance issuers will be the primary source of customer service for small employers.
§ 1311(d)(4)(C)	Requirement that Exchange shall maintain an Internet website	This provision will continue to apply to QHPs for individuals. Vermont proposes to waive the SHOP Internet portal requirement.
§ 1311(d)(4)(D)	Requirement that Exchange shall assign a quality rating to each QHP	This provision will continue to apply to QHPs for individuals. To the extent the quality ratings must be posted on a website, Vermont proposes to waive the SHOP Internet portal requirement.
§ 1311(d)(4)(E)	Requirement that Exchange shall utilize a standardized format for presentation of plans	This provision will continue to apply to QHPs for individuals. Vermont proposes to waive the SHOP Internet portal requirement, but notes that this information will be available on the individual Internet portal because small employer QHPs are the same as individual QHPs.
§ 1311(d)(4)(G)	Requirement that Exchange shall post to the website a calculator to determine premium tax credits and cost sharing reductions	This provision will continue to apply to QHPs for individuals. Vermont proposes to waive the SHOP Internet portal requirement.
§ 1311(k)	Exchange may not establish rules that conflict with or prevent the application of regulations promulgated by the Secretary of Human Services	To the extent the rules are not waived, Vermont proposes to retain these provisions.
§ 1312(a)(2)	Provisions for employee choice among QHPs through an exchange, including requirement that employer may specify metal level and employee may choose a plan within metal level	Vermont proposes maintaining current consumer total choice through direct enrollment with insurance carriers of employer and employee's choosing without use of a SHOP Internet portal. QHP health insurance

		issuers must continue to allow employers to offer the full range of their QHPs to employees. Employers may also offer QHPs from both QHP health insurance issuers by administering the plan selection internally.
§ 1312(f)(2)(A)	Definition of qualified employer	Vermont does not propose to waive this provision but notes that this (and the incorporated definition of small employer at § 1304(b)) will be determined through employer self-attestation to or eligibility determination by the QHP health insurance issuer.

In waiving the above provisions, Vermont also requests waiver of the corresponding implementing regulations.[15] Under the proposed Vermont model, QHP health insurance issuers will handle small business enrollment processes according to existing market practice. This includes application, noticing, enrollment periods, effective dates, and termination. QHP health insurance issuers will also perform all premium functions.

At the same time, the State will continue to provide the essential consumer protections within the SHOP regulations including:

- Employee choice
- QHP certification
- Rate review
- Customer assistance tools including a "small business toolkit" for employers and in person assistance, educational materials, an affordability estimator, and an online plan comparison tool for employees
- Eligibility appeals

The Vermont small group rules generally exceed the federal minimum standards for SHOP. Full choice is available to employers. Vermont actively selects the QHPs that are available across the merged market and approves rates that must be maintained for the full plan year.

[15] Appendix C lists the related SHOP regulations.

Eligibility for coverage will be determined by the QHP health insurance issuer based on employer attestation or information collected by the QHP health insurance issuer.[16] Employers may request an eligibility determination directly from VHC on a voluntary basis. This would generally be for the purpose of claiming the small business tax credit. In that case, VHC will review the employer's application, issue an eligibility determination, and maintain a record thereof for records requests by the IRS. This procedure is currently operational at VHC.

Finally, data sharing is inherently limited in the direct enrollment model as the State does not have access to issuer enrollment records. Therefore, Vermont requests waiver of the following:

1. Coordination with individual market. 45 CFR 155.330(d)(2)(iii), 155.705(c).
    - VHC will not have small group enrollment data for use in eligibility determinations or verification related to employer-sponsored coverage.
2. Reporting for tax administration. 45 CFR 155.720(i).
    - While the State can request aggregate enrollment figures from the QHP health insurance issuers, it cannot provide the level of detail currently required in the IRS monthly schema. Moreover, health insurance issuers report enrollment data to the IRS via the 1095B process as of tax year 2015.
3. Other federal reporting requests.
    - Vermont receives periodic "SHOP" reporting requests from CMS that it is unable to fulfill because it does not have access to the level of detail requested. To the extent that CMS requires other than aggregate (lump sum) small group enrollment data, such a request would be most efficiently made directly to Vermont's QHP health insurance issuers.

Description of Post-Waiver Marketplace

With implementation of the waiver, Vermont's small group marketplace will remain exactly the same as it is today. Vermont will also continue to have plan comparison tools of all available QHPs on its website for employers[17] and will direct employers to health insurance issuers as appropriate. It will continue to meet all other ACA requirements as well as a merged risk pool, full employee choice, and seamless transition between plans.

