



# Silver State Health Insurance Exchange

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## AGENDA ITEM

For Possible Action

Information Only

**Date:** June 29, 2020

**Item Number:** VII

**Title:** Approval of Regulations for the Ability of the Exchange to Create an Annual Market Stabilization Special Enrollment Period at the Conclusion of the Federal Open Enrollment Period

### PURPOSE

The purpose of this report is to provide information to the Board and public regarding new proposed regulatory language to, at the recommendation of staff and action of the Board, add a marketplace stabilization Special Enrollment Period (SEP) to end of the federal open enrollment period during any given plan year.

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### GENERAL COMMENTS

Exchange staff is recommending the ability for the Board to create a Market Stabilization Special Enrollment Period (MSSEP) through regulation to supplement time to the federal Open Enrollment Period (OEP) period of any given Plan Year. Exchange staff believes that the language below allows the agency the greatest flexibility in achieving an extended Open Enrollment Period (OEP) using its authority pursuant to *Nevada Revised Statutes* (NRS) 695I.370(2)(a) which states “**Powers and duties of Board;**

**audits.** The Board may: (a) Adopt regulations to carry out the duties and powers of the Exchange;” authority for a special enrollment period under Federal regulations is found in 45 CFR 155.420(d)(9).

## **PROPOSED REGULATION**

### **Authority**

NRS 695I.370(2)(a)

### **Summary**

In response to COVID-19, the Exchange realizes the need for flexibility in providing Special Enrollment Periods (SEP), even in the first year of the Exchange being a State Based Exchange (SBE). To accommodate, on an annual basis, the Exchange is requesting to institute an annual MSSEP to give the Exchange the greatest flexibility as to an extension of the federal OEP as market needs in Nevada dictate. A realistic short-term example may be in order to provide an extension to this OEP due to a potential resurgence of the COVID-19 pandemic. The Exchange may also want extend a Special Enrollment Period to stabilize the health insurance market and allow more opportunity for consumers to gain coverage if Nevada experiences an increasing trend in the state’s uninsured or underinsured rates. Additionally, the Board may create a MSSEP if greater than anticipated annual/seasonal unemployment supports a need for an extended OEP (similar to what Nevada is experiencing in 2020). These known, but more importantly those unknown or unexpected reasons that may vary from year to year will justify a market stabilization time period of enrollment past the federal OEP that can be voted on by the Board at the recommendation of Exchange staff. Alternatively, if the market has proven to be stable any given year, the Board could vote to not add an SEP to the federal OEP based on the recommendation of Exchange staff. This MSSEP regulation will provide the Exchange’s Board with the flexibility it needs to best service Nevada’s uninsured/underinsured population.

### **Proposed Language**

#### **Annual Market Stabilization Special Enrollment Period**

- A. Upon declaration of the Board of the Silver State Health Exchange (Board) in any year that the conditions exist for such, pursuant to 45 CFR 155.420(d)(9), the Exchange shall establish an annual Market Stabilization Special Enrollment Period in order to ensure that qualified individuals who have been unable to enroll during the annual open enrollment period by virtue of market conditions have sufficient opportunity to enroll in a health benefit plan after the end of the annual federal open enrollment period ending December 15 of any given year, and to ensure the continued health and stability of the Nevada health insurance market.
- B. The annual Market Stabilization Special Enrollment Period so declared shall be subject to such conditions as the Board set forth in its declaration of such and shall begin on the conclusion of the federal open enrollment period and run to a date set by the Board.

- C. Individual health benefit plans purchased on the Exchange during the annual Market Stabilization Special Enrollment Period shall be effective no later than February 1 of the plan year if purchased between December 16 and January 31.
- D. The special enrollment period eligibility verification and prior coverage requirements for qualifying life events outside of the federal open enrollment period do not apply to the annual Market Stabilization Special Enrollment Period.
- E. In the event that the federal open enrollment period changes from November 1 – December 15 of any given year, the Exchange may adjust the effective date for coverage different than February 1.