

Special Open Enrollment Period

The Affordable Care Act (ACA) requires health insurers to offer a one-month Special Open Enrollment Period, where eligible small groups can enroll in coverage without having to meet standard employer-contribution and/or employee-participation ratios. The Special Open Enrollment Period occurs from November 15th through December 15th each year, allowing eligible small groups to enroll for coverage effective January 1st.

Background

The ACA has a section in it called the “guaranteed issuance of coverage in the individual and group market.” It stipulates that “each health insurer that offers health insurance coverage in the individual or group market in the state must accept every employer and individual in the state that applies for such coverage.”

The section also states that this guaranteed issuance of coverage can only be offered during (special) open enrollment periods, and that plans can only be offered to applicants that live in, work in, or reside in the plans’ service area(s).

Participation and Contribution Requirements

In California and many other states, carriers can decline to issue group health coverage if fewer than 70% of employees elect to enroll in coverage. Some carriers may have even tighter participation requirements. Generally speaking, employees with other coverage (Covered California, Medicare, Medicaid, other group coverage, etc.) are removed from the participation requirement calculation. Furthermore, employer contribution rules require employers to contribute a certain percentage of premium costs for all employees in order to attain group health coverage. Some businesses struggle to meet these contribution requirements for a variety of financial reasons.

Problem Solved: Special Open Enrollment Period

Many employers want to offer coverage to their employees, but are denied due to the participation requirements. Employers cannot force employees to enroll in coverage unless the employer pays for 100% of the employees’ premium, which many employers cannot afford to do. Even with moderate to generous employer contributions, many employers still find young or low-income employees waiving coverage.

HHS provided final guidance on this in regulation 147.104(b)(1): “In the case of health insurance coverage offered in the small group market, a health insurance issuer may limit the availability of coverage to an annual enrollment period that begins November 15 and extends through December 15 of each year in the case of a plan sponsor that is unable to comply with a material plan provision relating to employer contribution or group participation rules.”

Important ACA Consideration: Offer of Affordable Coverage

It’s important to note that ALEs with 50+ FTEs are still subject to the ACA’s Employer Shared Responsibility mandate – even when the ALE enrolls in coverage during this Special Open Enrollment Window without having to meet standard participation and contribution requirements.

The Employer Shared Responsibility mandate requires ALEs to offer *affordable* health coverage to full-time employees and their dependents to age 26, or face potential noncompliance penalties under IRS Section 4980H.