

## **MODULE 16: MEDICARE AND THE HEALTH INSURANCE MARKETPLACES**

### **Objective**

This module will educate HIICAP counselors about how Medicare is affected (and not affected) by the health insurance Marketplaces.

### **What is the Affordable Care Act (ACA)?**

The Patient Protection and Affordable Care Act (ACA) or “Obamacare” was signed into law in March 2010. The ACA is considered the most significant overhaul of the US healthcare system since the passage of Medicare and Medicaid in 1965.

### **Who implements the ACA?**

The U.S. Department of Health and Human Services (HHS) is responsible for implementing the ACA provisions, administering new and revised programs, and overseeing the funding.

The IRS is responsible for overseeing the tax provisions within the law (including the individual mandate and tax credits for individuals and small businesses that are eligible for financial assistance with paying their premiums).

Some states created and operate Health Insurance Exchanges or “Marketplaces,” which are online marketplaces where individuals and small businesses can purchase health plans. Additionally, states determined whether or not they expanded Medicaid eligibility. In New York State, the Department of Health assumed the responsibility of New York’s Health Insurance Marketplace, known as New York State of Health. Additionally, New York expanded Medicaid eligibility.

### **What is the Individual Mandate?**

The individual mandate requires that most Americans obtain minimum essential health insurance or risk paying a tax penalty. The individual mandate went into effect on January 1, 2014. If a person does not have health insurance, a tax penalty will be applied for each month that they did not have health insurance or an exemption from the mandate. The penalty for not having minimum essential coverage was canceled, effective January 1, 2019. This change was made by a law enacted in December 2017, the Tax Cuts and Jobs Act. The individual mandate remained in effect for 2018. Individuals who did not have health insurance in 2018 may have paid a penalty when they filed their 2018 taxes. No taxpayer should have any penalty associated with the Individual Mandate for tax years starting January 1, 2019.

**What types of health insurance plans counted as Minimum Essential Coverage for the individual mandate? (Although this information is not relevant for coverage in tax year**

**2019 and later, we are including it case a consumer has a question about tax years 2014-2018.)**

- Medicare Part A and Medicare Advantage Plans;
- Medicaid;
- Children’s Health Insurance Program (known as Child Health Plus in New York State);
- A plan purchased through the health insurance marketplace;
- A plan purchased outside of the marketplace through a private insurance company;
- Employer-based coverage, including COBRA and retiree coverage;
- CHAMPVA and VA Healthcare (programs through the Veteran’s Administration);
- TRICARE and TRICARE for Life;
- Health insurance for Peace Corps volunteers;
- Health insurance provided by colleges and universities for students;
- Coverage under the Non-appropriated Fund Health Benefit Program;
- Some foreign health insurance that provides coverage in the United States.

Medicare Part A qualifies as minimum essential coverage, so Medicare beneficiaries with Part A are not subject to tax penalties for failing to meet this requirement. Medicare Part B without Part A does not meet the minimum essential coverage requirement. Keep in mind that there is no penalty for not having coverage, as of January 1, 2019.

**What’s the penalty if a person does not have health insurance?**

As of January 1, 2019, there is no penalty for people who do not have health insurance.

**Tax Credit and the Cost Sharing Reductions**

Tax Credits

Premium Tax Credits are a federal tax credit that are available for people who purchase their health insurance through the health insurance marketplace. These tax credits act as a subsidy and are available to put towards the purchase price of health insurance rather than at tax time.

Premium Tax Credits are also refundable, so an individual or family can choose to decline all or some of the tax credits offered and claim the balance when they file their annual federal return.

In New York State, individuals and families who purchase their insurance through the health insurance marketplace are typically eligible for tax credits if their income is between 200% and 400% of the federal poverty level. See below for a special note about 2021 and 2022.

Premium Tax Credits are also available to lawfully residing immigrants with incomes below 100% of the federal poverty level and who are not eligible for Medicaid because of their immigration status. In New York State, most immigrants who are Permanently Residing Under Color of Law (PRUCOL) are eligible for the Essential Plan, if their income is under 138% of the federal poverty level and they are under 65 years of age. Some PRUCOL immigrants are

eligible for federal Medicaid if they meet other eligibility criteria. Because eligibility rules are complex, consumers with questions about their eligibility should be referred to a certified navigator or the state marketplace.