Coverage: Number of Employers Offering Coverage Before and After Waiver Remains the Same or Increases

As of January 2016, 4,025 Vermont small businesses offer qualified health plans to their employees, representing 44,347 covered lives. This number is expected to increase over the course of 2016 as a result of the small group expansion to 100 employees. The number of employers offering coverage before and after the waiver is anticipated to remain the same or

[16] If an employer receives an adverse eligibility determination from the QHP issuer, it can appeal to VHC. The State has found this scenario to be exceedingly rare.
[17] See http://info.healthconnect.vermont.gov/healthplans.

increase, since the waiver would maintain Vermont's current process for enrollment with insurance carriers. Without a waiver, Vermont's small employers would have to enroll through an Internet portal, which would likely result in fewer employers offering coverage due to disruption and potential IT difficulties. Therefore, the waiver will provide coverage to at least a comparable number of Vermonters as would be provided coverage absent the waiver.

Moreover, under the waiver, VHC assisters would still work with small businesses to facilitate enrollment. Maintaining the current market structure instead of building SHOP website would allow VHC to focus on outreach and education in the small business community as well as continued work with registered agents and brokers to encourage participation.

Affordability of Coverage Remains the Same or Is More Affordable

Affordability of coverage will not change under the waiver. The rates for QHPs in the individual market and the small group market are the same, and will continue to remain the same under the waiver. The existence of a SHOP Internet portal could only increase rates due to potential information technology costs passed on to consumers. By maintaining the current enrollment process for small business, the waiver will help ensure that Vermont's merged market remains robust and affordable. Furthermore, Vermont's intensive and transparent rate review process will remain in place to maintain affordability.

Comprehensiveness: No Impact on Covered Services

There is no anticipated impact on small employer insurance coverage after the waiver because the waiver would maintain Vermont's current process for enrollment with insurance carriers and would maintain QHPs with VHC certification. Every health plan available to small businesses would continue to include all essential health benefits and ACA consumer protections.[18] Therefore, the waiver would provide coverage that is inherently as comprehensive as the coverage offered through VHC.

10-Year Waiver Budget Projection: Maintaining Deficit Neutrality

The proposed waiver will maintain Vermont's current enrollment process for small businesses. As a result, the infrastructure for enrollment is already in place and will require no additional funds from the federal government.[19] In fact, maintaining Vermont's current enrollment system for small groups instead of requiring reenrollment through a SHOP Internet portal would help ensure that employers continue to provide coverage and potentially result in federal savings to the extent it reduces the need for individual coverage that draws down federal premium tax credits and cost-sharing subsidies.

[18] See Appendix D for more details.

[19] Vermont's 10-year projection is aligned with the Congressional Budget Office, Insurance Coverage Provisions of the Affordable Care Act, March 2015 Baseline, https://www.cbo.gov/sites/default/files/51298-2015-03-ACA.pdf.

Furthermore, unlike the federal Exchange, Vermont does not tie its state funding source for VHC to QHP plans. Vermont will continue to fund VHC through its Health Care Resources Fund and no additional state funding will be required.

No Impact on Other Sections of the ACA or Other Public Coverage Programs

Vermont's only request is to waive the SHOP Internet portal requirement of the ACA and any attendant reporting requirements in order to maintain Vermont's current enrollment process for small employers. Accordingly, Vermont can identify no other sections of the ACA that would be affected by the proposed waiver.

No Impact on Federally-Facilitated Marketplace

Vermont marketplace is a state-based marketplace. As a result, waiver of the Internet portal requirement will not impact the federally-facilitated marketplace. Should Vermont's individual market use a federally-facilitated marketplace in the future, Vermont requests that direct enrollment continue for SHOP under the 1332 waiver.

No Request for Federal Pass-Through Funding

Vermont is not requesting federal pass-through funding with its request to waive the Internet portal for SHOP.

No Impact on Administrative Burden

Implementation of the waiver would likely reduce administrative burden compared to building a new IT infrastructure for a SHOP Internet portal. With a waiver, employers will continue to enroll as they do now. Health insurance issuers will maintain the same infrastructure they use now without having to adapt to a new Internet portal. Federal agencies would provide the same oversight they currently provide and receive the same information subject to the reporting limitations discussed herein.

No Impact on Residents Obtaining Health Care Out-of-State

Waiver of the SHOP Internet portal will not affect Vermont residents who need to obtain health care services out-of-state. Covered services and benefits will not be affected, so Vermont residents may obtain coverage in any other state from which they are able to obtain coverage today.

Data and Analysis, Actuarial Certifications, Assumptions, Targets

The attached certification shows that under a waiver of an Internet portal for small employer enrollment, Vermont's coverage, affordability, and comprehensive benefits will remain the same as it is today.[20] In addition, such a waiver will not increase the federal deficit.

[20] See Appendix E.

