

Article 6. Application, Eligibility, and Enrollment Process for the SHOP

§6520. Application Requirements

- a) An employer who is eligible for the SHOP pursuant to Section 6522, may apply to participate in the SHOP by submitting the following information to the SHOP:
 - 1) General employer information: business legal name and whether the employer is doing business under a fictitious name, Federal employer identification number, State employer identification number, organization type (private, nonprofit, government, church/church affiliated), primary business address;
 - 2) The number of eligible employees and the total number of employees employed by the employer;
 - 3) The United States Department of Labor Standard Industrial Code of the employer;
 - 4) Whether the employer is offering health coverage to its employees working between 20 and 29 hours per week;
 - 5) Whether the employer is offering dependent coverage;
 - 6) The employer's desired coverage effective date;
 - 7) Whether the employer is subject to Federal COBRA or Cal-COBRA;
 - 8) The name, e-mail address, primary and secondary phone number for the primary contact for the employer;
 - 9) Whether the employer has an agent and if so, the agent's name, general agency name, CA insurance license number, and whether the agent is a Covered California certified insurance agent;
 - 10) Information about the employer's employees, including each employee's social security number, full name, date of birth, annual salary, hire date, home address, work address, e-mail address, phone, dependents, if any and if so, the dependent's name and date of birth, the employee's number of child dependents under 21 and the number of child dependents 21 and over, employee classification (management, non-management, administrative, etc.) as determined by the employer, and whether any of the employees are COBRA or Cal-COBRA enrollees;
 - 11) The employer's offer of coverage, which includes:
 - A. The employer's premium contribution amount for employees and dependents;
 - B. The employer plan selection for a tier of coverage (bronze, silver, gold, or platinum) and the reference plan name for which the employer's premium contribution may be based off of.
 - C. The employer's waiting period for new employees (0 days, 30 days, 60 days), if any, and whether the employer has different waiting periods for different employee classes, and if so, provide the class and waiting period for each;
- b) To participate in the SHOP, an employer must attest to the following:
 - 1) That all information contained in the employer application is true and correct to the best of the employer's knowledge.
 - 2) That the employer understands that the SHOP will not consider the employer approved for coverage until the SHOP has received 100 percent of the employer's first month's premium payment;

- 3) That the employer agrees to continue to make the required premium payments to continue to be an eligible employer;
 - 4) The employer agrees to inform the employers' employees of the availability of coverage and the provision that those not electing coverage must wait one year to obtain coverage through the group if they later decide they would like to have coverage.
 - 5) That all employees of the employer enrolling in the SHOP are eligible employees.
 - 6) The employer understands that once coverage in a QHP is approved by the SHOP, changes to the coverage cannot be implemented until the employer's annual election of coverage period.
 - 7) The employer understands that the plan documents issued by the QHP issuer will determine the contractual provisions, including procedures, exclusions and limitations relating to the plan and will govern in the event they conflict with any benefits comparison, summary or other description of the plan.
 - 8) The employer understands that once membership information is transmitted to the selected QHPs, group coverage effective dates cannot be changed nor can coverage be terminated until after the first month of coverage.
 - 9) The employer understands that the attestations in this section are subject to audit by the SHOP at any time.
 - 10) The employer understands that the attestations in this section must be maintained in order for the employer's group to continue coverage through the SHOP.
- c) An employer must provide its most recent DE-9C, that has been filed with the California Employment Development Division, on which the employer has identified in writing whether each employee listed on the DE-9C is a full-time employee, part-time eligible employee, part-time ineligible employee and whether the employee is still employed by the employer.
 - d) A qualified employee who is eligible for the SHOP pursuant to Section 6522, may apply to participate in the SHOP by submitting the following information to the SHOP:
 - 1) The employer's name, address and phone number;
 - 2) The employee's name, social security number, date of birth, home, mailing and email addresses, telephone number, and preferred language;
 - 3) The marital status of the employee;
 - 4) Information about the employee's dependents, which includes the number of dependents applying for coverage, dependent's name, social security number, date of birth, home, mailing and email addresses, telephone number, preferred language, marital status of the dependent, and whether the dependent is disabled;
 - 5) The plan name for the health and dental plan selected by the employee and dependents, and if an HMO or DHMO is selected, the physician, dentist and clinic name.
 - e) If a qualified employee declines coverage, the employee must list any other source of coverage, if any.