An individual or family can only apply the premium tax credits to one of the four metal tier plans (Bronze, Silver, Gold or Platinum) and may not apply them to a catastrophic coverage plan.

**Note:** On March 11, 2021, President Biden signed The American Rescue Plan Act (“ARPA”) that includes changes to the premium tax credit eligibility for QHP enrollees on the Marketplace.

- QHP consumers with income between 200% and 400% FPL will receive additional tax credits.
- QHP consumers with income above 400% FPL are now eligible to receive tax credits starting June 1, 2021.
- Certain consumers who receive unemployment benefits in 2021 will be eligible for a Nearly Free Health Plan benefit. To be eligible, consumers must not be eligible for other coverage, must have received unemployment benefits for at least one week in 2021, and must otherwise be eligible for APTC subsidies.

### Cost Sharing Reduction

Cost Sharing Reductions (CSRs) are a subsidy to help pay for cost-sharing charges. CSRs reduce the deductibles, copayments, and other out-of-pocket charges for benefits covered by the health plan. Individuals and families with incomes up to 250% FPL are eligible for CSRs if they are eligible for premium tax credits and are enrolled in a Silver level plan.

In New York State, most people are only eligible for CSRs if their income is between 200%-250% of the federal poverty level. This is because individuals with income below 200% may be eligible for Medicaid or the Essential Plan. In certain cases, individuals who are over 65 may be eligible for additional CSRs if they are not eligible for Medicaid or Medicare.

### **What are the Health Insurance Marketplaces?**

The Health Insurance Marketplaces, also called health exchanges, offer private health plans to individuals and small businesses (businesses with fewer than 100 employees) to facilitate the purchase of health insurance in accordance with the ACA. Some states have set up their own health insurance marketplace, while others use the marketplace set up by the federal government ([www.healthcare.gov](http://www.healthcare.gov)).

The New York State Marketplace is known as the New York State of Health and can be accessed at <http://nystateofhealth.ny.gov>.

Through the Marketplace, New Yorkers can compare health insurance options and enroll in health insurance coverage through a website, over the phone, or in-person. People who have Medicare cannot get coverage in the Marketplace, unless they meet certain very specific criteria.

The criteria are that they must be the parent or caretaker relative of a minor, be enrolled in Medicare, and be eligible for expanded Medicaid. These individuals can have Medicare and get Medicaid through the New York State marketplace. These individuals can request reimbursement for Part B by calling NY State of Health or working with a certified assister. Medicare Advantage, Part D, and Medigap plans will not be sold in the Marketplace.

As a result of the implementation of the ACA in 2014, the cost of insurance plans in New York has decreased by an average of nearly 50%. During the enrollment process, an individual and/or their family may apply for either Medicaid, Child Health Plus, the Essential Plan or for premium tax credits and cost-sharing assistance to help them purchase private health insurance. On the marketplace, you are able to compare plans within a specific health insurance program.

*Note: It is illegal for a representative of the Health Insurance Marketplaces to sell an individual with any part of Medicare (Part A and/or Part B) a Marketplace plan.*

### **Marketplace eligibility**

In order to get health insurance through the Marketplace, individuals must:

- Live in the Marketplace service area
- Be a U.S. citizen, or
- Be a national or lawfully present immigrant (Different immigration rules may apply if you are eligible for Child Health Plus, NYS Medicaid, Emergency Medicaid or the Essential Plan based on your income)

### **Enrollment Deadlines**

The open enrollment period for 2021 was initially from November 1, 2020 to January 31, 2021. New York State has taken the extraordinary step of extending Open Enrollment for the entire year. It now ends December 31, 2021, so New Yorkers can enroll at any time throughout the year. The next open enrollment period, for coverage that begins in 2022, will likely be from November 1, 2021 and last until December 15, 2021. This is the official Open Enrollment period for all marketplaces for the new plan year that begins 2022. *Consumers and advocates should check with New York State of Health for updates.*

