

1 Cabinet for Health and Family Services
2 Office of the Kentucky Health Benefit Exchange
3 (New Emergency Administrative Regulation)

4 900 KAR 10:030E. Kentucky Health Benefit Exchange Eligibility and Enrollment in a
5 Qualified Health Plan.

6 RELATES TO: KRS 194A.050(1), 42 U.S.C. 18031, 45 C.F.R. Parts 155, 156

7 STATUTORY AUTHORITY: KRS 194A.050(1)

8 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family
9 Services, Office of the Kentucky Health Benefit Exchange, has responsibility to
10 administer the state-based American Health Benefit Exchange. KRS 194A.050(1)
11 requires the secretary of the cabinet to promulgate administrative regulations necessary
12 to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency
13 of the individual citizens of the Commonwealth; to operate the programs and fulfill the
14 responsibilities vested in the cabinet, and to implement programs mandated by federal
15 law or to qualify for the receipt of federal funds. This administrative regulation
16 establishes the policies and procedures relating to eligibility and enrollment in a
17 qualified health plan to be offered on the Kentucky Health Benefit Exchange, pursuant
18 to, and in accordance with 42 U.S.C. 18031 and 45 C.F.R. Parts 155 and 156.

19 Section 1. Definitions.

20 (1) "Advance payments of the premium tax credit" or "APTC" means payment of the
21 tax credits authorized by 26 U.S.C. 36B and its implementing regulations, which are

1 provided on an advance basis to an eligible individual enrolled in a qualified health plan
2 through an exchange in accordance with section 1412 of the Affordable Care Act.

3 (2) "Affordable Care Act" or "ACA" means the Patient Protection and Affordable
4 Care Act, Public Law 111-148, enacted March 23, 2010 as amended by the Health Care
5 and Education Reconciliation Act, Public Law 111-152, enacted March 30, 2010.

6 (3) "Annual open enrollment period" except for the initial open enrollment period, is
7 defined by 45 C.F.R. 155.410(e).

8 (4) "Applicant" means as defined in 45 C.F.R. 155.2

9 (5) "Application filer" means as defined in 45 C.F.R. 155.2

10 (6) "Benefit year" means a calendar year for which a health plan provides coverage
11 for health benefits.

12 (7) "Catastrophic plan" means a health plan that is described in and meets the
13 requirements of 45 C.F.R. 156.155.

14 (8) "COBRA" means continuation of coverage under the Consolidated Omnibus
15 Reconciliation Act of 1986, as amended.

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

- 18 (a) A deductible;
- 19 (b) Co-insurance;
- 20 (c) Copayment; or
- 21 (d) A similar charge.

22 (10) "Cost sharing reduction" or "CSR" means a reduction in cost sharing for an
23 eligible individual enrolled in a silver level plan in an exchange or for an individual who

1 is an Indian enrolled in a qualified health plan in an exchange.

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

3 (12) "Department of Health and Human Services" or "HHS" means the U.S.
4 Department of Health and Human Services.

5 (13) "Dependent" means as defined in 26 C.F.R. 54.9801-2.

6 (14) "Enrollee" means an eligible individual enrolled in a qualified health plan.

7 (15) "Family size" means family size as specified in 26 CFR 1.36B-1(d).

8 (16) "Federal poverty level" or "FPL" means the most recently published federal
9 poverty level, updated periodically in the Federal Register by the Secretary of Health
10 and Human Services under the authority of 42 USC 9901(2), as of the first day of the
11 annual open enrollment period for coverage in a qualified health plan through the
12 Kentucky Health Benefit Exchange.

13 (17) "Health plan" is defined by 42 U.S.C. 18020(b)(1).

14 (18) "Household income" means as defined by 26 C.F.R. 1.36B-1(e).

15 (19) "Indian" is defined by 25 U.S.C. 450b(4).

16 (20) "Initial open enrollment period" means the period beginning October 1, 2013,
17 and extending through March 31, 2014 during which a qualified individual or qualified
18 employee may enroll in health coverage through an exchange for the 2014 benefit year.

19 (21) "Insurance affordability program" means one (1) of the following:

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

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

22 (c) A program that makes coverage in a qualified health plan through the Exchange
23 with advance payments of the premium tax credit established under section 36B of the

1 Internal Revenue Code available to qualified individuals; or

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

5 (22) "Internal Revenue Code" or "Code" means the Internal Revenue Code of 1986.

6 (23) "Issuer" is defined by 45 C.F.R. 144.103.

7 (24) "Kentucky Children's Health Insurance Program" or "KCHIP" means the
8 separate child health program established by the commonwealth of Kentucky under title
9 XXI of the Social Security Act in accordance with implementing regulations at 42 C.F.R.
10 457.

11 (25) "Kentucky Health Benefit Exchange" or "KHBX" means the Kentucky state-
12 based exchange conditionally approved by HHS pursuant to 45 C.F.R. 155.105 to offer
13 a QHP beginning January 1, 2014 that includes

14 (a) Individual exchange;

15 (b) Small Business Health Options Program.