§ 6522. Eligibility Requirements for Enrollment in the SHOP Exchange

- a) Eligibility Requirements for Employers in SHOP (155.710(b))
 - 1) A qualified employer is eligible to participate in the SHOP if such qualified employer:

- A. Is a small employer;
- B. Elects to offer, at a minimum, all eligible employees coverage in a QHP through the SHOP; and
- C. Either has its principal business address in California and offers coverage to all its full-time employees through the SHOP in California or offers coverage to each eligible employee through the SHOP serving that employee's primary worksite.
- D. Meets the following group participation rules: (155.705(b)(10))
 - 1. A minimum of 70 percent of eligible employees of the employer must enroll in a QHP through the SHOP and;
 - 2. 100 percent of eligible employees of the employer must enroll in a QHP through the SHOP if the employer pays 100 percent of the eligible employee's QHP premium or the employer only employs one to three eligible employees.
- E. Eligible employees that waive coverage because that eligible employee is enrolled in coverage through another employer, an employee's union, Medicaid pursuant to 42 U.S.C. § 1396 et. seq., or Medicare pursuant to 42 U.S.C. § 1395 et. seq., are not counted in calculating compliance with the group participation rules above.
- F. Meets the following group contribution requirements:
 - 1. An employer must contribute to the employee's QHP premium, a minimum of 50 percent of the lowest cost premium for employee only coverage in the level of coverage selected by the employer pursuant to Subsection 6520(a)(11).
- 2) Continuing eligibility (155.710(d))
 - A. A qualified employer who ceases to be a small employer solely by reason of an increase in the number of employees of such employer shall continue to be eligible for the SHOP until the qualified employer otherwise fails to meet the eligibility criteria of this section or elects to no longer purchase coverage for qualified employees through the SHOP.
- b) An employer may only make an offer of coverage to those employees who are eligible employees.
- c) Eligibility Requirements for Employees and Dependents
 - 1) A qualified employee is eligible to purchase a QHP through the SHOP
 - 2) A qualified employee may choose to enroll his or her dependents in the QHP the qualified employee enrolls in.

§ 6524. Verification Process for Enrollment in the SHOP Exchange

- a) Verification of Eligibility (155.715)
 - 1) The Exchange shall verify or obtain information as provided in this section to determine whether an employer, employee or dependent meets the eligibility requirements specified in Section 6522 prior to allowing an employer to offer coverage to its employees or a qualified employee to purchase a QHP through the SHOP.
 - 2) For purposes of verifying employee eligibility, the SHOP must:

- A. Verify that the employee or the employee's dependent has been identified by the employer as an employee being offered coverage by the employer and must otherwise accept the information attested to by the employee unless the information is inconsistent with the employer-provided information and;
 - B. Collect only the minimum information necessary for verification of eligibility in accordance with the eligibility requirements in Section 6522.
- b) Inconsistencies (155.715(d))
 - 1) When the information submitted to the SHOP by an employer is inconsistent with the eligibility requirements in Section 6522, the SHOP must:
 - A. Make a reasonable effort to identify and address the causes of such inconsistency, including through typographical or other clerical errors;
 - B. Notify the employer of the inconsistency;
 - C. Provide the employer with a period of 30 days from the date on which the notice described in paragraph (b)(1)(B) of this section is sent to the employer to either present satisfactory documentary evidence to support the employer's application, or resolve the inconsistency; and
 - D. If, after the 30-day period described in paragraph (b)(1)(C) of this section, the SHOP has not received satisfactory documentary evidence, the SHOP must:
 - 1. Notify the employer of its denial of eligibility in accordance with paragraph (b)(3) of this section and of the employer's right to appeal such determination as provided in Section 6620; and
 - 2) When the information submitted to the SHOP by an employee is inconsistent with the information provided by the employee's employer, the SHOP must:
 - A. Make a reasonable effort to identify and address the causes of such inconsistency, including through typographical or other clerical errors;
 - B. Notify the employee of the inability to substantiate his or her employee status;
 - C. Provide the employee with a period of 30 days from the date on which the notice described in paragraph (b)(2)(B) of this section is sent to the employee to either present satisfactory documentary evidence to support the employee's application, or resolve the inconsistency; and
 - D. If, after the 30-day period described in paragraph (b)(2)(C) of this section, the SHOP has not received satisfactory documentary evidence, the SHOP must notify the employee of its denial of eligibility in accordance with paragraph (b)(4) of this section.
- c) Notification of Employer Eligibility
 - 1) The SHOP must provide an employer requesting eligibility to purchase coverage with a notice of approval or denial of eligibility and the employer's right to appeal such eligibility determination.
- d) Notification of Employee Eligibility
 - 1) The SHOP must notify an employee seeking to enroll in a QHP offered through the SHOP of the determination by the SHOP whether the employee is eligible in accordance with section 6522(b) and the employee's right to appeal such eligibility determination.

