Background
This updated FAQ incorporates changes to Section 2708 of the Affordable Care Act (ACA) which regulates health plan waiting periods. Under AB 1083, California previously observed a waiting period of 60 days. This meant that eligible employees could not be made to wait more than 60 days before being offered health insurance through their employer.

On August 15, 2014, Governor Brown signed SB 1034, which includes the following updates:

- The maximum waiting period in California has increased from 60 to 90 days
- An employer can require a “bona fide employment-based affiliation period”
  - Also known as an orientation period
  - Cannot exceed one month
  - In addition to the 90-day waiting period

These updates apply to all group health plans and health insurance issuers offering underwritten (fully insured) group health insurance coverage. They also apply to non-grandfathered and administrative services only (ASO) coverage.

Updates
90-day waiting period
On August 15, 2014, Governor Brown signed SB 1034 which states that the maximum waiting period in California should be consistent with the federal waiting period. This means upon renewal on/after January 1, 2015, the maximum new-hire waiting period will increase from 60 days to 90 days.

Bona fide employment-based affiliation period
In addition to the 90-day waiting period, employers may impose a “bona fide employment-based affiliation period” or orientation period. This would allow employers to make periods of training a condition for health plan eligibility.

An orientation period may not exceed one month, and is determined by adding one month from an employee’s start date, then subtracting one calendar day. The maximum 90-day waiting period would begin on the first day after the orientation period.

The following FAQ discusses in more detail how Blue Shield will handle the 90-day waiting period provision by market segment.
**Underwritten (fully insured) small business**

What is the maximum waiting period for fully insured small business groups?
The employer waiting period for fully insured group coverage cannot exceed 90 days. Coverage must be effective on or before the 91st day following the date of hire (DOH).

When does the new 90-day waiting period go into effect?
- New groups: January 1, 2015
- Renewing/existing groups: Upon renewal in 2015

Can an employer impose an employment-based affiliation (orientation) period for new employees?
An employer may impose a bona fide, employment-based affiliation (orientation) period for new employees that does not exceed 30 days. The 90-day waiting period for new employees would then begin the day after the orientation period has been completed.

**NOTE:** The DOH on the application must be the day the employee becomes a regular, full-time employee. This is also the first day after completing the orientation period.

**Example:**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4/3/15</td>
<td>Employer-imposed orientation period (optional).</td>
</tr>
<tr>
<td>4/3/15</td>
<td>The date of hire (DOH) in this example is 4/3/15, the date the employee becomes a</td>
</tr>
<tr>
<td>4/3/15</td>
<td>regular FTE.</td>
</tr>
<tr>
<td>4/1/16</td>
<td>Option 1: Effective the 1st of the month following DOH.</td>
</tr>
<tr>
<td>4/1/16</td>
<td>For those hired on the 1st of the month, coverage begins on the 1st of the</td>
</tr>
<tr>
<td>4/1/16</td>
<td>following month.</td>
</tr>
<tr>
<td>5/1/16</td>
<td>Option 2: Effective the 1st of the month following 30 days from DOH.</td>
</tr>
<tr>
<td>6/1/16</td>
<td>Option 3: Effective the 1st of the month following 60 days from DOH.</td>
</tr>
<tr>
<td>7/2/15</td>
<td>Option 4: Effective on the 91st day following DOH.</td>
</tr>
</tbody>
</table>

What if employees take longer than 90 days because they need more time to elect coverage?
If the delay is caused by the employee and not the employer, then the employer will not be out of compliance. If an employee delays electing coverage, the effective date of that coverage would be the first day of the month following the receipt of the application.

Is there a safe harbor for employers with “variable hour” workers?
If an employer’s group plan requires that employees work a specified number of hours per period (e.g., week) or work full-time, the plan can take advantage of a 12-month “measurement period” safe harbor to determine whether certain types of new employees are full-time employees without being out of compliance. If employers take advantage of this safe harbor, then coverage must be made effective no later than 13 months from the employee’s DOH.
Is eligibility for Blue Shield specialty benefits affected by this provision?
Blue Shield specialty benefits plans will follow the medical plans as it relates to the waiting period.

How will Blue Shield implement the waiting period rule for small business?
Small business employers will have four options for coverage to begin following any waiting period. Coverage for eligible employees will become effective following completion of the waiting period on the day specified. This is noted on the Master Group Application as follows:

1. No waiting period: Coverage effective on the first day of the month following DOH. Employees hired on the first day of the month are effective on the first day of the following month.
2. 30-day waiting period: Coverage effective on the first day of the month following 30 days from DOH.
3. 60-day waiting period: Coverage effective on the first day of the month following 60 days from DOH.
4. 90-day waiting period: Coverage effective on the 91st day following DOH.

How will the waiting period affect renewing accounts?
Renewing small business groups will automatically default to their 2014 waiting period selection except groups that currently offer the 61st day following DOH option. These groups will be mapped to the first day of the month following 60 days from the date of hire.

If a group is already in compliance with the new waiting period requirements, does it need to change its waiting period upon renewal?
No, it does not need to update its waiting period unless it wants to do so.

What does “effective first bill date” mean on the Small Business Market Master Application?
The “Effective first bill date following date of hire” and “Effective first bill date following 30 days from date of hire” language on the Master Application is used because Blue Shield has some groups with a “15th day of the month” billing cycle instead of a “first of the month following” billing cycle.

- For groups with a first day of the month billing cycle, the employee effective date would be the first day of the month following DOH.
- For groups with a 15th of the month billing date, the employee effective date would be the 15th of the month following DOH.

Is Blue Shield prorating the employer’s bill when the 91st day effective date results in a partial month of coverage?
Yes, when the 91st day effective date results in a partial month of coverage, that partial month of coverage will be reflected on the employer’s next monthly bill.

Can employers switch to a different waiting period option?
Yes. They may choose to change to one of the four waiting period options upon renewal.

Can the waiting period be waived for the initial group enrollment?
Yes. The waiting period may be waived for all employees for the initial group enrollment.
Is Blue Shield going to accommodate mid-month enrollments?
Small business accounts will have a mid-month effective date for groups that select the 90-day waiting period option.

How will Covered California’s Small Business Health Options Program (SHOP) handle the new waiting period options?
The data received from SHOP does not include the new-hire waiting period elected by the employer. Employers will need to call SHOP to determine their waiting period.

If a group renewing in July 2014 with a current waiting period of 30 days chooses to change it to 90 days upon renewal in 2015, which waiting period will new hires follow?
The new hires will follow the new waiting period and must be given credit for time applied in the former waiting period.

How will coverage end when subscribers are terminated?
For subscriber terminations, coverage will end on the last day of the month in which employment ends.

Whom should I contact if I have questions?
Contact your Blue Shield account manager for more information.