



NY 19-31
Revision 2019

TO: New York State Agency Health Benefits Administrators
FROM: Employee Benefits Division (EBD)
SUBJECT: Health Insurance Opt-out Program, 2019 Revision
DATE: October 24, 2019

The New York State Health Insurance Program (NYSHIP) Opt-out Program allows eligible employees who have other employer-sponsored group health insurance to opt out of NYSHIP medical coverage in exchange for an incentive payment. **This memo replaces HBA Memo NY17-23.**

Eligibility

To qualify for the Opt-out Program, the employee must be in a group* that offers this option and meets the following requirements:

- has other **employer-sponsored** group coverage and
- has been continuously enrolled, under their own right, in the Opt-out Program or a NYSHIP medical coverage option (The Empire Plan or a NYSHIP HMO) from April 1 through the end of the plan year or
- is newly eligible to participate in the Opt-out Program:
 - as a newly-hired employee or an employee who becomes newly eligible for NYSHIP due to a change in their work schedule from 30% to 60% or
 - as the result of a change in negotiating unit¹ and thus may elect to participate in the Program within 30 days of the effective date of the negotiating unit change

*An employee who is transferring from one State agency to another is not newly eligible, unless the transfer also includes a change in the employee's negotiating unit from one that does not offer the Opt-out Program to one that does offer the Opt-out Program. Additionally, the employee's transfer must meet standard NYSHIP effective date rules.

¹ Not all negotiating units include the Opt-out Program provision in their contract. EBD will notify HBAs under separate memo when a contract is updated to exclude/include this incentive. NYBEAS programming will also be adjusted accordingly as contracts are ratified.

When an Employee Can Elect the Opt-out Program

Employees may enroll in the Opt-out Program **only** under the following circumstances:

- When first hired in a benefits-eligible position (must elect during the 42/56-day waiting period)
- When newly eligible for benefits; for example, a change of work schedule from working 30% to 50% or more (must elect during the 42/56-day waiting period).
- Changing from a negotiating unit that does not offer the Opt-out Program to a negotiating unit that does offer the Opt-out Program. The change must be requested within 30 days of the employee's first day in the new position.
- During the annual Option Transfer Period.

Note: Elections to participate in the Pre-Tax Contribution Program (PTCP) cannot be made while enrolled in the Opt-out Program as there is no health insurance premium deduction.

There are no qualifying life events for enrollment in the Opt-out Program.

Example: If an enrollee marries and becomes newly eligible for other coverage, the enrollee cannot elect to enroll in the Opt-out Program until the following annual Option Transfer Period.

Required Forms and Documentation to Opt Out of NYSHIP

In addition to meeting the Opt-out Program eligibility rules, the employee must complete and submit the following required forms:

1. NYS Health Insurance Transaction Form (PS-404); **and**
2. Opt-out Attestation Form (PS-409). Along with the signed and completed Opt-out Attestation Form (PS-409), the employee **must** provide proof of the other employer-sponsored coverage in effect as of the Opt-out effective date.

Acceptable Employer-Sponsored Group Coverage to Opt Out of NYSHIP

To opt out of NYSHIP medical coverage, the employee must be covered under other employer-sponsored group health insurance. The other employer-sponsored coverage can be through the employment of the enrollee, the enrollee's spouse/domestic partner or a parent.

An enrollee providing proof of other coverage as a dependent through a NYSHIP Participating Employer (PA or PE) is eligible for the individual Opt-out incentive only.

The Veteran's Affairs (VA) benefit is considered employer-sponsored coverage. Enrollees providing proof of their VA benefit can elect Individual Opt-out only. However,

Family Opt-out may be considered if additional proof is provided indicating the enrollee's dependent has employer-sponsored coverage.

The other employer-sponsored group coverage cannot be:

- NYSHIP coverage obtained through employment by New York State; or
- the result of the employee's own employment by a NYSHIP Participating Agency (PA) or Participating Employer (PE).

Incentive Payments

The annual incentive amount for opting out of NYSHIP coverage is \$1,000 (\$38.47 for 26 biweekly paychecks) for Individual coverage or \$3,000 (\$115.39 for 26 biweekly paychecks) for Family coverage. The Opt-out incentive payments are treated as taxable income and credited to the employee's biweekly payroll check in equal increments throughout the year (payable only when an employee is on the payroll and meets the requirements to be eligible for the State to contribute to the cost of NYSHIP coverage). Incentive payments to employees participating in the Opt-out Program will begin coincident with the plan year's rate change, as described in the annual Option Transfer Memo.