§ 6526. Qualified Employer Election of Coverage Periods (155.725)

- a) A qualified employer may elect to offer coverage through SHOP for its qualified employees at any time during the calendar year by submitting the information required in 10 CCR § 6520.
- b) A qualified employer's plan year is a 12 month period beginning on the coverage effective date for its qualified employees as described in Section 6532. All qualified employees of an employer will have the same plan year as their employer.
- c) A qualified employer may only change its offer of coverage to its employees, as described in 10 CCR § 6520(a)(11), during the qualified employer's annual election period.
 - 1) The employer's annual election period is thirty (30) days, beginning at least sixty (60) days prior to the completion of the employer's plan year and ends before the annual employee open enrollment period.
- d) Beginning 2014, the SHOP shall provide a written annual election period notification to each qualified employer at least three (3) days prior to the beginning of the employer's annual election period.

§ 6528. Initial and Annual Enrollment Periods for Qualified Employees (155.720, .725)

- a) A qualified employee may only enroll in a QHP or change its QHP during the initial employee open enrollment period and annual employee open enrollment period described in this Section or during a special enrollment period as described in Section 6530.
- b) A qualified employee's initial employee open enrollment period begins the day his or her employer submits all of the information required in 10 CCR § 6520 and the SHOP has determined that employer is a qualified employer.
- c) The annual employee open enrollment period begins forty five (45) days prior to the completion of the qualified employee's plan year and after that employer's annual election period as described in Section 6526(c)(1).
- d) The initial and annual employee open enrollment period is 30 days or at which time all qualified employees of a qualified employer have submitted the information required in Section 6520(d), whichever occurs first, but in no event longer than 30 days.
- e) Beginning 2014, the SHOP shall provide a written annual employee open enrollment period notification to each qualified employee at least three (3) days prior to the employee's annual open enrollment period.
- f) If a qualified employee does not enroll in a different QHP during his or her annual employee open enrollment period, that employee will remain in the QHP selected in the previous year unless:
 1. The qualified employee terminates coverage from such QHP in accordance with Section 6538(b) or
 2. The QHP is no longer available to the qualified employee.

§ 6530. Special Enrollment Periods for Qualified Employees and Dependents

- a) A qualified employee may enroll in a QHP or a qualified employee may change QHPs outside of the initial and annual open enrollment periods if:
 1. A qualified employee or dependent loses Minimum Essential Coverage, as specified in subsection (d) of this section;

2. A qualified employee gains a dependent or becomes a dependent through marriage, birth, adoption, or placement for adoption;
 3. A qualified employee's, or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange. In such cases, the Exchange shall take necessary actions to correct or eliminate the effects of such error, misrepresentation, or inaction;
 4. A qualified employee, or his or her dependent, adequately demonstrates to the Exchange that the QHP in which he or she is enrolled, substantially violated a material provision of its contract in relation to the qualified employee;
 5. A qualified employee, or his or her dependent, gains access to new QHPs as a result of a permanent move;
 6. An Indian, as defined by section 4 of the Indian Health Care Improvement Act, may enroll in a QHP or change from one QHP to another one time per month;
 7. Loses eligibility for coverage under a Medicaid plan under title XIX of the Social Security Act or a State child health plan under title XXI of the Social Security Act;
 8. Becomes eligible for assistance, with respect to coverage under a SHOP, under such Medicaid plan or a State child health plan (including any waiver or demonstration project conducted under or in relation to such a plan);
- b) A qualified employee who experiences one of the events in Paragraph (a) above has:
1. Thirty (30) days from the date of an event described in subparagraphs (a) through (e) inclusive, of paragraph (a) above, to select a QHP through the SHOP; and
 2. Sixty (60) days from the date of an event described in subparagraphs (f) and (g) of paragraph (a) above, to select a QHP through the SHOP.
- c) A dependent of a qualified employee is not eligible for a special enrollment period if the employer does not extend the offer of coverage to dependents.
- d) Loss of Minimum Essential Coverage, as specified in paragraph (a)(1) of this section, includes:
1. Loss of eligibility for coverage, including but not limited to:
 - i. Loss of eligibility for coverage as a result of:
 1. Legal separation,
 2. Divorce,
 3. Cessation of dependent status (such as attaining the maximum age to be eligible as a dependent child under the plan),
 4. Death of an employee,
 5. Termination of employment,
 6. Reduction in the number of hours of employment, and