Ensuring Compliance, Reducing Waste and Fraud

As previously mentioned, Vermont has a robust regulatory framework overseeing all individual and small employer QHPs. Not only are the QHP benefits and plan designs put through a public process overseen by an independent health care oversight entity, the GMCB, but all rates are rigorously reviewed by the GMCB with input from Vermont's Department of Financial Regulation, the Office of the Health Care Advocate, and the public.[21] Once these plans are approved, DVHA selects the plans to offer through VHC based on wellness, access, and quality.[22]

In addition to the QHP rate review and selection process, Vermont's Department of Financial Regulation has strong investigatory and regulatory authority, including subpoena powers and the ability to issue penalties and fines for violations of Vermont's consumer protections and provisions of the ACA where applicable.[23] This oversight would continue after the waiver, ensuring compliance and reducing waste and fraud.

Implementation Timeline and Process

Vermont is currently using direct enrollment for SHOP and proposes to waive the SHOP Internet portal, which will result in continued direct enrollment in health plans for small employers. As a result, Vermont will implement the waiver immediately upon notification that it has been granted. The process will include providing public information about the waiver and the expectation of continuing to enroll directly with health insurance issuers.

Meaningful Public Input Prior to and After Waiver Application

On February 24, 2016, Vermont passed Act 67 of 2016[24] which authorizes the Department of Vermont Health Access, with assistance from the Director of Health Care Reform, to seek a waiver of the SHOP Internet portal.

On February 8, 2016, the Department of Vermont Health Access posted a draft waiver and notice for public comment on its website and sent by e-mail to interested stakeholders. The notice for public comment was also published in the Burlington Free Press on February 11, 2016. Interested parties were given until March 11, 2016 to provide written comments. The Department of Vermont Health Access held two meetings for public comments: one on February 22, 2016 from 3:00 p.m. to 4:00 p.m. at the Department of Vermont Health Access in Williston, VT with conference call capability and one on February 25, 2016 from 3:00 p.m. to 4:00 p.m. at state offices in Waterbury, VT with conference call capability. The Department of Vermont Health Access received written comments from BlueCross BlueShield of Vermont and

[21] 8 V.S.A. § 4062.
[22] 33 V.S.A. § 1806.
[23] See 8 V.S.A. § 13.
[24] For more details, see Appendix A.

incorporated almost all of the suggested changes.[25] There were no attendees either by person or by phone at the two meetings for public comment.

As required, Vermont will hold public forums six months after the proposed waiver is granted and annually thereafter. The date, time, and location of each forum will be posted in the newspaper and on the VHC and DVHA websites and shared with consumer and business advocacy organizations.

While Vermont is amenable to providing quarterly reports to the Secretary, the proposed waiver does not seem to warrant such scrutiny. Alternatively, Vermont proposes to report upon the completion of the first six months of the waiver and annually thereafter 90 days after the anniversary of the date on which the waiver was granted. Vermont will cooperate fully with any independent evaluation conducted by the Secretary or the Secretary of the Treasury.

In its reports, Vermont proposes to include:

- Evidence of compliance with public forum requirements, including date, time, place, description of attendees, and the substance of the public comment and Vermont's response, if any.
- Information about any challenges Vermont may face in implementing and sustaining the waiver program and its plan challenges.
- Any other information consistent with the terms and conditions in the State's approved waiver.

[25] For more details, see Appendix F. Tribal government notification of the public process was unnecessary because Vermont has no federally recognized Indian tribes or groups.

Appendix A. Vermont's Enabling Waiver Legislation

No. 67. An act relating to seeking a waiver to permit businesses to continue to purchase Exchange plans directly from insurers.

(H.524)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. SHOP WAIVER

The Commissioner of Vermont Health Access, with assistance from the Director of Health Care Reform, shall seek a waiver under Section 1332 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, for the purpose of waiving the federal requirement to establish an Internet-based Small Business Health Options Program (SHOP) and permitting qualified employers to purchase qualified health benefit plans offered by the Vermont Health Benefit Exchange directly from a registered carrier.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: February 24, 2016

Appendix B. Section by Section Consideration of Waivable Provisions

Part I of Subtitle D: Establishment of Qualified Health Plans		
Section 1301: Definition of QHPs		
§ 1301(a)(1)	The definition of "Qualified Health Plan" including providing EHB, and offering plans conforming to metal levels (bronze, silver, gold, and platinum)	Vermont proposes to retain these provisions.
§ 1301(a)(2)	Inclusion of Co-Op and Multi- State Plans	Vermont proposes to retain these provisions.
§ 1301(a)(3)	Treatment of Qualified Direct Primary Care Medical Home Plans	Vermont proposes to retain these provisions.
§ 1301(a)(4)	Variation based on rating area	Vermont proposes to retain these provisions. It will continue to have community rating throughout the state.
§ 1301(b)	Exceptions for Self-Insured Plans and MEWAS (multiple employer welfare arrangements)	Vermont proposes to retain these provisions.
Section 1302: Essential Health Benefit requirements		
§ 1302(a) & (b)	Defines Essential Health Benefits	Vermont proposes to retain these provisions.
§ 1302(c)	Annual limitations on cost- sharing	Vermont proposes to retain these provisions.
§ 1302(d)	Definition of metal levels by actuarial value	Vermont proposes to retain these provisions.
§ 1302(e)	Availability of catastrophic plans	Vermont proposes to retain these provisions.
§ 1302(f)	Availability of child-only plans	Vermont proposes to retain these provisions.
§ 1302(g)	Defines payment to federally- qualified health centers	Vermont proposes to retain these provisions.
Section 1303: Special rules related to abortion services		
§ 1303	Details special rules related to abortion services	Vermont proposes to retain these provisions.
Section 1304: Definitions related to: group and individual markets; large and small employers; and rules related to determining the size of an employer		

