Cabinet for Health and Family Services

Office of the Kentucky Health Benefit Exchange

900 KAR 10:030E. Kentucky Health Benefit Exchange Eligibility and Enrollment in a Qualified Health Plan.

RELATES TO: KRS

STATUTORY AUTHORITY: KRS

NECESSITY, FUNCTION, AND CONFORMITY:

Section 1. Definitions.

(1) “Advance payments of the premium tax credit” or “APTC” means payment of the tax credits authorized by 26 U.S.C. Section 36B and its implementing regulations, which are provided on an advance basis to an eligible individual enrolled in a qualified health plan through an exchange in accordance with section 1412 of the Affordable Care Act.

(2) “Affordable Care Act” or “ACA” means the Patient Protection and Affordable Care Act, Public Law 11-148, as amended by the Health Care and Education Reconciliation Act, Public Law 111-152.

(3) “Annual open enrollment period” means the period each year during which a qualified individual may enroll or change coverage in a qualified health plan through an exchange.

(4) “Applicant” means as defined in 45 C.F.R. 155.20.

(5) “Application filer” means as defined in 45 C.F.R 155.20

(6) “Benefit year” means a calendar year for which a health plan provides coverage

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for health benefits.

(7) “Catastrophic plan” means a health plan described in section 1302(e) of the ACA.

(8) “COBRA” means continuation of coverage under the Consolidated Omnibus Reconciliation Act of 1986, as amended.

(9) “Cost sharing” means any expenditure required by or on behalf of an enrollee with respect to essential health benefits and shall include:

(a) A deductible;

(b) Co-insurance;

(c) Copayment; or

(d) A similar charge.

(10) “Cost sharing reduction” or “CSR” means a reduction in cost sharing for an eligible individual enrolled in a silver level plan in an exchange or for an individual who is an Indian enrolled in a qualified health plan in an exchange.

(11) “Date of notice” means the date on the notice plus five (5) calendar days.

(12) “Department of Health and Human Services” or “HHS” means the U.S. Department of Health and Human Services.

(13) “Enrollee” means an eligible individual enrolled in a qualified health plan.

(14) “Federal poverty level” or “FPL” means the most recently published federal poverty level, updated periodically in the Federal Register by the Secretary of Health and Human Services under the authority of 42 USC 9902(2), as of the first day of the annual open enrollment period for coverage in a qualified health plan through the Kentucky Health Benefit Exchange.

(15) “Household income” means as defined by 26 C.F.R. 1.36B-1(e).

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(16) “Indian” means any individual as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act.

(17) “Initial open enrollment period” means the period during which a qualified individual or qualified employee may enroll in health coverage through an exchange during the 2014 benefit year which shall:

(a) Begin October 1, 2013; and

(b) Extend through March 31, 2014.

(18) “Insurance affordability program” means one of the following:

(a) A state Medicaid program under title XIX of the Act;

(b) A state children's health insurance program (CHIP) under title XXI of the Act;

(c) A state basic health program established under section 1331 of the Affordable Care Act;

(d) A program that makes coverage in a qualified health plan through the Exchange with advance payments of the premium tax credit established under section 36B of the Internal Revenue Code available to qualified individuals; or

(e) A program that makes available coverage in a qualified health plan through the Exchange with cost-sharing reductions established under section 1402 of the Affordable Care Act.

(19) “Internal Revenue Code” or “Code” means the Internal Revenue Code of 1986.

(20) “Kentucky Children’s Health Insurance Program’ or “KCHIP” means the separate child health program established by the commonwealth of Kentucky under title XXI of the Social Security Act in accordance with implementing regulations at 42 C.F.R. 457.

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(21) “Kentucky Health Benefit Exchange” or “KHBE” means the Kentucky state-based health insurance marketplace that includes an:

(a) Individual exchange; and

(b) Small Business Health Options Program.

(9) “Lawfully present” means as defined by 42 C.F.R. 435.4.

(22) “Medicaid” means the program established under title XIX of the Social Security Act in accordance with implementing regulations at 42 C.F.R. parts 430 through 456.

