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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

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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 and 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 employer 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 nation² 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 Vermont⁵ (BCBSVT) and MVP Health Care⁶ (MVP). 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).⁷ Merging the pools and limiting outside enrollment helps to ensure that

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 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).

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 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. 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, is automatically named 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 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. 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.

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.

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

For 2015 and 2016, Vermont took advantage of CCIIO's transitional flexibilities for State-based SHOP direct enrollment¹² and continued to encourage small employers to directly enroll with health insurance issuers in order 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 insurer¹³
- ensured seamless transition between small group plans and individual plans, so that any cost sharing paid under one plan would be credited to the same plan if that individual's employer status changed.

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 employer choice, and seamless transition between plans.

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>

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 Under Vermont rules, QHP health insurance issuers must allow employers to offer the full range of their QHPs to employees. HBEE 34.00. However, if an employer wishes to offer plans from both QHP health insurance issuers, it must administer that plan selection internally.

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 employer 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

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. Instead, the waiver would streamline access to a small group market that is already robust and save costs and market disruption associated with implementation of other ACA small business exchange requirements.

The specific sections¹⁴ for which Vermont requests a waiver and the reason for each request are outlined below:

Section	Summary	Explanation
§ 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 avoid disruption to its market through maintaining its current process of direct enrollment through insurance carriers while maintaining full employer choice.
§ 1311(c)(3)	Rating system based on quality and price of plan	This provision will continue to apply to QHPs for individuals.

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

		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(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	This provision will continue to

	provide for the operation of a toll-free telephone hotline	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)(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)	Provisions for employer 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(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.

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:

- Employer 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.

Eligibility for coverage will be determined by the QHP issuer based on employer attestation.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.

¹⁵ Appendix C lists the related SHOP regulations.

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.

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 employers¹⁷ 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 employer 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. By 2018, large employers may also elect to offer qualified health plans to their employees.¹⁸ The number of employers offering coverage before and after the waiver is anticipated to remain the same or 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. 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.

¹⁷ See <http://info.healthconnect.vermont.gov/healthplans>.

¹⁸ 33 V.S.A. § 1804.

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.¹⁹ 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. 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 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.

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 that they currently provide.

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.

¹⁹ See Appendix D for more details.

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

Prior to submission of its 1332 waiver, Vermont passed legislation²⁴ providing authority to pursue a 1332 waiver and held a 30-day public comment and notice period.²⁵

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.

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.

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.

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.

Appendix A. Vermont's Enabling Waiver Legislation

Place final language of H.524 here

<http://legislature.vermont.gov/bill/status/2016/H.524>

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(c)(2)	Annual limitations on deductibles for employer- sponsored plans	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: Employer 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 employer 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	This provision will continue to

	price of plan	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	Vermont proposes to retain these provisions, noting that (i) is not applicable to VHC which has elected to adopt HHS exemption eligibility

	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 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	determinations under 45 CFR § 155.625.
§ 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: Employer choice		
§ 1312(a)	Provisions for employer 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,	Vermont proposes to retain these provisions.

	exemptions	
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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) Employer choice requirements.	Vermont proposes to retain these provisions. Full employer choice is available under state law.
(3) SHOP options with respect to employer choice requirements.	Full employer choice is available under state law.
(4)(i) Premium aggregation.	Issuer would perform all premium processing
(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
§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
§155.720 Enrollment of employees into QHPs under SHOP.	Vermont requests to waive this provision. QHP health insurance issuers will follow current market practice
(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; 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

Merge with pdf from <https://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/vermont-ehb-benchmark-plan.pdf>

Appendix E. Data and Analysis, Actuarial Certifications, Assumptions, Targets

To be added by Wakely Consulting Group

Appendix F. Information on Vermont's Public Notice and Comment Period

To be added after notice and comment period