§ 1304(a)	Defines small and large group markets	Vermont proposes to retain these provisions.
§ 1304(b)	Defines large and small employers. Specifies rules for aggregation treatment of employers, employers not in existence in preceding year, and predecessor employers. Defines when a "growing" small employer that purchased employee coverage through SHOP may continue to do	Vermont proposes to retain these provisions.
Part II of Subtitle D: Consumer choices and Insurance Competition through Health Benefit Exchanges		
Section 1311: Affordable health plan choices via establishing exchanges		
§ 1311(b)	Requires establishment of an American Health Benefit Exchange, including a Small Business Health Options Program (SHOP) that is designed to assist qualified employers in facilitating the enrollment of their employees in QHPs and details responsibilities of the exchange	Vermont proposes to waive the requirement that it design a SHOP Internet portal to enroll employers and employees for small group QHPs. Instead, it will retain its current process of direct enrollment through insurance carriers while maintaining full employee choice.
§ 1311(c)(1)	Responsibilities of the Secretary of HHS to establish criteria around certification of plans, including: marketing requirements, sufficient choice, ensuring networks with essential community providers, accreditation, quality improvement, uniform enrollment forms, standardized health benefit plan options, information on quality measures, reporting on pediatric quality measures	Vermont proposes to retain these provisions. All health insurance issuers offering small group plans will be required to offer certified QHPs.
§ 1311(c)(3)	Rating system based on quality and price of plan	This provision will continue to apply to QHPs for individuals. Small employer plans will be rated because they must be the same QHPs as offered to individuals. Vermont is requesting to waive the requirement that the ratings be

		available through a separate SHOP Internet portal.
§ 1311(c)(4)	Enrollee satisfaction system	This provision will continue to apply to QHPs for individuals. Vermont is requesting to waive the requirement that the satisfaction system be available through a separate SHOP Internet portal.
§ 1311(c)(5)	Internet portals may be used to direct qualified individuals and qualified employers to QHPs	This provision will continue to apply to QHPs for individuals. Vermont is requesting to waive the requirement that small employer plans be available through a separate SHOP Internet portal.
§ 1311(c)(6)	Enrollment periods	Vermont proposes to retain these provisions.
§ 1311(d)(1)	Specifies which entities are eligible to carry out responsibilities of the Exchange	This provision will continue to apply to QHPs for individuals. Vermont proposes to waive the SHOP Internet portal requirement.
§ 1311(d)(2)	Exchange shall make QHPs available to qualified individuals and qualified employers and offer stand-alone dental plans.	This provision will continue to apply to QHPs for individuals and small employers. All small employers will have access to QHPs and standalone dental plans, but Vermont proposes to waive the SHOP Internet portal requirement.
§ 1311(d)(3)	States must assume cost for additional benefits	Vermont proposes to retain these provisions.
§ 1311(d)(4)(A)	Requirement that Exchange shall implement procedures for certification of plans	Vermont proposes to retain these provisions. Because QHPs will remain the same for individuals and small employers, these provisions will also apply to small employer plans.
§ 1311(d)(4)(B)	Requirement that Exchange shall provide for the operation of a toll-free telephone hotline	This provision will continue to apply to QHPs for individuals. Vermont proposes to waive the

		SHOP Internet portal requirement.
§ 1311(d)(4)(C)	Requirement that Exchange shall maintain an Internet website	This provision will continue to apply to QHPs for individuals. Vermont proposes to waive the SHOP Internet portal requirement.
§ 1311(d)(4)(D)	Requirement that Exchange shall assign a quality rating to each QHP	This provision will continue to apply to QHPs for individuals. To the extent the quality ratings must be posted on a website, Vermont proposes to waive the SHOP Internet portal requirement.
§ 1311(d)(4)(E)	Requirement that Exchange shall utilize a standardized format for presentation of plans	This provision will continue to apply to QHPs for individuals. Vermont proposes to waive the SHOP Internet portal requirement.
§ 1311(d)(4)(F)	Requirement that Exchange shall inform individuals of eligibility requirements for Medicaid	Vermont proposes to retain these provisions.
§ 1311(d)(4)(G)	Requirement that Exchange shall post to the website a calculator to determine premium tax credits and cost sharing reductions	This provision will continue to apply to QHPs for individuals. Vermont proposes to waive the SHOP Internet portal requirement.
§ 1311(d)(4)(H)	Requirement that Exchange shall provide certification for individuals exempt from shared responsibility payment	Vermont proposes to retain these provisions.
§ 1311(d)(4)(I)	Requirement that Exchange shall transfer to the Secretary of the Treasury a: (i) list of individuals who are issued an exemption certificate; (ii) the name and taxpayer identification number of each individual who was an employee of an employer but who determined to be eligible for the premium tax credit due to lack of affordable or adequate minimum essential coverage; (iii) the name and taxpayer identification number of each	Vermont proposes to retain these provisions, noting that (i) is not applicable to VHC which has elected to adopt HHS exemption eligibility determinations under 45 CFR § 155.625.