Changes that Affect Opt-out Incentive Payments

Enrollees who have a change due to one of the following circumstances will experience a change in incentive amounts:

- **An employee who is no longer eligible for State contribution toward NYSHIP coverage** due to being placed on a full share leave without pay will not be eligible to receive incentive payments during the period of leave.
- On the date on which an employee's **last eligible dependent no longer qualifies as a dependent under NYSHIP²**, the employee will only be eligible for Individual incentive payments.
- **The employee is no longer working in a benefits-eligible position:**
 - incentive payments will end when the employee stops receiving a paycheck as a result of retirement or separation from State service,
 - incentive payments will end if the employee is working less than 50%

What to Know When Processing Transactions

Processing changes from Family to Individual coverage will automatically update the enrollee's incentive to Individual.

² If the employee's other employer-sponsored coverage was through an ex-spouse or former domestic partner, you may need to enroll the employee in coverage.

To enroll the employee in coverage, process a Benefit Plan Change transaction: PLN/SPC to change the employee from the Opt-out Program (700) to another NYSHIP option.

The Opt-out incentive payments stop when the enrollee loses eligibility due to the loss of other employer-sponsored coverage.

- If the request to enroll in coverage was received within 30 days from the date the employee's other coverage ended, you will process a PLN/SPC transaction using the employee's request to enroll in coverage as the "Request Date."
- If the request to enroll in coverage was received after 30 days from the loss of other coverage, you will need to cancel the Opt-out incentive payment as of the date the employee lost their other employer-sponsored coverage and then process an enrollment transaction. To cancel the Opt-out Incentive payment, process a CAN/VOL transaction using the date the employee lost their other coverage as the "Request Date." After the CAN/VOL transaction is completed, process an ENR/REG transaction using the date the employee requested coverage as the "Request Date." This will end the Opt-out incentive and enroll the employee in coverage in accordance with late enrollment rules. Coverage for the employee will be effective on the first day of the fifth payroll period following the request to enroll in coverage.

Enrollment/Reenrollment in NYSHIP Health Benefits

Employees who participate in the Opt-out Program may enroll in a NYSHIP health plan during the annual Option Transfer Period. To enroll in NYSHIP health benefits coverage at any other time, Opt-out enrollees must experience a qualifying event, such as a change in family status (e.g.; marriage, birth, death or divorce) or loss of the other employer-sponsored group health insurance. Employees must complete a PS-404 form within 30 days of the date of the qualifying event and provide proof of the qualifying event or the enrollment will be subject to NYSHIP's late enrollment rules. See the *NYSHIP General Information Book* for details on late enrollment waiting periods.

Enrollment in NYSHIP health benefits outside of the Option Transfer Period is not a PTCP qualifying event. Therefore, employees eligible to enroll in health benefits will have deductions at post tax and can change their tax election during the next Option Transfer Period.

Retirement and the Opt-out Program

Enrollment in the Opt-out Program is considered enrollment in NYSHIP for purposes of establishing eligibility for NYSHIP coverage in retirement. Retirees are not eligible to continue or to elect participation in the Opt-out Program.

NYBEAS Transaction Processing

Video tutorials providing guidance on how to process Opt-out Program transactions in NYBEAS can be found in the E-Learning section of HBA Online at:

<https://www.cs.ny.gov/employee-benefits/hba/shared/e-learning/index.cfm>.

When working in NYBEAS, you may receive an error message that could prevent you from processing an Opt-out enrollment. Please see below for common error messages and corresponding instructions on how to handle them:

ERROR MESSAGE #1: "This employee is covered as a dependent on another NYSHIP policy. If the employee's other NYSHIP coverage is through New York State, he or she is not eligible for the Opt-out Program. Otherwise, fax the PS-404, PS-409 and supporting documentation to EBD at 518-485-5590 for processing."

If the employee is covered as a dependent on another NYSHIP policy through New York State, they are not eligible for the Opt-out Program. You should notify the employee that their request was denied and explain that the other employer-sponsored group health insurance coverage must be through an employer **other than New York State**.