(23) “Minimum essential coverage” means as defined by 26 CFR 1.5000A-2.

(24) “Non-citizen” means as defined by 42 C.F.R. 435.4.

(25) “Qualified Health Plan” or “QHP” means a health plan that has in effect a certification issued by the KHBE that it meets the standards described in 45 CFR 156 subpart C.

(26) “Qualified individual” means an individual who has been determined eligible to enroll through the KHBE in a QHP in the individual market.

(27) “Qualifying coverage in an eligible employer-sponsored plan” means coverage in an eligible employer-sponsored plan that meets the affordability and minimum value standards specified in 26 CFR 1.36B-2(c)(3).

(28) “Silver-level” is defined by section 1302(d)(1)(B) of the ACA.

(29) “Special enrollment period” means a period during which a qualified individual or enrollee who experiences certain qualifying events may enroll in, or change enrollment in, a QHP through the KHBE outside the initial and annual open enrollment periods.

(30) “Tax filer” means as defined by 45 C.F.R. 155.300.

Section 2. Eligibility to Enroll in a Qualified Health Plan.

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(1) An applicant shall be eligible to enroll in a QHP through the KHBE if the applicant:

(a) Is a citizen or national of the United States;

(b) Is a non-citizen who is lawfully present in the United States and is reasonably expected to be a citizen or national; or

(c) Is a non-citizen who is lawfully present for the entire period for which enrollment is sought; and

(d) Except for an incarceration pending a disposition of a charge, is not incarcerated; and

(e) Meets a residency requirement in 45 CFR 155.305(a)(3).

(2) An applicant may submit an application for a determination of eligibility in accordance with this section at any time during a year. (Note: need to work on language as an individual may submit an application anytime, but can only enroll during open enrollment and special enrollment periods)

(3) An applicant determined eligible for enrollment in a QHP by the KHBE in accordance with subsection (1) of this section shall be eligible to enroll in a QHP during:

(a) An initial open enrollment period in accordance with Section 3(1) of this administrative regulation;

(b) An annual open enrollment period in accordance with Section 3(2) of this administrative regulation; or

(c) A special enrollment period in accordance with Section 3(3) of this administrative regulation.

(4) An applicant determined eligible to enroll in a QHP who does not select a QHP

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within the applicable enrollment period in accordance with Section 3 of this administrative regulation, or is not eligible for an enrollment period, who seeks a new enrollment period prior to the date on which the applicant's eligibility is redetermined in accordance with Section 7 of this administrative regulation, shall attest to whether or not information affecting the applicant's eligibility has changed since the most recent eligibility determination

(5) (a) An applicant who has a Social Security number shall provide the number to the KHBE.

(b) An application filer who is not an applicant shall provide the Social Security number of a tax filer if the applicant attests that the tax filer:

1. Has a Social Security number; and

2. Filed a tax return for the year for which tax data would be utilized for verification of:

a. Household income; and

b. Family size.

(6) In accordance with 45 CFR 155.310(a)(2), a non-applicant shall not be required to provide information regarding:

(a) Citizenship;

(b) Status as a national; or

(c) Immigration status of an individual who is not seeking coverage for himself or herself on an application or supplemental form.

(7) An applicant shall submit an application for enrollment in a QHP:

(a) Via the KHBE website at XXXX;

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(b) By telephone by contacting the KHBE call center;

(c) By mail; or

(d) In person.

(8) (a) An applicant who requests an eligibility determination for an insurance affordability program shall have an eligibility determination for all insurance affordability programs.

(b) An application who requests an eligibility determination for a QHP only shall not have an eligibility determination for an insurance affordability program.

Section 3. QHP Enrollment Periods and Effective Dates of Coverage.

(1) (a) A qualified individual shall enroll in a QHP or an enrollee shall change from one QHP to another QHP during the initial open enrollment period which:

1. Begins October 1, 2013; and

2. Extends through March 31, 2014; and

(b) A qualified individual or enrollee who selects a QHP during the initial open enrollment period shall have an effective date of coverage of:

1. January 1, 2014, if the QHP selection is received on or before December 15, 2013;

2. The first day of the following month, if the QHP selection is received between the first and fifteenth day of the month for any month between January, 2014 and March 31, 2014; or

3. The first day of the second following month, if the QHP selection is received between the sixteenth and last day of the month for any month between December, 2013 and March 31, 2014.