An individual or family may not apply for health insurance outside of the open enrollment periods unless they qualify for a special enrollment period (most major life events). A full list of qualifying life events is provided by New York State of Health:

### **Qualifying Life Events Eligible for a Special Enrollment Period:**

- Loss of minimum essential coverage
- Marriage or domestic partnership, birth, adoption, or placement in foster care

- Becoming pregnant, if not already insured
- Becoming a citizen, national, or lawfully present individual
- For those already enrolled in a Qualified Health Plan (QHP), becoming newly eligible or ineligible for tax credits; or eligible for a different amount of cost sharing reductions
- Permanent move to NY, or permanent move from one county to another within NY
- Marketplace staff or contractor enrollment error
- Assistor misconduct
- Qualified Health Plan violated a provision of its contract
- American Indians can enroll or change plans one time per month throughout the year
- Other exceptional circumstances, as defined by HHS.

**Not considered a Qualifying Life Event:**

- Voluntarily dropping other health coverage
- Being terminated for not paying your premiums
- Losing coverage that is not minimum essential coverage, in accordance with HHS guidelines

Please note that open enrollment rules only apply to Qualified Health Plans. Individuals and families can apply for Medicaid, the Essential Plan, and Child Health Plus at any time of the year without restriction.

**Enrollment Assistance**

Individuals and Families can get assistance completing their application from the following types of in-person assistors:

**Navigators:**

Navigators are trained and certified to educate and provide enrollment assistance to individuals about the health insurance options available to them through the Marketplace. Assistance is available from navigators in over 40 different languages. Navigators are available in convenient community-based locations in every county and all help is free. To find a Navigator, you can visit the New York State of Health website:

[https://nystateofhealth.ny.gov/agent/hx\\_brokerSearch](https://nystateofhealth.ny.gov/agent/hx_brokerSearch) or you can contact Community Service Society: 1-888-614-5400 or enroll@cssny.org.

For the duration of the national COVID-19 public health emergency that began on March 1, 2020, navigator services are being provided by phone. This may change during the year.

### **Brokers:**

Brokers are licensed professionals that have been certified by the Marketplace to provide enrollment assistance to individuals and small businesses about the health insurance options available through the Marketplace. Help applying for coverage and enrolling in a plan is free.

**Certified Application Counselors:** Certified Application Counselors (CACs) are also trained to provide enrollment assistance to individuals applying for coverage through the Marketplace. CACs may work for entities such as hospitals, clinics, providers or health plans. Call New York State of Health at 1-855-355-5777 for more information about CACs.

### **Qualified Health Plans**

A Qualified Health Plan (QHP) is a commercial health insurance plan sold on the Marketplace that covers Essential Health Benefits. Essential Health Benefits include ambulatory patient services; prescription drugs; emergency services; rehabilitative and habilitative services/devices; hospitalization; laboratory services; maternity and newborn care; preventive and wellness services and chronic disease management; mental health and substance abuse services; and pediatric services.

The Affordable Care Act requires most people to have health insurance that meets a certain standard, called “minimum essential coverage.” QHPs sold in the exchange qualify as minimum essential coverage. There are five types of Qualified Health Plans available: Platinum, Gold, Silver, Bronze, and Catastrophic. All plans cover the same essential health benefits but vary significantly in price and cost-sharing.

### **Metal Tiers:**



**Platinum:** Your health plan pays about 90% of your costs on average. You pay about 10%.

**Gold:** Your health plan pays about 80% of your costs on average. You pay about 20%.

**Silver:** Your health plan pays about 70% of your costs on average. You pay about 30%.

**Bronze:** Your health plan pays 60% on average. You pay about 40%.

**Catastrophic:** For people under 30. Much lower premiums but much higher costs to the individual if the coverage is used.

There are two types of QHPs,

- Individual QHPs, or plans that individuals can buy for themselves and/or their families; and
- QHPs sold through the Small Business Health Options Program (SHOP). SHOP plans make it possible for small businesses owners to provide health insurance for their employees.