	individual who does not have affordable or adequate minimum essential coverage from her employer and notifies the Exchange that they have changed employers and each individual who ceases coverage under a QHP during a plan year and the effective date of cessation	
§ 1311(d)(4)(J)	Requirement that Exchange shall provide to each employer the names of employees who ceases coverage under a QHP during a plan year and effective date of cessation	Vermont proposes to retain these provisions.
§ 1311(d)(4)(K)	Requirement that Exchange shall establish a Navigator program	Vermont proposes to retain these provisions.
§ 1311(e)	Exchange certification of QHPs	This provision will continue to apply to QHPs for individuals and small employers because both groups will have access to the same QHPs. Vermont proposes to waive the SHOP Internet portal requirement.
§ 1311(f)	Flexibility in regional or other interstate exchanges, subsidiary exchanges, and authority to contract	Vermont proposes to retain these provisions.
§ 1311(g)	Rewarding quality through market-based incentives—providing increased reimbursement or other incentives for improving health outcomes	Vermont proposes to retain these provisions.
§ 1311(h)	Quality improvement through enhancing patient safety—requiring QHPs to contract with hospitals that uses certain safety standards	Vermont proposes to retain these provisions.
§ 1311(i)	Requirements for Navigators	Vermont proposes to retain these provisions.
§ 1311(j)	Applicability of mental health parity	Vermont proposes to retain these provisions.
§ 1311(k)	Exchange may not establish rules that conflict with or prevent the application of regulations promulgated by the Secretary of Human Services	To the extent the rules are not waived, Vermont proposes to retain these provisions.
Section 1312: Consumer choice		

§ 1312(a)	Provisions for employee choice among QHPs through an exchange, including requirement that employer may specify metal level and employee may choose a plan within metal level	Vermont proposes maintaining current consumer total choice through direct enrollment with insurance carriers of employer and employee's choosing without use of a SHOP Internet portal.
§ 1312(c)	Establishes that: all enrollees in the individual market are in a single risk pool; all enrollees in the small group market are in a single risk pool; allows states to merge individual and small group insurance in a single risk pool if the state deems it appropriate; and prevents state law from requiring grandfathered plans to be in the individual or small group risk pool	Vermont proposes to retain these provisions, and will continue its merged individual and small group market risk pool.
§ 1312(d)(1)	Allows health insurance issuers to offer coverage outside an exchange, and allows individuals and qualified employers to purchase coverage outside an exchange	Vermont proposes to retain these provisions.
§ 1312(d)(2)	Maintains state control of plans outside of the exchange	Vermont proposes to retain these provisions.
§ 1312(d)(3)	Provides choice to qualified individuals as to whether or not to enroll via an exchange and which plan to choose and describes health plan choices for members of Congress and Congressional staff	Vermont proposes to retain these provisions.
§ 1312(d)(4)	Ensures that individuals who cancel enrollment on the exchange in favor of employer coverage will not be penalized	Vermont proposes to retain these provisions.
§ 1312(e)	Allows enrollment through agents and brokers	Vermont proposes to retain these provisions.
§ 1312(f)(1)(A)	Limits enrollment through an exchange to citizens and lawful residents	Vermont proposes to retain these provisions.
§ 1312(f)(1)(B)	Excludes incarcerated individuals	Vermont proposes to retain these provisions.
§ 1312(f)(2)(A)	Definition of qualified employer	Vermont does not propose to waive this provision but notes that this (and the incorporated definition of small employer at

		§ 1304(b)) will be determined through employer self-attestation to the QHP issuer.
§ 1312(f)(2)(B)	Allows coverage via the exchange for the large group market	Vermont proposes to retain these provisions.
§ 1312(f)(3)	Provides that access to coverage through an exchange may be denied to those who are not lawful residents for the entire enrollment period	Vermont proposes to retain these provisions.
Section 1313: Financial integrity		
§ 1313	Details financial management and protections against fraud and abuse for an exchange	Vermont proposes to retain these provisions as they pertain to VHC.
Premium tax credits and reduced cost-sharing		
Section 1402: Cost-sharing reductions via enrollment in QHPs		
§ 1402	Details provisions and eligibility for reductions in cost-sharing and out-of-pocket costs for qualified individuals who enroll in a QHP	Vermont proposes to retain these provisions.
Section 36B of the IRS Code: Refundable credits/premium assistance for coverage in a QHP		
I.R.C. § 36B	Details provisions and eligibility for a premium tax credit for qualified individuals who enroll in a QHP	Vermont proposes to retain these provisions.
Individual and employer responsibility requirements		
Section 4980H of the IRS Code: Shared responsibility for employee health insurance		
I.R.C. § 4980H	Defines and details requirements for offering health insurance coverage by applicable large employers	Vermont proposes to retain these provisions.
Section 5000A of the IRS Code		
I.R.C. § 5000A	Requirement to maintain minimum coverage (Section 1501), definition of minimum essential coverage, penalties, exemptions	Vermont proposes to retain these provisions.