7. Any loss of eligibility for coverage after a period that is measured by reference to any of the foregoing;
 - ii. Loss of eligibility for coverage through Medicare, Medi-Cal, or other government-sponsored health care programs;
 - iii. In the case of coverage offered through an HMO or similar program in the individual market that does not provide benefits to individuals who no longer reside, live, or work in a service area, loss of coverage because an individual no longer resides, lives, or works in the service area (whether or not within the choice of the individual);
 - iv. In the case of coverage offered through an HMO or similar program in the group market that does not provide benefits to individuals who no longer reside, live, or work in a service area, loss of coverage because an individual no longer resides, lives, or works in the service area (whether or not within the choice of the individual), and no other benefit package is available to the individual;
 - v. A situation in which an individual incurs a claim that would meet or exceed a lifetime limit on all benefits; and
 - vi. A situation in which a plan no longer offers any benefits to the class of similarly situated individuals that includes the individual.
2. Termination of employer contributions toward the employee's or dependent's coverage that is not COBRA continuation coverage, including contributions by any current or former employer that was contributing to coverage for the employee or dependent; and
3. Exhaustion of COBRA continuation coverage, meaning that such coverage ceases:
 - i. Due to the failure of the employer or other responsible entity to remit premiums on a timely basis;
 - ii. When the individual no longer resides, lives, or works in the service area of an HMO or similar program (whether or not within the choice of the individual) and there is no other COBRA continuation coverage available to the individual; or
 - iii. When the individual incurs a claim that would meet or exceed a lifetime limit on all benefits and there is no other COBRA continuation coverage available to the individual.
4. Loss of MEC, as specified in paragraph (a)(1) of this section, does not include termination or loss due to:
 - i. Failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage; or

- ii. Termination of coverage for cause, such as making a fraudulent claim or an intentional misrepresentation of a material fact in connection with a plan.
- e) If requested by a QHP, an employee or a dependent of an employee who experiences a triggering event that gives rise to a special enrollment period pursuant to this section must provide verification of the triggering event.

§ 6532 Employer Payment of Premiums

a) Employer Payment Rules

1. Upon completion of the initial employee open enrollment period by all of the qualified employees of an employer, the SHOP will send an invoice to the qualified employer for the premium amount due for all of that employer's employees.

A. An employer must pay its invoice by the close of business on the due date indicated on the invoice.

2. Once coverage is effective, the SHOP will send invoices to employers on the 15th of the month for coverage for the following month, which are due by the close of business on the last day of that month.

- b) If an employer makes a payment for less than the full amount due, the payment will be allocated first to the health coverage for minimum essential coverage and then to health coverage providing other essential health benefits, if any.

c) Failure to Pay Premiums

1. If the employer does not pay its initial invoice by the due date, the SHOP will terminate the application of that employer and the applications of that employer's employees.
2. In months after an employer has paid its first month's premium, if an employer does not pay its premium pursuant to subsection (a)(2) of this Section, the SHOP will mail a notice of termination of coverage to that employer that includes information regarding the reason for termination, effective date of termination and the employer's appeal rights as specified in Section _____.

§ 6534. Coverage Effective Dates for Special Enrollment Periods (155.725)

- a) Except as specified in subsection (b) of this Section, coverage effective dates for special enrollment periods for a QHP selection received by the Exchange from a qualified employee:

1. Between the first and fifteenth day of any month, shall be the first day of the following month; and
2. Between the sixteenth and last day of any month, shall be the first day of the second following month.

- b) Special coverage effective dates shall apply to the following situations:

1. In the case of birth, adoption, placement for adoption, or placement in foster care, the Exchange must ensure that coverage is effective for an enrollee on the date of birth, adoption, placement for adoption, or placement in foster care.
2. In the case of marriage, or in the case where a qualified employee loses minimum essential coverage, as described in paragraph (a)(1) of Section 6530, the Exchange must ensure that coverage is effective for a qualified employee or dependent on the first day of the following month.
3. In the case of a qualified employee or dependent eligible for a special enrollment period as described in paragraphs (a)(3) and (a)(4) of Section 6530, the coverage is effective on either (i) the date of the event that triggered the special enrollment period under Paragraph (a)(3) or (a)(4) of Section 6530 or (ii) in accordance with Paragraph (a) of this Section, whichever is the least financially burdensome on the enrollee as determined by the Exchange.