To avoid confusion, we will refer to individual QHPs as “QHPs” and QHPs sold through the SHOP as “SHOP plans.”

### **QHPs for people who already have Medicare**

Any person with any part of Medicare (Part A or Part B) cannot be sold a QHP.

This means that if a beneficiary has Medicare Part A but did not take Medicare Part B and is now facing a gap in outpatient coverage, you should explore other options with that client to see if they can get Part B back more quickly:

- Are they eligible for Equitable Relief?
  - Equitable Relief is a formal request to Social Security. Equitable Relief is used to help people who delayed enrollment into Part B based on false or misleading information they received from a representative of the federal government. A representative of the federal government could be a Social Security representative or Medicare representative. For more information about Equitable relief for Marketplace enrollees see page 16-11.
- Are they eligible for a Medicare Savings Program (MSP)?
  - The Medicare Savings Program (MSP), which helps pay Part B premiums, can also help enroll beneficiaries into Medicare Part B outside of the usual enrollment periods. The MSP is run by the state Medicaid office. Whether a beneficiary qualifies for an MSP depends on one’s income. See Module 9, HIICAP Notebook; *The Medicare Savings Programs*, for information on how to screen clients for the MSP.  
<https://aging.ny.gov/hiicap-notebook>

Beneficiaries are allowed to drop all of their Medicare benefits to purchase a QHP, but this is generally **not a good idea**.

1. People who disenroll from Medicare Parts A and B can purchase a QHP through the Marketplaces. However, most people with Medicare qualify for free Medicare Part A and it’s a very bad idea for them to drop Medicare or turn it down.

- a. **In order to disenroll from Part A, people who owe no premium must withdraw their initial application – this means they are removed from Medicare retro-active to when they first enrolled and must pay Medicare back for any benefits already paid.** They must also reimburse Social Security for any care that Part A has paid for – including hospitalizations, Skilled Nursing Facility stays and homecare, if applicable. People without Part A are not allowed to collect Social Security retirement benefits, and so to withdraw from Part A, a person also has to pay back any Social Security retirement checks they have received.
  - b. People who are eligible for premium free Part A do not qualify to receive tax credits to help pay QHP premiums.
2. Beneficiaries will most likely have a Medicare Part B premium penalty and gaps in coverage if they decide to reenroll into Medicare in the future.

As a reminder, Medigap policies, Medicare Advantage plans, and stand-alone Part D plans are not sold through the Marketplaces.

**Note:** Individuals who do not qualify for premium-free Medicare Part A, and who must pay a Part A premium, are eligible for tax credits to help pay QHP premiums. These individuals could potentially purchase QHP if they do not have any part of Medicare and income is above 101% FPL. If their income is at or below 100% FPL, they may be eligible for the Medicare Part A Buy-in program.

### **Transitioning from a QHP to Medicare**

People with QHPs should enroll into Medicare when they become eligible. Beneficiaries should terminate their QHPs when their Medicare benefit begins.

There are several reasons it is not a good idea to keep a QHP and delay enrollment in Medicare:

1. Most Medicare beneficiaries are not eligible for any tax credits to help pay for QHP premiums, and full QHP premiums are more costly than Medicare, Medigap or Part D premiums.
2. They will likely have gaps in coverage and have to pay premium penalties if they enroll in Medicare late.
3. QHPs may stop paying altogether for the cost of care of enrollees eligible for Medicare who have elected to delay Medicare enrollment. However, if a QHP enrollee signs up for Medicare at any point during their Initial Enrollment Period (IEP), their QHP should continue to pay primary until their Medicare coverage goes into effect.
4. While beneficiaries are allowed to keep their QHPs after they enroll into Medicare, it is typically not a good idea to do so. QHPs will pay second to Medicare, if at all. As listed above, Medicare beneficiaries are typically not eligible for tax credits, so they will pay the full price for their QHP, even when the QHP is secondary to Medicare and paying only a small portion of the cost at best. A better alternative for most beneficiaries enrolling in Medicare is to choose a



Medigap policy, Medicare Advantage plan and/or stand-alone Part D plan that work with Medicare.