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(2) (a) For a benefit year beginning on or after January 1, 2015, a qualified individual shall be able to enroll in a QHP or an enrollee shall be able to change from one QHP to another QHP during an annual open enrollment period that:

1. Begins October 15 of the preceding calendar year; and

2. Extends through December 7 of the preceding calendar year;

(b) A qualified individual or enrollee who selects a QHP during an annual open enrollment period shall have an effective date of coverage of January 1 of the following benefit year.

(3) A qualified individual shall enroll in a QHP or an enrollee shall change from one QHP to another QHP during a special enrollment period as specified in Section 4 of this administrative regulation.

(4) (a) An initial enrollment in a QHP shall not be effective until the first month's premium is received by the QHP issuer.

(b) The first month's premium shall be received by a QHP issuer no later than seven (7) days after an effective date of coverage in accordance with subsection (1)(b) of this section.

Section 4. Special Enrollment Periods.

(1) Except as specified in subsection (X) of this section, a qualified individual or enrollee shall have sixty (60) days from the date of a triggering event to select a QHP.

(2) A qualified individual may enrollee in a QHP or an enrollee, and, when specified, a dependent of an enrollee, may change QHPs during a special enrollment period if:

(a) The qualified individual or a dependent of the qualified individual loses minimum essential coverage;

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(b) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, or placement for adoption;

(c) The qualified individual who was not previously a citizen, national, or lawfully present gains status as a citizen, national, or lawfully present;

(d) The qualified individual or dependent of the qualified individual enrolls or fails to enroll in a QHP due to an error, misrepresentation, or inaction of an officer, employee, or agent of the KHBE or HHS;

(e) The enrollee or dependent of the enrollee demonstrates to the KHBE that the QHP in which the enrollee or the dependent of the enrollee is enrolled substantially violated a provision of its contract in relation to the enrollee;

(f) The enrollee is determined newly eligible or newly ineligible for APTC or has a change in eligibility for CSR;

(g) The qualified individual or a dependent of the qualified individual who is enrolled in qualifying coverage in an employer-sponsored plan is determined newly eligible for APTC in part on a finding that the individual will no longer be eligible for qualifying coverage in the employer-sponsored plan in the next sixty (60) days and is allowed to terminate existing coverage;

(h) The qualified individual or enrollee, or a dependent of the qualified individual or the enrollee, gains access to new QHPs as a result of a permanent move;

(i) The qualified individual is an Indian who may enroll in a QHP or change from one QHP to another one time per month; or

(j) The qualified individual or a dependent of the qualified individual, demonstrates to the KHBE, that the individual meets other exceptional circumstances.

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(3) The qualified individual or dependent of the qualified individual described in subsection (2)(g) of this section, may access this special enrollment period sixty (60) days prior to the end of the individual's qualifying coverage in an eligible employer-sponsored coverage.

(4) The date of the triggering event for the loss of minimum essential coverage shall be:

(a) In the case of a decertification of a QHP in accordance with KAR 900:010, the date of the notice of decertification; or

(b) For all other cases, the date the qualified individual or dependent of the qualified individual loses eligibility for minimum essential coverage.

(5) Loss of minimum essential coverage includes those circumstances described in 26 CFR 54.9801–6(a)(3)(i) through (iii).

(6) Loss of minimum essential coverage does not include termination or loss due to:

(a) Failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage, or

(b) A situation allowing for a rescission as specified in 45 CFR 147.128.

(7) Except as specified in subsection (8) of this section, a qualified individual or enrollee who selects a QHP during a special enrollment period shall have an effective date of coverage of:

(a) Between the first and fifteenth day of any month, the first day of the following month; or

(b) Between the sixteenth and last day of any month, the first day of the second following month.

