

**RULES AND REGULATIONS OF
THE INSURANCE COMMISSIONER**

**CHAPTER 120-2
RULES OF COMMISSIONER OF INSURANCE**

**SUBJECT 120-2-112
GEORGIA ACCESS**

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Rule 120-2-112-.03. Definitions

(1) “Advanced Premium Tax Credit” or “APTC” means payment of the tax credit authorized by 26 U.S.C. § 36B and otherwise defined as “advanced payment of the premium tax credits” in 45 C.F.R. § 155.20, which are provided on an advance basis to an eligible individual enrolled in a qualifying health plan through the Exchange in accordance with 42 U.S.C. § 18082.

(2) “Catastrophic Health Plan” means a certified plan offered through the Exchange that covers essential health benefits and requires the highest cost sharing allowable for those benefits.

(3) “Commissioner” means the Commissioner of Insurance.

(4) “Direct Enrollment” or “DE” means an entity that the Commissioner permits to assist consumers with direct enrollment in qualified health plans and stand alone dental plans offered through the exchange.

(5) “Dependent” has the same meaning as 26 C.F.R. § 54.9801-2 referring to any individual who is or who may become eligible for coverage under the terms of a qualifying health plan because of a relationship to a qualified individual or enrollee.

(6) “Eligible Individual” means an individual or consumer who has been determined eligible to enroll through Georgia Access in a qualified health plan in the individual market.

(7) “Enhanced Direct Enrollment” or “EDE” means a version of Direct Enrollment which

allows consumers to complete all steps in the application, eligibility, and enrollment processes on an EDE Entity's website consistent with the requirements of 45 C.F.R. § 155.220, 155.221, 156.265 or 156.1230 using application programming interfaces as provided, owned, and maintained by CMS to transfer data between the Exchange and the EDE Entity's website.

~~(8)~~ “Exchange” means a state, federal, or partnership exchange or marketplace operating in Georgia pursuant to Section 1311 of the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, P.L. 111-152 (referred hereinafter as the “Federal Act”).

~~(3)~~~~(9)~~ “Full-Time Employee” means a common-law employee as defined by 20 C.F.R. § 404.1007 that works an average of 30 hours per week or more.

~~(4)~~~~(10)~~ “Georgia Access”- means the State-based Exchange of the State of Georgia.

~~(5)~~~~(11)~~ “Issuer” means an insurance company licensed by the Georgia Office of Commissioner of Insurance and Safety Fire to engage in the business of selling, soliciting, or negotiating insurance in Georgia.

~~(6)~~~~(12)~~ “Open Enrollment” ~~means~~ the annual period when eligible individuals may enroll in an individual health or dental insurance plan for the upcoming year.

~~(13)~~ “Plan year” ~~means~~ the 12-month period of benefit coverage under a health or dental plan. For Georgia Access, a plan year begins January 1st of each year and rules through December 31st of the same year.

~~(7)~~~~(14)~~ “Policy Manual” means the official policies for each plan year published by the Commissioner prior to open enrollment. Policies will be published at <https://georgiaaccess.gov/about-georgia-access/policies/>

~~(15)~~ “Stand-alone dental plan” or “SADP” ~~means~~ a dental insurance plan certified by Georgia Access that is not included as part of a health plan.

~~(16)~~ “Special Enrollment Period” means a period, following a triggering event, during which a qualified individual or enrollee may enroll in, or change enrollment in, a qualifying health plan or stand-alone dental plan through the Exchange notwithstanding lapse of the Open Enrollment Period.

~~(8)~~~~(17)~~ “Triggering Event” means an event specified in 45 C.F.R. § 155.420(d) and shall additionally include any event published by the Commissioner as a triggering event for a Special Enrollment Period.

~~(9)~~~~(18)~~ “Qualified Health Plan” or “QHP” ~~means~~ a health or dental insurance plan that is certified by Georgia Access, which provides essential health benefits and follows established limits on cost sharing.

Authority: O.C.G.A. §§ 33-2-9; 50-13-21.

Rule 120-2-112-.04. Certification and Decertification of Qualified Health Plans and Stand Alone Dental Plans

(1) Certification. Georgia Access is authorized to certify issuers seeking QHP or SADP certification of plan(s) to be offered on Georgia Access, regardless of licensure type. Georgia Access will publish certification criteria and guidelines annually.