Here are the steps individuals should take when they become eligible for Medicare:

1. Enroll in Medicare Parts A and B as soon as they are eligible.
2. Drop their QHP coverage. Individuals should notify their state Marketplace or Navigator, if they have one, before the 15<sup>th</sup> of the month before the month they want their coverage to end.
3. After they enroll in Medicare, consider how they will get their Medicare coverage. Beneficiaries have a choice between Original Medicare and a Medicare Advantage plan. Please see Module 5, *Medicare Advantage Health Plan Options*, Module 6, *Medicare Prescription Drug Coverage (Medicare Part D)* and Module 7, *Medicare Supplement Insurance/Medigap*, of the HIICAP Notebook for more on Medicare choices.  
<https://aging.ny.gov/hiicap-notebook>

Be aware that if beneficiaries enroll late in Medicare, they will likely pay higher Medicare premiums for the rest of their lives. They may also have to wait for their Medicare coverage to start.

QHPs may not let beneficiaries know when they become eligible for Medicare. Clients should know to enroll in Medicare during their Initial Enrollment Period (IEP). For individuals who become eligible for Medicare due to age, the IEP is the seven-month period that includes the three months before their 65<sup>th</sup> birthday month, the month they turn 65 and the three months after their 65<sup>th</sup> birthday. Most individuals who are Medicare eligible due to disability will be automatically enrolled into Medicare Parts A and B on the 25<sup>th</sup> month in which they receive SSDI benefits.

Beneficiaries should also enroll into a Medicare prescription drug (Part D) plan during their Initial Enrollment Period for Part D. For more on Medicare Part D enrollment, please see Module 6, HIICAP Notebook; *Medicare Prescription Drug Coverage (Medicare Part D)*  
<https://aging.ny.gov/hiicap-notebook>

### **Exceptions to these rules**

Two groups of Medicare-eligible people may wish to keep a QHP and delay Medicare, as some of the above rules apply differently to them. These beneficiaries should carefully consider the pros and cons of a QHP versus Medicare.

- **The beneficiary who must pay for Medicare Part A**

Although most people do not need to pay a premium for Medicare Part A, some people do not qualify for premium-free Part A and must pay high premiums for this coverage. If your client must pay for Part A, they should consider whether or not a QHP may offer a better deal than Medicare.

Depending on their income, beneficiaries with premium Part A may qualify for tax credits to purchase QHPs through the Marketplace. However, they cannot have any part

of Medicare when they purchase a QHP. This means clients must disenroll from any parts of Medicare that they are enrolled in, in order to purchase a QHP. If they return to Medicare coverage later, they may pay premium penalties for the time they had a QHP instead of Medicare. In addition, the times that they can sign up for Medicare will be limited, and they will likely experience gaps in coverage if their QHP coverage ends before their Medicare coverage begins. As a reminder, individuals who do not qualify for premium free Part A are at risk of incurring a Part A Late Enrollment Penalty and a delay in Part A coverage in addition to the Part B Late Enrollment Penalty and delay in Part B coverage. While a QHP premium may be cheaper in the short term, if the person ever wishes to return to Medicare coverage, the premium penalties may be significant.

- **The beneficiary is under 65 and eligible for Medicare due to End-Stage Renal Disease (ESRD)**

If a client is under 65 and has End-Stage Renal Disease (ESRD), also known as kidney failure, he or she can choose a QHP instead of Medicare and may be able to keep premium subsidies. **Be aware that if your client already has ESRD Medicare then she/he typically should not disenroll from Medicare to take a QHP. Disenrolling from Part A requires people to pay back all the benefits they have used, in addition to any Social Security Disability or Social Security Retirement benefits they have receive.** If one already has a QHP, one can keep it, or the person can disenroll from the QHP and enroll in Medicare. The choice made depends on a number of factors.

- People under 65 with ESRD may qualify for tax credits to purchase a QHP through the Marketplace if they do not enroll in Medicare. This could be a good choice because they may have substantial cost sharing if they enroll in Medicare instead. However, in New York State, people with ESRD can purchase Medigap plans to supplement Original Medicare and make their Medicare coverage more complete.