If the employee is covered as a dependent on another NYSHIP policy through a local government or public entity, they are only eligible for the Individual Opt-out incentive amount (\$1,000). In these situations, please fax the employee's documentation to EBD at 518-485-5590 for processing. You should notify the enrollee why they will be enrolled in Individual Opt-out as opposed to their Family election.

ERROR MESSAGE #2: "The enrollee already has coverage for this Plan Type under this EMPLID. An enrollee may only be enrolled in coverage in a single Plan Type (Medical, Dental, Vision, etc.) under a single EMPLID at a time."

Since the Opt-out Program is considered a NYSHIP option, an individual cannot opt out as the employee of one employer and be enrolled in NYSHIP health benefits as the employee of another employer. According to NYSHIP rules, an employee can only maintain one NYSHIP option as the enrollee/policyholder.

If you receive this message, you should notify the employee that their request to opt out of NYSHIP was denied and explain why they are not eligible for the Opt-out Program.

If you have any questions, please contact the HBA Help Line at 518-474-2780.

Enclosures

PS-404 - NYS Health Insurance Transaction Form

PS-409 - Opt-out Attestation Form

Opt-out Program Questions and Answers

Q.

An employee is enrolled in The Empire Plan or NYSHIP HMO and changed from Individual to Family coverage due to marriage in July. The request for Family coverage was within 30 days of the date of marriage. Can the enrollee elect Family Opt-out for the next plan year even though they did not have Family coverage by April 1st?

A.

Yes. An employee who enrolled in Family coverage within 30 days of a qualifying event, between April 1st and the end of the plan year is eligible for the Family Opt-out incentive payment in the following plan year. The enrollee would not be eligible to apply for the Family Opt-out incentive payment if they changed to Family coverage after April 1st and were subject to a late enrollment waiting period.

Q.

If an employee is enrolled in Individual Opt-out acquires a new dependent, can they change to Family Opt-out?

A.

No. There is no qualifying life event to change an Opt-out status from Individual to Family. However, they may enroll in Family coverage under The Empire Plan or NYSHIP HMO if requested within 30 days of the qualifying event. If this enrollment in coverage is requested within 30 days of the qualifying event, the enrollee can then apply for Family Opt-out in the next plan year.

Q.

The employee's Opt-out status was cancelled retroactively due to their loss of other employer-sponsored coverage and they have enrolled in Empire Plan Individual coverage. How will the enrollee pay back incentive payments issued after the loss of eligibility?

A.

The enrollee will have special payroll deductions of up to \$200 per paycheck to pay back their excess Opt-out incentive payments received. They will also have a health insurance deduction and, if enrollment is retroactive, they will have special payroll deductions of up to \$100 per pay check to recover retroactive premiums incurred since the enrollment effective date.

Q.

The enrollee's other coverage is with Medicaid. Are they eligible to participate in the Opt-out Program?

A.

No. An employee's other coverage must be "employer sponsored" to be considered eligible for the NYSHIP Opt-out Program. Medicaid, Medicare and coverage obtained through the Marketplace are not considered "employer sponsored" coverage.

Q.

A new employee aged 24 is covered as a dependent under their parent's NYSHIP coverage through New York State. They will remain covered under their parent's NYSHIP coverage. Can this new employee participate in the Opt-out Program?

A.

No. The employee's other coverage cannot be NYSHIP coverage through New York State. However, if the parent's coverage was with a Participating Agency or Participating Employer under NYSHIP, the New York State employee would be eligible for Individual Opt-out.

Q.

Can an employee cancel their Opt-out because they've discovered their doctor isn't a participating provider with their other employer-sponsored coverage?

A.

No. The Opt-out Program is considered a NYSHIP option. Under NYSHIP guidelines, an option cannot be changed outside of the Option Transfer Period unless there is a qualifying life event. See "Qualifying Life Events" in the General Information Booklet.

Q.

An employee was hired in a negotiating unit that does not offer the Opt-out Program and the employee waived their NYSHIP health coverage. The employee has since transferred into a negotiating unit that allows Opt-out Program enrollment. Can the employee enroll in the Opt-out Program as of their effective date in the new negotiating unit, even if they were not enrolled in a health plan under NYSHIP?

A.

Yes. As long as the enrollee applies within 30 days of changing to the new negotiating unit and they can provide proof of other employer-sponsored coverage, they may enroll in the Opt-out Program.