Appendix C. Relevant Implementing Regulations

Regulation	Requested Action
§155.700 Standards for the establishment of a SHOP.	Vermont requests to waive this provision.
§155.705 Functions of a SHOP.	
(a) Exchange functions that apply to SHOP.	Vermont requests to waive this provision.
(b) Unique functions of a SHOP.	
(1) Enrollment and eligibility functions.	Vermont requests to waive this provision.
(2) Employee choice requirements.	Vermont proposes to retain these provisions. Full employee choice is available under state law.
(3) SHOP options with respect to employee choice requirements.	Full employee choice is available under state law.
(4)(i) Premium aggregation.	Vermont requests to waive this provision. The QHP health insurance issuer would perform all premium processing, but would be unable to do premium aggregation. If an employer wishes to offer plans from multiple QHP health insurance issuers, the employer would have to administer the premiums separately to each QHP health insurance issuer.
(5) QHP Certification.	Vermont will certify QHPs.
(6) Rates and rate changes.	QHP rates are approved for the entire plan year.
(7) QHP availability in merged markets.	QHPs are available throughout the merged market
(8) QHP availability in unmerged markets. If a State does not merge the individual and small group market risk pools, the SHOP must permit each qualified employee to enroll only in QHPs in the small group market.	n/a
(9) SHOP expansion to large group market.	Vermont law allows for large group expansion in 2018.
(10) Participation rules.	n/a

(11) Premium calculator.	Vermont provides plan comparison tools including an affordability calculator on its informational website
(c) Coordination with individual market Exchange for eligibility determinations.	Vermont requests to waive this provision.
(d) Duties of Navigators in the SHOP.	n/a
§155.710 Eligibility standards for SHOP.	Eligibility will be established through employer self-attestation; Employers may request an eligibility determination from VHC on a voluntary basis for purposes of claiming the small business tax credit. State will supply all necessary documentation for small business tax credit. Vermont's QHP health insurance issuers may be able to provide more robust monitoring of employer eligibility.
§155.715 Eligibility determination process for SHOP.	Vermont requests to waive this provision. Eligibility will be established through employer self-attestation; QHP health insurance issuers will follow current market practice. Vermont's QHP health insurance issuers may be able to provide more robust monitoring of employer eligibility.
§155.720 Enrollment of employees into QHPs under SHOP.	Vermont requests to waive this provision to the extent it applies to a SHOP Internet portal. QHP health insurance issuers will follow current market practice and will continue to send notices to employers as required by federal law.
(i) Reporting requirement for tax administration purposes. The SHOP must report to the IRS employer participation, employer contribution, and employee enrollment information in a time and format to be determined by HHS.	Vermont requests to waive this provision. QHP health insurance issuers will submit enrollment data to IRS through 1095B reporting process
§155.725 Enrollment periods under SHOP.	Vermont requests to waive this provision. QHP health insurance issuers will follow current market practice. Note that this includes

	availability of ACA special enrollment periods and employer/employee election periods consistent with this regulation. All plans are calendar year due to merged market.
§155.730 Application standards for SHOP.	Vermont requests to waive this provision. QHP issuer will use its own application; however, Vermont will establish eligibility if requested for purposes of the small business tax credit using HHS approved application
§155.735 Termination of coverage.	Vermont requests to waive this provision. QHP health insurance issuers will follow current market practice
§155.740 SHOP employer and employee eligibility appeals requirements.	Vermont will hear eligibility appeals

Appendix D. Vermont's Essential Health Benefits

Comments on proposed 1332 Waiver of SHOP internet portal with responses from Department of Vermont Health Access in bold.

GENERAL COMMENTS

The SHOP waiver should not be dependent on the individual market IT platform.

We suggest that the waiver application clearly seek express clarification that the SHOP waiver is not dependent on the existence of a state based exchange for the individual market. The waiver application should seek clarity regarding what will happen to the small group market in the event that the individual qualified health plan market ultimately ends up on a federal information technology platform. In the event that the individual market were to transition to a different technology platform, we do not believe Vermonters would be benefitted by investing resources in a federal SHOP platform.

Response: We agree with this comment and have incorporated the change.

Remove references to the over 100 employee market.