(2) Georgia Access shall publish minimum standards that comply with federal and state requirements for participation in Georgia Access.

(a) Georgia Access shall certify all plans meeting the requirements of § 1311(c) of the Federal Act for participation in Georgia Access unless it is not in the interest of eligible individuals and qualified employers in the State of Georgia.

(b) Certification criteria shall be applied consistently across all issuers participating in Georgia Access.

(3) Annual Certification Timeline. Georgia Access shall establish an annual certification process and timeline for all participating QHP and SADP issuers.

(4) Issuer Agreements. All QHP and SADP issuers must enter into an Issuer Agreement with Georgia Access describing the issuer's obligations regarding offering products or services on Georgia Access.

(5) Decertification. Georgia Access is authorized to:

(a) establish a process for decertification; and

(b) decertify a QHP or SADP if it is determined that it is not in the public interest to permit such plan(s) to be offered through Georgia Access.

Authority: O.C.G.A. §§ 33-1-23; 33-2-9; 50-13-21.

Rule 120-2-112-.06. Enrollment Periods

(1) Open Enrollment Period.

(a) Georgia Access will establish the annual open enrollment period and shall provide a minimum of one hundred twenty (120) days advance public notice prior to its first day.

(b) Georgia Access shall comply with federal requirements with respect to the length of the annual open enrollment period.

(2) Special Enrollment Period.

(a) Georgia Access shall provide a special enrollment period consistent with 45 C.F.R. § 155.420 during which eligible individuals may enroll in or change enrollment in a QHP or SADP.

(b) Georgia Access may proscribe additional Triggering Events inclusive of the Triggering Events enumerated in 45 C.F.R. § 155.420(d) by publication.

(c) Eligible Individuals and their Dependents who experience a Triggering Event, subject to the provisions of paragraphs (a)(3) through (a)(5) of 45 C.F.R. § 155.420, shall have

the right to enroll in or change from one QHP or SADP to another.

Authority: O.C.G.A. §§ 33-1-23; 33-2-9; 50-13-21.

Rule 120-2-112-.09. Small Business Health Options Program

(1) Authorization. Georgia Access is authorized to establish a Small Business Health Options Program, which shall be a small-group health insurance exchange that provides a marketplace for small businesses to purchase health coverage for their employees.

(2) Certification. Georgia Access may certify small group plans as QHPs or SADPs for issuers to offer such certified small group plans to Qualifying Business Entities. Georgia Access shall administer a process for agents to become certified to sell Small Business Health Options Program plans. No agent shall sell, solicit, or negotiate any Small Business Health Options Program plan without first being certified by Georgia Access.

(3) Eligibility for Participation in Small Business Health Options Program. To qualify for participation in the Small Business Health Options Program a Qualifying Business Entity must satisfy all of the following requirements:

(a) The Qualifying Business Entity shall employ 50 full-time equivalent employees or fewer;

(b) The Qualifying Business Entity shall employ at least one full-time employee other than the owners of a sole proprietorship, partners, shareholders owning more than 2 percent of an S corporation, owners of more than 5 percent of businesses other than an S corporation, family members or dependents, seasonal workers working 120 days or less in a year, Form 1099 workers, or retired enrollees.

(c) The Qualifying Business Entity shall offer coverage to all full-time employees;

(d) The Qualifying Business Entity shall enroll at least 70 percent of eligible FTE employees who are offered insurance and not otherwise covered provided that Georgia Access is authorized to waive the minimum participation requirement from November 15 through December 15 of any year; and

(e) The Qualifying Business shall have a primary place of business or other employee worksite within the state of Georgia and offers coverage to all its full-time employees and has its primary worksite in Georgia or offers coverage to each qualified employee that is serving in and has their primary worksite address in Georgia.

(4) Computation of Full-Time Equivalent Employees. For the purposes of this Rule, “full-time equivalent employees” shall be computed by taking the sum of full-time employees and part-time employee equivalents.

(a) All employees that work at least 30 hours per week in any month are counted as one full-time employee.

(b) Part-time employee equivalents are computed by taking the hours worked by all part-time employees in a week and dividing that amount by 30. Part-time employees are employees that work an average of less than 30 hours per week.

(c) Seasonal workers working 120 days or less in a year shall not be counted in the computation.