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(8) A qualified individual or enrollee who selects a QHP:

(a) For a birth, adoption or placement for an adoption, shall have an effective date of coverage of the date of the birth, adoption or placement for adoption; or

(b) For a marriage or loss of minimum essential coverage, shall have an effective date of coverage of the first day of the following month following the marriage or loss of minimum essential coverage.

(9) (a) An individual described in subsection (2)(g) of this section may access a special enrollment period sixty (60) days prior to the end of the individual's qualifying coverage in the employer-sponsored plan.

(b) An individual described in subsection (2)(g) of this section who accesses a special enrollment in accordance with paragraph (a) of this subsection, shall not be eligible for APTCs until the end of the individual's qualifying coverage through the eligible employer-sponsored plan.

Section 5. Eligibility for Advanced Payments of the Premium Tax Credit.

(1) A tax filer shall be eligible for APTC if:

(a) The tax filer is expected to have a household income greater than or equal to one hundred (100) percent of the FPL but not more than four hundred (400) percent of the FPL for the benefit year for which coverage is requested; and

(b) One or more applicants for whom the tax filer expects to claim a personal exemption deduction on the tax filer's tax return for the benefit year:

1. Meets the requirements for eligibility for enrollment in a QHP through the KHBE as specified in Section 2 of this administrative regulation; and

2. Is not eligible for minimum essential coverage, with the exception of coverage in

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the individual market, in accordance with section 26 C.F.R. 1.36B-2(a)(2) and (c).

(2) A tax filer who is a non-citizen and lawfully present shall be eligible for APTC if:

(a) The tax filer meets the requirement in paragraph (1)(b) of this section;

(b) The tax filer is expected to have a household income of less than one hundred percent of the FPL for the benefit year for which coverage is requested; and

(3) One or more applicants for whom the tax filer expects to claim a personal exemption deduction on the tax filer's tax return for the benefit year, is:

(a) A non-citizen who is lawfully present; and

(b) Not eligible for Medicaid for reason of immigration status, in accordance with 26 C.F.R. 1.36B-2(b)(5).

(4) A personal exemption deduction shall include a deduction for a:

(a) Tax filer; and

(b) Spouse of the tax filer.

(4) A tax filer shall:

(a) Attest:

1. That one or more applicants for whom the tax filer attests that a personal exemption deduction for the benefit year will be claimed is enrolled in a QHP, excluding a catastrophic plan, through the KHBE; and

2. To the requirements in 45 C.F.R. 155.310(d)(2)(ii); and

(b) Not be eligible for APTC if HHS notifies the KHBE that:

1. Payment of an APTC was made on behalf of the tax filer or tax filer's spouse for a year for which tax data would be utilized for verification of household income; or

2. The tax filer or the tax filer's spouse did not comply with the requirement to file a

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tax return in accordance with 26 U.S.C. Section 6011 and 26 U.S.C. Section 6012.

(5) An APTC amount shall be calculated in accordance with 26 C.F.R. 1.36B-3.

(6) An applicant for APTC may accept less than the full amount of APTC for which the applicant is determined eligible.

(7) APTCs shall be authorized by the KHBE on behalf of a tax filer only if the KHBE obtains necessary attestations from the tax filer that:

(a) The tax filer will file an income tax return for the benefit year, in accordance with 26 U.S.C. 6011 and 6012;

(b) If married, a joint tax return shall be filed for the benefit year;

(c) No other taxpayer will be able to claim the tax filer as a dependent for the benefit year; and

(d) The tax filer will claim a personal exemption deduction on the tax filer's return for the applicants identified as members of the tax filer's family, including the tax filer and the spouse of the tax filer, in accordance with 45 C.F.R. 155.320(c)(3)(i).

(8) The effective date for APTC shall be:

(a) For an initial eligibility determination, in accordance with the dates specified in Section 3(1), (2), (3) and (4) of this administrative regulation, as applicable; and

(b) For a redetermination, in accordance with the dates specified in 45 C.F.R. 155.330(f) and 155.335(i), as applicable.

(9) An employer shall be notified of an employee's eligibility for APTC in accordance with 45 C.F.R 155.310 (h).