Currently, Vermont law provides that all employers, regardless of size, will have access to the exchange in 2018. Recently, the Green Mountain Care Board released a report which shows that such a transition does not support State health care policy goals. It is also our understanding that legislative language has been introduced that will repeal the large group transition. As such, we recommend removing the references to the large group market. Although we understand that the legislation has not yet passed, the risk of not removing this reference is that HHS may consider this an element that must be retained in order for the waiver to remain valid.

Response: We agree with this comment and have incorporated the change.

SPECIFIC COMMENTS

The following comments refer to specific references within the document.

Page 3: Last paragraph

This sentence isn't that clear: "Furthermore, Vermont merged its small group and individual markets and limited the purchase of individual or small group plans outside of its health benefits exchange, Vermont Health Connect (VHC)." We suggest restructuring it so it more clearly states that no individual or small group plans were originally allowed to be sold, except through Vermont Health Connect.

Response: We agree with this comment and have incorporated the change.

Page 4: First full paragraph

This sentence is not accurate: "Any new plan designs or plan benefits are presented to Vermont's independent health care oversight entity, the Green Mountain Care Board (GMCB), where they go through a public process before board approval." Although standard plans are determined and approved by the GMCB, non-standard plans are reviewed first by DFR for compliance, then a certification decision is made by the Department of Vermont Health Access (DVHA).

Response: We agree with this comment and have incorporated the change.

We also suggest some discussion of the DFR process in the section discussing the forms process. DFR reviews all proposed plan designs (standard and non-standard) for compliance with ACA and insurance market rules before such plan designs are proposed for consideration to the GMCB or DVHA.

Response: We agree with this comment and have incorporated the change.

Additionally, it is stated in this paragraph that the Health Care Advocate is automatically a party to the rate review when, in fact, the HCA must enter an appearance in order to gain party status.

Response: We agree with this comment and have incorporated the change.

Also, in this same paragraph, the language in italics (added) isn't quite accurate: "Next, the GMCB posts on its website *an opinion of its actuary of the impact of the rates* as well as an opinion from Vermont's Department of Financial Regulation regarding the solvency of the health insurance carrier." It would be more accurate to say that the GMCB posts an actuarial analysis of the requested rates, based on statutory criteria.

Response: We agree with this comment and have incorporated the change.

Pages 4-5: "Implementation of a State-Based Marketplace and Lessons Learned"

Although we recognize the sensitivity associated with VHC implementation challenges, and we do not expect the State to focus unnecessarily on them, the characterization of the small group market roll out fails to specify that there is not, nor has there ever been, a SHOP information technology option of any kind. This is relevant because it is underscores the need for the waiver. So, for example, on page 5, the waiver application notes that in 2015 and 2016 Vermont "continued to encourage small

employers to directly enroll with health insurance issuers". Small employers were not "encouraged" – they had no other choice if they wanted health insurance. Off-exchange plans are not legal and there was no small group VHC option. We recommend the following amendment: "For 2015 and 2106, Vermont took advantage of CCIIO's transitional flexibilities for State-based SHOP direct enrollment and ~~continued to encourage~~ small employers continued to directly enroll with health insurance issuers; this allowed the State ~~in order~~ to concentrate its resources on developing a fully functional marketplace for the individual."

Response: We agree with this comment and have incorporated the change.

Again, this is not intended to highlight VHC challenges, but rather to underscore that Vermont will have to start from scratch if it is required to implement an IT solution for the SHOP.

Page 5: Second bullet

We recommend the following amendment to this language to more accurately represent what is occurring:

- ensured seamless transition between small group plans and individual qualified health plans, so that any cost sharing paid under ~~one~~ a qualified health plan during the calendar year would be credited to ~~the same~~ an individual's new qualified health plan during the course of the calendar year, in the event the individual moved from the individual to the small group market and vice-versa ~~if that individual's employer status~~.

Response: We agree with this comment and have incorporated the change.

Page 6: Proposed Waiver: Direct Purchase of Vermont Health Connect Plans from Health Insurance Carriers

After the bulleted sections, the application reads: "Waiving each of the items listed above would not compromise the comprehensiveness or affordability of coverage, total number of Vermonters covered, or the federal deficit." However, the items listed above this sentence are things that Vermont wants to keep about its current small group market. As such, a waiver of those items is not being requested. We suggest rewording this sentence to make that clear.

Response: We agree with this comment and have incorporated the change.

Pages 8-9: Statutory waiver chart

- Regarding ACA § 1311(b), we recommend refining the reference to § 1311(b)(1)(B), since that is the specific provision for which a waiver is sought.

Response: We agree with this comment and have incorporated the change.

- Regarding ACA § 1311(c)(3), which requires a quality rating system for qualified health plans, we want to clarify that data collection for the QRS could exclude the small group market, even though the plan designs are the same. However, we do not recommend this approach. For this provision, health plans can continue to collect this data for the small group qualified health plan market, irrespective of the state operating a SHOP internet portal.