§ 6536. Coverage Effective Dates for Qualified Employees

- (a) The effective dates of coverage for qualified employees who selected QHPs during the initial employee open enrollment, if the full premium payment from a qualified employer for all of its qualified employees who selected coverage, is received by the SHOP:
 1. By the close of the fifth business day of the month, shall be the first day of that month; and
 2. After the fifth business day of any subsequent month, shall be the first day of the following month.
- (b) The effective date of coverage for a qualified employee who selected a QHP during the employee's annual open enrollment period shall be the first day of the following plan year.
- (c) A qualified employee's coverage shall be effectuated in accordance with the coverage effective dates specified in paragraphs (a) and (b) of this section if:
 1. The qualified employer and all of its qualified employees have submitted the information required in Section 6520; and
 2. The qualified employer remits the initial premium for its qualified employees pursuant to Section 6532(a) by the premium payment due date.

§ 6538. Disenrollment or Termination (155.720(h) and 155.430)

- a) A qualified employer may terminate coverage for its qualified employees and their dependents with notice to the SHOP at least 30 days prior to the requested date of termination, which must occur on the last day of the month.
 1. If a qualified employer ceases to purchase coverage through the SHOP, the SHOP must:
 - i. Ensure that each QHP terminates the coverage of the employer's qualified employees enrolled in the QHP through the SHOP; and
 - ii. Send a notice to each of the employer's qualified employees enrolled in a QHP through the SHOP at least 30 days prior to the effective date of termination specified in Subsection (d). Such notification must provide information about other potential sources of coverage, including access to individual market coverage through the Exchange.

- b) A qualified employer may terminate the coverage of a qualified employee or an employee's dependent in a QHP, if the qualified employee or his or her dependent:
 - 1. Requests that his or her coverage or the coverage of his or dependent be terminated;
 - 2. Obtains other minimum essential coverage in a QHP;
 - 3. Moves outside of its QHP service area;
 - 4. Moves outside of the SHOP service area;
 - 5. Chooses not to remain enrolled in the QHP at open enrollment;
 - 6. Is no longer an employee or a dependent and;
 - 7. If the enrollee is newly eligible for Medi-Cal or CHIP.
- c) The SHOP may initiate termination of a qualified employee's coverage in a QHP or a dependent's coverage in a QHP, and shall permit a QHP issuer to terminate such coverage, provided that the issuer makes reasonable accommodations for all individuals with disabilities (as defined by the Americans with Disabilities Act) before terminating coverage for such individuals, under the following circumstances:
 - 1. The qualified employee or dependent is no longer eligible for coverage in a QHP through the Exchange;
 - 2. The qualified employer fails to pay premiums for coverage, as specified in Section 6532 and any applicable grace period has been exhausted;
 - 3. The qualified employee's or the qualified employee's dependent coverage is rescinded by the QHP issuer because the employee has made a fraudulent claim or an intentional misrepresentation of a material fact in connection with the plan;
 - 4. The QHP terminates or is decertified as described in 45 CFR § 155.1080; or
 - 5. The qualified employee changes from one QHP to another during an annual open enrollment period or special enrollment period in accordance with Sections 6528 and 6530.
- d) Effective Dates of Termination
 - 1. In the case of a termination in accordance with subsection (a) of this section, the last day of coverage shall be:
 - i. The requested date of termination specified by the employer, if the employer provides 30 day notice or;
 - ii. If the employer does not provide 30 day notice, the last day of the month following the month in which the employer gave notice of termination.
 - 2. In the case of a termination in accordance with subsection (b), the effective date of termination of coverage shall be the last day of the month in which the event in subsection (b) occurred or if the enrollee is newly eligible for Medi-Cal or CHIP, the day before such coverage begins.
 - 3. In the case of a termination in accordance with subsection (c)(1) of this section, the last day of coverage shall be the last day of the month in which the employee's eligibility or the eligibility of an employee's dependent ceased.
 - 4. In the case of a termination in accordance with paragraph (c)(2) of this section, the last day of coverage shall be consistent with existing California laws regarding grace periods.