**Note:** Historically, most people with Medicare due to ESRD have not been able to enroll in Medicare Advantage (MA) plans; however, starting in 2021, they are now eligible to enroll. Caution: MA plans usually have high out-of-pocket costs for dialysis, (up to a maximum out of pocket limit for the year).

- QHPs tend to have limited provider networks, while Original Medicare allows individuals to see any Medicare participating provider.
- People with ESRD who do not have any part of Medicare can choose to keep their QHP coverage and delay enrollment into Medicare (both Part A and Part B). However, if they have a kidney transplant and want Medicare Part B to cover their immunosuppressant drug costs in the future, they must have Medicare Part A at the time of the transplant. If they do not have Medicare Part A at the time of their transplant (or retroactive back to the time of the transplant) then, at the time they enroll into Medicare, their immunosuppressant medications will be covered by Medicare Part D instead of Part B. Part D costs can be higher than Part B costs. Part D plans can also have additional restrictions, such as in-network pharmacies that beneficiaries must go to for medicines.

- Even if beneficiaries do not enroll in Medicare when they are eligible due to ESRD, it is important to counsel them to enroll in Medicare when they turn 65, or should they become eligible due to receiving Social Security Disability Insurance benefits for 24 months. When they become eligible for Medicare at age 65 or after 24 months of SSDI they will no longer qualify for tax credits to help pay QHP premiums. If they do not enroll into Medicare during their later IEP, they may pay premium penalties and experience gaps in coverage when they later want to enroll in Medicare.

For people with ESRD and for people who must pay a premium for Part A, the calculation might be different if they qualify for assistance with Medicare costs. Always check to see if your client's income qualifies them for assistance with Medicare premiums and costs. This assistance, in the form of a Medicare Savings Program and/or the Extra Help drug subsidy, will likely provide them with more comprehensive and lower-cost coverage than a QHP would provide. Specifically, persons with premium Part A should always be screened for eligibility for the Part A Buy-In. For information on the Part A Buy-In, please read more on QMB eligibility in Module 9, HIICAP Notebook; *Medicare Savings Programs*. <https://aging.ny.gov/hiicap-notebook>

### **Equitable relief for Marketplace enrollees**

CMS began offering a limited version of equitable relief in 2017 for individuals who are enrolled in Part A, and who have coverage through a QHP. These individuals may have been enrolled in a QHP before becoming eligible for premium-free Part A, then opted not to enroll in Part B because the QHP was more affordable. They may have subsequently been assessed a late enrollment penalty when signing up for Part B in 2015-2020.

If eligible, equitable relief for Marketplace enrollees will let individuals 1) enroll in Medicare Part B without penalty or 2) eliminate or reduce their Part B late enrollment penalty (LEP) if they are already enrolled in Part B but delayed enrollment when they had a QHP. There are certain criteria that must be met in order to qualify for relief.

Specifically, you are eligible to use equitable relief for Marketplace enrollees if: you are or were enrolled in a QHP, you are enrolled in premium-free Part A\*, and

- You have an Initial Enrollment Period (IEP) that began between April 1, 2013 and March 1, 2020;
- You were notified of retroactive premium-free Part A between October 1, 2013 and June 30, 2020;
- Or, you have a Part B SEP that ended between October 1, 2013 and June 30, 2020

\*If you do not have premium-free Part A but are eligible, you can enroll at any time. You must be enrolled in premium-free Part A in order to request Equitable Relief for Marketplace enrollees. If you want to request that your Part B late enrollment penalty be eliminated or reduced, you must have received your penalty after enrolling in Part B during the General Enrollment Period (GEP) between 2015 and 2020.

Previously, there was a time limit to request this Equitable Relief but now there is no time limit to request this, as long as your IEP/SEP was within the period of time stated above. For more details see <https://www.medicareinteractive.org/get-answers/medicare-health-coverage-options/original-medicare-enrollment/time-limited-equitable-relief-for-enrolling-in-part-b> .