Response: We agree with this comment and have incorporated the change.

- Regarding ACA § 1311(d)(4)(B), requiring that the exchange maintain a toll-free hotline, we recognize that the Exchange will continue to do this. However, we would like language making it clear that health plans will be the primary source of customer service assistance for small groups. It would be unfortunate if HHS imposed cumbersome new customer service requirements on DVHA, whereby the Exchange is expected to maintain service capacity for the group market (beyond those related to the tax credit).

Response: We agree with this comment and have incorporated the change.

- Regarding ACA § 1311(d)(4)(E), pertaining to the presentation of QHPs in a standardized format, it might bear noting that the VHC website will include all of this information and since the QHPs in the small group market are the same, this information will be available, even if the groups are not able to enroll from that site.

Response: We agree with this comment and have incorporated the change.

- Regarding the ACA § 1312(a) reference, we suggest refining the reference to § 1312(a)(2). We also note that it might bear explaining the current rules a little more specifically. For example, health plans cannot limit the number of qualified health plans an employer chooses to offer its employees.

Response: We agree with this comment and have incorporated the change.

- Regarding ACA § 1312(f)(2)(A), noting that employer size is enforced through employer attestation, note that BCBSVT has more robust employer size review systems in place beyond simply an attestation. In the event this becomes an

area of inquiry for HHS, we recommend meeting with the health plans to determine what is currently in place and what might be possible in the future.

Response: We agree with this comment and have incorporated the change.

Page 10: Affordability of Coverage Remains the Same or More Affordable

It might make sense to specifically note here that the rates for the individual QHPs and the small group QHPs are the same. Furthermore, the existence of a SHOP internet portal has no bearing on those rates, except to the extent such costs would be borne by the purchasers of insurance, in which case the coverage would be more expensive, absent the waiver.

Response: We agree with this comment and have incorporated the change.

Page 11: 10-Year Waiver Budget Projection: Maintaining Deficit Neutrality

In this section, we suggest noting that a stable and robust employer sponsored health insurance market reduces the need for federal funding to support tax credit subsidies. Thus, granting the waiver could reduce the deficit to the extent it reduces the need for individual coverage by supporting the employer sponsored market.

Response: We agree with this comment and have incorporated the change.

Page 11: No Impact on Other Sections of the ACA or Other Public Coverage Programs

We recommend adding the word "SHOP" in front of "Internet" in the first sentence.

Response: We agree with this comment and have incorporated the change.

Appendix B: Section by Section Consideration of Waivable Provisions

We provide the following comments on these provisions:

- We believe that ACA § 1302(c)(2) was repealed.

Response: We agree with this comment and have incorporated the change.

- Regarding ACA § 1311(c)(6), please note that the open enrollment periods do not necessarily apply to group health plans – although all plans are on a calendar year, plans can conduct open enrollment with their employees at other times of the year. It might also bear mentioning that Vermont does not currently have

any minimum participation rules or minimum employer contribution rules that would apply outside of a standard open enrollment period.

Response: Vermont's individual and group QHPs comply with federal regulations. As a result, we will keep this provision unchanged.

Appendix C: Relevant Implementing Regulations

- Regarding 45 C.F.R. § 155.705(b)(4)(i), we recommend specifically noting that Vermont requests a waiver of this provision since neither health plan would be able to do premium aggregation.

Response: We agree with this comment and have incorporated the change.

- As noted above, regarding 45 C.F.R. § 155.710 relating to employer eligibility, if HHS becomes concerned with self-attestation as the sole method of determining an employer's eligibility to purchase in the small group market, BCBSVT does have more robust systems in place to monitor group eligibility.

Response: We agree with this comment and have incorporated the change.

- Regarding the requested waiver of 45 C.F.R. § 155.720, we note that some of these provisions are being enforced through current market practices. For example, 45 C.F.R. § 155.720(e) requires the SHOP to ensure that issuers notify employees of the effective date of their coverage. Although there is no SHOP, the issuers are notifying employees of the effective date of their coverage. As such, Vermont is not actually seeking to waive all of the rules.

Response: We agree with this comment and have incorporated the change.

- Regarding the requested waiver of 45 C.F.R. § 155.725, it may bear mentioning that by Vermont law, health plans are required to administer the same special enrollment periods in the small group market that are available in the individual market. Furthermore, health plans generally follow the open enrollment rules that would have applied for a SHOP. The way the application currently reads, one could conclude that there are no rules about the enrollment periods in the small group market currently administered by the health plans, when, in fact, the rules generally mimic the federal rules.

Response: We agree with this comment and have incorporated the change.

BCBSVT appreciates the opportunity to review this waiver proposal. We support the State's goals of waiving the internet portal requirements of the SHOP. We believe the current approach of allowing small groups to directly enroll in qualified health plans preserves the most important consumer protections in the ACA for the group market, while not requiring investment in technology of limited benefit.