Section 6. Eligibility for Cost-sharing Reductions.

(1) An applicant shall be eligible for cost-sharing reductions if the applicant:

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(a) Meets the eligibility requirements for enrollment in a QHP through the KHBE in accordance with Section 2 of this administrative regulation;

(b) Meets the requirements for APTC in accordance with Section 4 of this administrative regulation;

(c) Is expected to have a household income that does not exceed two hundred fifty (250) percent of the FPL for the benefit year for which coverage is requested; and

(d) Except for an enrollee who is an Indian, enrolls in a silver-level QHP through the KHBE.

(2) The KHBE shall make eligibility determinations for cost-sharing reductions based on the following categories:

(a) 1. An individual who is expected to have a household income greater than or equal to one hundred (100) percent of the FPL and less than or equal to one hundred fifty (150) percent of the FPL for the benefit year for which coverage is requested; or

2. An individual who is eligible for APTC in accordance with Section 4 of this administrative regulation, a household income less than one hundred (100) percent of the FPL;

(b) An individual who is expected to have a household income greater than one hundred fifty (150) percent of the FPL and less than or equal to two hundred (200) percent of the FPL for the benefit year for which coverage is requested; and

(c) An individual who is expected to have a household income greater than two hundred (200) percent of the FPL and less than or equal to two hundred fifty (250) percent of the FPL for the benefit year for which coverage is requested.

(3) (a) If two or more individuals enrolled in the individual market under a single

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policy would be eligible for different cost sharing amounts if enrolled in separate policies, the individuals under the single policy shall be deemed by the KHBE to be collectively eligible only for the last category listed in paragraph (b) of this subsection for which all the individuals covered by the policy would be eligible.

(b) The categories of eligibility shall be an individual:

1. Not eligible for changes to cost sharing;

2. Described in 45 C.F.R. 155.350(b);

3. Described in paragraph (2)(c) of this section;

4. Described in paragraph (2)(b) of this section;

5. Described in paragraph (2)(a) of this section; and

6. Described in 45 C.F.R. 155.350(a).

(4) The effective date for cost-sharing reductions shall be:

(a) For an initial eligibility determination, in accordance with the dates specified in Section 3(1), (2), (3), and (4),as applicable; and

(b) For a redetermination, in accordance with the dates specified in 45 C.F.R. 155.330(f) and 45 C.F.R. 155.335(i), as applicable.

(5) An employer shall be notified of an employee's eligibility for cost-sharing reductions in accordance with 45 C.F.R 155.310(h).

Section 7. Eligibility to Enroll in a QHP that is a Catastrophic Plan. In addition to the requirements in Section 2 of this administrative regulation, to enroll in a QHP that is a catastrophic plan, an applicant shall:

(1) Not have attained the age of thirty (30) before the beginning of the plan year; or

(2) Have a certificate of exemption from the shared responsibility payment issued by

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the KHBE or HHS for a plan year in accordance with:

(a) 26 U.S.C. Section 5000A (e)(1); or

(b) 26 U.S.C. Section 5000A (e)(5).

Section 8. Eligibility Redetermination During a Benefit Year.

(1) Eligibility shall be redetermined during a benefit year if:

(a) New information reported by an enrollee is verified; or

(b) Updated information obtained in accordance with 45 C.F.R. 155.315(b)(1) and 45 C.F.R. 155.320(b) has identified a:

1. Death; or

2. A change in eligibility for a public insurance program.

(2) Except as specified in subsection (3) of this section, an enrollee shall report any change related to the eligibility requirements in Section 2 of this administrative regulation.

(3) An enrollee shall not report:

(a) A change that would affect an enrollee's eligibility for an insurance affordability program, if the enrollee did not request an eligibility determination for an insurance affordability program; and

(b) A change in income.

(4) An enrollee shall:

(a) Be notified by the KHBE of:

1. Updated information not regarding income, family size, and family composition obtained in accordance with subsection (1)(b) of this section; and

2. The projected eligibility determination after consideration of the information; and

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(b) Have thirty (30) days from the date of the notice in subsection (4) of this section to respond if the information is inaccurate.