### **Medicare and the Small Business Health Options Program (SHOP)**

The SHOP is the Small Business Health Options Program within the Marketplace, where small businesses and their employees can search for and purchase health insurance. Currently employers with 100 or fewer employees may participate in the SHOP. To participate in the SHOP, small business employers must also offer, at minimum, all full-time employees coverage in a Qualified Health Plan (QHP) through SHOP.

SHOP plans work with Medicare in the same way other current employer insurance works with Medicare. For more information on how current employer insurance works with Medicare please see Module 2, HIICAP Notebook; *Medicare Eligibility and Enrollment*.

<https://aging.ny.gov/hiicap-notebook>

### **How SHOP plans coordinate with Medicare.**

People insured by a SHOP plan who become eligible for Medicare due to age must decide whether or not to take Part B coverage when they first turn 65. All people with SHOP coverage can delay enrolling in Part B without penalty. However, certain people should never do this.

- Small employers (under 20 employees): An individual who becomes Medicare eligible due to age should take Medicare Parts A and B if the employer offering the SHOP plan has fewer than 20 employees. This is because for employer plans with fewer than 20 employees, Medicare will pay first, and the SHOP plan pays second. If these individuals fail to enroll in Part B, their SHOP plan may provide little or no coverage.
- Large employers (20 or more employees): If the employer has 20 or more employees, individuals may want to consider delaying Part B. In this case, the SHOP plan pays first, and Medicare pays second on health claims. A SHOP plan for an employer with 20 or more employees cannot reduce its coverage if an employee or his/ her spouse who is over 65 fails to enroll in Part B.

People who are under 65, insured by a SHOP plan, and become eligible for Medicare due to a disability should enroll in Medicare Part B when they first qualify, even though most can delay enrollment without a penalty. Only employers with fewer than 100 employees may offer SHOP coverage. Medicare always pays first for individuals who get Medicare due to disability if the employer offering coverage has fewer than 100 employees. If people with disabilities fail to enroll in Part B, their SHOP plan may provide little or no coverage.

Beneficiaries should delay Part D only if their SHOP plan offers creditable drug coverage. Creditable coverage is drug coverage that is at least as good as Medicare's basic drug benefit. SHOP plans may or may not offer creditable drug coverage. Clients should look for a yearly notice from their insurer that states whether or not their SHOP drug coverage is creditable for Part D. If they don't receive this notice, they should ask for it from their employer. People with creditable coverage from a SHOP plan can delay Part D without penalty for as long as they have

creditable coverage. Beneficiaries should enroll in Part D within 63 days of losing creditable coverage to avoid penalties and gaps in coverage.

**Note: Medicare is primary for people with retirement insurance through the SHOP regardless of the number of employees**

### **What is the Employer Mandate?**

The Employer Mandate requires some businesses to offer affordable health insurance to their employees. This requirement applies to employers with 50 or more full-time employees. Employers who do not provide affordable or minimum value coverage will face a penalty.

For more details on the Employer Mandate, which is formally known as the Employer Shared Responsibility Provision, see <https://www.irs.gov/affordable-care-act/employers/questions-and-answers-on-employer-shared-responsibility-provisions-under-the-affordable-care-act>.

### **Annual Enrollment Period**

The annual enrollment period begins 90 days before the end of the plan year and will last at least 30 days. During this time, the employer can renew the plan, make changes to the plan offering, or change to a new plan.

To compare plans in New York, go to: [www.nystateofhealth.ny.gov/employer](http://www.nystateofhealth.ny.gov/employer)

Employers can get assistance with completing their application:

- **Navigators** are certified and trained to help businesses understand their options, compare plans, and connect to a certified broker for enrollment assistance.
  - To find a Navigator, you can visit the New York State of Health website:
    - [https://nystateofhealth.ny.gov/agent/hx\\_brokerSearch](https://nystateofhealth.ny.gov/agent/hx_brokerSearch)
    - Or you can contact Community Service Society: 1-888-614-5400 or [enroll@cssny.org](mailto:enroll@cssny.org).
- **Certified brokers** are licensed professionals that have been certified by the Marketplace to provide enrollment assistance to individuals and small businesses about the health insurance options available through the Marketplace. Help applying for coverage and enrolling in a plan is free.