5. In the case of a termination in accordance with paragraph (c)(3) of this section, the last day of coverage shall be the day prior to the day the fraud or misrepresentation occurred;
 6. In the case of a termination in accordance with paragraph (c)(4) of this section, the last day of coverage shall be the day before the QHP was decertified or terminated;
 7. In the case of a termination in accordance with paragraph (c)(5) of this section, the last day of coverage in an enrollee's prior QHP shall be the day before the effective date of coverage in his or her new QHP.
- e) If an employee's coverage or the coverage of an employee's dependent is terminated pursuant to subsection (b)(1), the SHOP shall promptly provide the employee or employee's dependent with a notice of termination of coverage that includes the termination effective date and reason for termination.

ARTICLE 7: APPEALS PROCESS

Initial Draft Based on Proposed Federal Regulations

§ 6622 Employer and Employee Appeals Process (155.740)

- a) A qualified employer may appeal:
 1. A notice of denial of eligibility under Section 6524
 2. A failure of the SHOP to make the eligibility determination in a timely manner.
- b) An eligible employee may appeal
 1. A notice of denial of eligibility under Section 6524
 2. A failure of the SHOP to make an eligibility determination in a timely manner.
- c) Notices of the right to appeal a denial of eligibility will include:
 1. The reason for the denial of eligibility, including a citation to the applicable regulations; and
 2. The procedure by which the employer or employee may request an appeal of the denial of eligibility.
- d) The SHOP will:
 1. Allow an employer or employee to request an appeal within 90 days from the date of the notice of denial of eligibility to the SHOP.
 2. Accept appeal requests submitted via telephone, US Postal Service, in person or via the Internet § 155.520(a)(1)
 3. Assist the eligible employer or eligible employee with the submission and processing of the appeal request and will not limit or interfere with the employer's or employee's right to request an appeal. [§ 155.520(a)(2) and (3)]
 4. Consider an appeal request valid if it is submitted in accordance with paragraph (i) and (ii) of this section.
- e) Upon receipt of a valid appeal request, the SHOP will send acknowledgement within 5 business days of receipt of the appeal request to the employer, or employer and employee if an employee is appealing, including:
 1. An explanation of the appeals process
 2. Instructions for submitting additional evidence for consideration by the SHOP.

- f) Upon receipt of an appeal request that is not valid because it fails to meet the requirements of this section, the SHOP will:
 - 1. Send written notice within 5 business days of receipt to the employer or employee that is appealing that the appeal request has not been accepted and of the nature of the defect in the appeal request; and
 - 2. Treat as valid an amended appeal request that meets the requirements of this section.
- g) The SHOP will dismiss an appeal if the employer or employee that is appealing:
 - 1. Withdraws the request in writing; or
 - 2. Fails to submit an appeal request meeting the standards specified in paragraph (d) of this section.
 - 3. The SHOP must provide notice to the employer or employee that is appealing, within 15 business days of receipt of the appeal of the dismissal of the appeal request, including the reason for dismissal.
 - 4. The SHOP may vacate a dismissal if the employer or employee makes a written request within 30 days of the date of the notice of dismissal showing good cause why the dismissal should be vacated.
- h) The SHOP will provide the employer, or the employer and employee if an employee is appealing, the opportunity to submit relevant evidence for review of the eligibility determination.

§ 6624 Appeal of termination of coverage for Employer and for employee.

- a) The SHOP appeals process will:
 - 1. Comply with the standards set forth in § 155.555(i)(1) and (3); and
 - 2. Consider the information used to determine the employer or employee's eligibility as well as any additional relevant evidence submitted during the course of the appeal by the employer or employee.
- b) SHOP appeal decisions will:
 - 1. Be based solely on the information needed to determine the employer or employee's eligibility as well as any additional relevant evidence submitted during the course of the appeal by the employer or employee and on the eligibility requirements for the SHOP under Section_____.
 - 2. Contain the appeal decision written in plain language and will include the effect of the decision on the appellant's eligibility, a summary of the facts relevant to the appeal, a citation of the legal basis for the decision and the effective date of the decision.
 - 3. Be effective retroactive to the date the incorrect eligibility determination was made, if the decision finds the employer or employee eligible, or effective as of the date of the notice of the appeal decision, if eligibility is denied.
 - 4. Be provided via a notice of the appeal decision in writing to the employer, or to the employer and employee if an employee is appealing, within 90 days of the date the appeal request is received.
 - 5. Be implemented promptly and as soon as is practical.
 - 6. Have a record created with all of the relevant information and documentation submitted for consideration to the SHOP and it will be accessible to the employer,

or employer and employee if an employee is appealing, in written and electronic format available for review by the interested parties.