(5) If an enrollee:

(a) Responds to the notice contesting the updated information in subsection (4) of this section, information shall be verified in accordance with 145 C.F.R. 155.315(f); or

(b) Does not respond to the notice, eligibility shall be redetermined in accordance with 45 C.F.R. 155.330(e).

(6) An enrollee shall:

(a) Be notified by the KHBE of:

1. Updated information regarding income, family size, and family composition obtained in accordance with subsection (1)(b) of this section; and

2. The projected eligibility determination after consideration of the information; and

(b) Have thirty (30) days from the date of the notice to:

1. Confirm the updated information; or

2. Provide more up-to-date information.

(7) If an enrollee:

(a) Responds to the notice by confirming the updated information in subsection (6) of this section or provides updated information, the updated information shall be verified in accordance with 145 C.F.R. 155.315(f); or

(b) Does not respond to the notice, eligibility shall be redetermined without using the updated information.

(8) The effective date of a change resulting from a redetermination pursuant to this section shall be in accordance with 45 C.F.R. 330(f).

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(9) The amount of an APTC or eligibility for a cost-sharing reduction as a result of an eligibility redetermination in accordance with this section, shall be redetermined in accordance with 45 C.F.R. 155.330(g).

Section 9. Annual Eligibility Redetermination.

(1) A qualified individual shall:

(a) Have an annual redetermination of eligibility for a QHP; and

(b) Be sent a notice of the annual redetermination that includes:

1. The data obtained under subsection (2) of this section;

2. The data used in the qualified individual's most recent eligibility determination; and

3. The projected eligibility determination for the following year, after considering the information in subparagraph 1. of this paragraph.

(2) If a qualified individual requests an eligibility determination for an insurance affordability program, the enrollee shall authorize the release of updated tax return information if the information is to be used in the redetermination of eligibility.

(3) A qualified individual, an application filer or an authorized representative, on behalf of the enrollee, shall sign and return the notice described in subsection XXX of this section:

(a) Within thirty (30) days from the date of the notice; and

(b) Via a method listed in Section 2(7).

(4) If a qualified individual fails to sign and return the notice described in subsection (1)(b) of this section within the 30-day period specified in XXX, eligibility shall be redetermined using the information provided in the notice specified in subsection (3) of this section.

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(5) A qualified individual shall receive notice of an eligibility redetermination in accordance with this section.

(6) If applicable, a qualified applicant's employer shall receive notice of a qualified applicant's eligibility redetermination in accordance with this section.

Section 10. Special Eligibility Standards and Processes for Indians.

(1) An applicant who is an Indian shall be eligible for the special cost-sharing described in section 1402(d)(2) of the ACA, if the applicant:

(a) Meets the requirements specified in 45 C.F.R.155.305(a) and (f);

(b) Is expected to have a household income that does not exceed three hundred (300) percent of the FPL for the benefit year for which coverage is requested; and

(c) Enrolls in a QHP through the KHBE.

(2) An applicant who is an Indian shall have an eligibility determination for the special cost-sharing described in section 1402(d)(2) of the ACA without requesting an eligibility determination for an insurance affordability program.

Section 11. Termination of Coverage.

(1) An enrollee, including an enrollee who has obtained other minimum essential coverage, may terminate coverage in a QHP by submitting a request:

(a) Online;

(b) To the KHBE customer service center;

(c) To the QHP issuer; or

(d) In person.

(2) At the time of QHP selection, an enrollee in a QHP may choose to remain in a QHP if the enrollee:

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(a) Has been identified as eligible for other minimum essential coverage through the data matching described in 45 C.F.R. 155.330(d); and

(b) Does not request termination in accordance with subsection (1) of this section.

(3) The last day of coverage of an enrollee who terminates coverage in accordance with subsection (1) of this section shall be:

(a) The termination date requested by the enrollee if the enrollee provides reasonable notice in accordance with subsection (7) of this section;

(b) Fourteen (14) days after the termination is requested by the enrollee, if the enrollee does not provide reasonable notice in accordance with subsection (7) of this section; or

(c) A date determined by the issuer of an enrollee's QHP if the issuer is able to terminate coverage in fewer than fourteen days and the enrollee requests an earlier termination effective date; or

(d) If the enrollee is newly eligible for Medicaid or KCHIP, the day before coverage in Medicaid or KCHIP begins.