(d) When computing the number of full-time or part time employees for the purposes of eligibility, a business shall include all full-time employees of a whole group if the business is affiliated with another employer, under common ownership, or is otherwise part of a controlled group and employees under a common group in other states even if such business is enrolled in a separate state's small business health options program.

(e) When computing the number of full time or part-time employees for the purposes of eligibility, a business shall not include owners of a sole proprietorship, partners, shareholders owning more than 2 percent of an S corporation, owners of more than 5 percent of businesses other than an S corporation, family members or dependents, seasonal workers working 120 days or less in a year, Form 1099 workers, or retired enrollees.

(5) An employee's exclusion from the computation of the number of full-time equivalent employees shall not disqualify that same employee or employee type from coverage through the Small Business Health Options Program.

(6) In conjunction with the Insurance Product Review Division, the Commissioner through Georgia Access shall set Small Business Health Options Program application deadlines and submission requirements. Georgia Access will document the processes and conduct Small Business Health Options Program plan rate reviews in accordance with the Commissioner's authority over the filing of rates. Insurance companies offering Small Business Health Options Program plans shall follow the standards set by Georgia Access, including the allowable timeline for insurance companies applying for rate changes. Insurance companies may request a rate change to their Small Business Health Options Program plan on a quarterly basis through the Georgia Access data change request process, on a timeline established and communicated before each plan year. This timeline and respective deadlines are provided in the Data Change Request Form. Insurance companies may contact Georgia Access SHOP for more information on offering SHOP plans and making a quarterly rate change.

(7) Insurance companies participating in the Small Business Health Options Program are required to track progress and report data to verify that the program is meeting requirements established by 45 C.F.R. § 155.721. Insurance companies must submit quarterly reports to Georgia Access SHOP in accordance with the SHOP Issuer Quarterly Reporting Template provided by Georgia Access SHOP to collect quarterly employer and employee enrollment metrics.

Authority: O.C.G.A. §§ 33-1-23; 33-2-9; 50-13-21.

Rule 120-2-112-.10. Consumer Application and Annual Renewals

Georgia Access shall publish all requirements for consumer applications in the Policy Manual. Eligible individuals who have opted into an automatically renewing plan shall have their plans renewed in the manner provided by Georgia Access in the Policy Manual.

Authority: O.C.G.A. §§ 33-1-23; 33-2-9; 50-13-21.

Rule 120-2-112-.11. Consumer Eligibility for Qualifying Health Plans and Financial Assistance

(1) Consumers who meet all of the following requirements shall be Eligible Individuals:

(a) The consumer is a U.S. Citizen, national, or a non-citizen deemed lawfully present within the United States;

(b) The consumer is not incarcerated, other than incarceration pending the disposition of charges; and

(c) The consumer is a resident of the State of Georgia.

(2) Consumers who meet the requirements to be eligible to enroll in a QHP shall also be eligible to enroll in a SADP.

(3) Consumers who meet the requirements to be eligible to enroll in a QHP shall also be eligible to apply for financial assistance.

(4) Consumers who have access to a plan that offers minimum essential coverage shall not be eligible to enroll in a QHP.

(5) Only those consumers under the age of 30 shall be eligible to enroll in a catastrophic health plan. Georgia Access shall provide for and publish any exceptions to this age requirement.

Authority: O.C.G.A. §§ 33-1-23; 33-2-9; 50-13-21.

Rule 120-2-112-.12. Right to Appeal Eligibility Determination

(1) Applicants and Enrollees shall have the right to appeal the following:

(a) Adverse determinations of eligibility for enrollment in a QHP or SADP;

(b) Any determination of eligibility for or the amount of advanced premium tax credit payments or level of cost-sharing reduction.

(2) Pursuant to O.C.G.A. § 33-2-17 the Commissioner, or his delegee, shall hear all appeals brought under this Rule.

(3) All appeals brought under this Rule must follow the appeal procedures promulgated in Ga. Comp. R. & Regs. r. 120-2-2.

Authority: O.C.G.A. §§ 33-1-23; 33-2-9; 33-2-17; 50-13-21.

Rule 120-2-112-.13. Termination of Coverage

Issuers may terminate enrollment in a QHP or SADP only for the reasons and in the manner provided by Georgia Access in the Policy Manual.

Authority: O.C.G.A. §§ 33-1-23; 33-2-9; 50-13-21.