(4) An enrollee's health coverage may be terminated by an issuer if:

(a) The enrollee is no longer eligible for coverage in a QHP through the KHBE;

(b) 1. The enrollee has failed to pay a premium; and

2. Either:

a. The 3-month grace period required for an individual receiving an APTC has been exhausted; or

b. A thirty (30) day grace period required by KRS 304.17A-243 for an individual not receiving an APTC has been exhausted.

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(c) The enrollee's coverage is rescinded in accordance with 45 C.F.R. 147.128 or KRS 304.14-110;

(d) The enrollee is enrolled in a QHP that has been decertified in accordance with 900 KAR XXXX or has withdrawn from the KHBE; or

(e) The enrollee changes from one QHP to another during an open enrollment period or special enrollment period in accordance with Section 3 of this administration regulation.

(5) The last day of coverage of an enrollee shall be:

(a) If terminated in accordance with subsection (4)(a) of this section, the last day of the month following the month in which the notice described in XXXX is sent by KHBE, unless the enrollee requests an earlier termination date in accordance with subsection (3) of this section;

(b) If terminated in accordance with subsection (4)(b)2 of this section, the last day of the first month of the 3-month grace period; or

(c) If terminated in accordance with subsection (4)(b)3 of this section, in accordance with KRS 304.17A-245;

(6) For an enrollee who is terminated in accordance with subsection (4)(e) 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 the enrollee's new QHP.

(7) Reasonable notice shall be fourteen (14) days from the requested date of termination of coverage.

Section 12. Authorized Representative.

(1) An individual or employee may designate an individual or organization as an

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authorized representative:

(a) Either:

1. At the time of application; or

2. At another time; and

(b) Through a method described in 45 C.F.R. 155.405(c)(2);

(c) In writing with a signature or other legally binding format; and

(d) Through a modality described in Section 2(7) of this administrative regulation.

(2) An authorized representative shall comply with state and federal laws regarding:

1. Conflict of interest; and

2. Confidentiality of information.

(3) An applicant may authorize a representative to:

(a) Sign an application on behalf of the applicant;

(b) Submit an update or respond to a redetermination of eligibility for the applicant in accordance with Section 6 or Section 7 of this administrative regulation;

(c) Receive a copy of a notice or communication from the KHBE;

(d) Make an appeal request on behalf of an appellant; and

(e) Act on behalf of the individual or employee in a matter with the KHBE.

(4) An authorized representative shall be valid until:

(a) An applicant or employee:

1. Changes the authorization; or

2. Notifies the KHBE and the authorized representative, through a method described in 45 C.F.R. 155.405(c), that the authorized representative is no longer authorized to act on behalf of the individual or employee; or

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(b) The authorized representative informs the KHBE and the individual or employee that the authorized representative is no longer acting as the authorized representative.

Section 13. Appeals.

(1) In accordance with 900 KAR XXXXX, an applicant, a qualified applicant, or an enrollee shall have the right to appeal:

(a) An initial eligibility determination or redetermination for a QHP, APTC, CSR, or catastrophic plan in accordance with 900 KAR;

(b) Eligibility for a QHP enrollment period;

(c) An amount of APTC or level of CSR; or

(d) A failure by the KHBE to provide timely notice of eligibility.

(2) An applicant shall have the right to appeal an exemption in accordance with ..

(3) An applicant, qualified applicant or enrollee shall have the right to appeal an eligibility determination for Medicaid or KCHIP in accordance with 907 KAR 1:560;

(4) An employer shall have the right to appeal a determination of an employee's eligibility for APTC or CSR in accordance with 900 KAR XXXX.

Section 14. Materials Incorporated by Reference.

(1) The following material shall be incorporated by reference:

(a) ???????

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Kentucky Health Benefit Exchange, 12 Mill Creek Park, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., or from its Web site at ??????

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