16 (26) "Lawfully present" means as defined by 42 C.F.R. 435.4.

17 (27) "Medicaid" means the program established under title XIX of the Social
18 Security Act in accordance with implementing regulations at 42 C.F.R. parts 430
19 through 456.

20 (28) "Minimum essential coverage" means as defined by 26 CFR 1.5000A-2.

21 (29) "Non-citizen" means as defined by 42 C.F.R. 435.4.

22 (30) "Personal exemption deduction" means an amount excluded from taxable
23 income, given to any tax filer who cannot be claimed as a dependent by another tax

1 filer.

2 (31) "Public insurance program" means an insurance program that is paid for by a
3 government and provided to consumers, including Medicare, Medicaid, or Children's
4 Health Insurance Program.

5 (32) "Qualified Health Plan" or "QHP" means a health plan that meets the standards
6 described in 45 C.F.R. 156 Subpart C and that has in effect a certification issued by the
7 KHBE.

8 (33) "Qualified individual" means an individual who has been determined eligible to
9 enroll through the KHBE in a QHP in the individual market.

10 (34) "Qualifying coverage in an eligible employer-sponsored plan" means coverage
11 in an eligible employer-sponsored plan that meets the affordability and minimum value
12 standards specified in 26 CFR 1.36B-2(c)(3).

13 (35) "Shared responsibility payment" means a penalty imposed for failing to meet
14 the requirement to maintain minimum essential coverage in accordance with 26 U.S.C.
15 5000A.

16 (36) "Silver-level" is defined by section 1302(d)(1)(B) of the ACA.

17 (37) "Special enrollment period" means a period during which a qualified individual
18 or enrollee who experiences certain qualifying events may enroll in, or change
19 enrollment in, a QHP through the KHBE outside the initial and annual open enrollment
20 periods.

21 (38) "Tax filer" means as defined by 45 C.F.R. 155.300.

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

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

1 applicant:

2 (a) 1. Is a citizen or national of the United States;

3 2. Is a non-citizen who is lawfully present in the United States and is reasonably
4 expected to become a citizen or national; or

5 3. Is a non-citizen who is lawfully present for the entire period for which enrollment
6 is sought; and

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

9 (c) Meets a residency requirement in 45 CFR 155.305(a),

10 (2) An applicant may submit an application for a determination of eligibility at any
11 time during a year; however, the applicant may only enroll during open enrollment or
12 special enrollment periods.

13 (3) An applicant determined eligible for enrollment in a QHP as set forth in
14 subsection (1) of this section may be eligible to enroll in a QHP during:

15 (a) An initial open enrollment period as set forth in Section 6 (2) of this
16 administrative regulation.

17 (b) An annual open enrollment period as set forth Section 6 (3) of this administrative
18 regulation; or

19 (c) A special enrollment period as set forth Section 6 (4) and Section 7 of this
20 administrative regulation.

21 (4) An applicant determined eligible to enroll in a QHP who does not select a QHP
22 within the applicable enrollment period as set forth in Sections 6 and 7 of this
23 administrative regulation, or is not eligible for an enrollment period, who seeks a new

1 enrollment period prior to the date on which the applicant's eligibility is redetermined as
2 set forth Section 9 of this administrative regulation, shall attest to whether or not
3 information affecting the applicant's eligibility has changed since the most recent
4 eligibility determination

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

6 (a) Via the KHBE website at www.kynect.ky.gov;

7 (b) By telephone by contacting the KHBE contact center at 1-800-459-6328;

8 (c) By mail; or

9 (d) In person.

10 (6) (a) An applicant who has a Social Security number shall provide the number to
11 the KHBE; and

12 (b) An individual who is not seeking coverage for himself or herself shall not be
13 required to provide a Social Security number, except as specified in Section 3(7) of this
14 administrative regulation.

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

17 (a) Citizenship;

18 (b) Status as a national; or

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

21 (8) (a) Except as specified in Section 11(2) of this administrative regulation, an
22 applicant who requests an eligibility determination for an insurance affordability program
23 shall have an eligibility determination for all insurance affordability programs; and

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

3 (9) An applicant shall not provide information beyond the minimum amount
4 necessary to determine eligibility and enrollment through the KHBE.

5 Section 3. Eligibility Standards for Advanced Payments of the Premium Tax Credit.

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

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

10 (b) One (1) or more applicants for whom the tax filer expects to claim a personal
11 exemption deduction on the tax filer's tax return for the benefit year:

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

14 2. Is not eligible for minimum essential coverage, with the exception of coverage in
15 the individual market, in accordance with section 26 C.F.R. 1.36B-2(a)(2) and (c).

16 (2) A tax filer who is a non-citizen and lawfully present and ineligible for Medicaid for
17 reason of immigration status shall be eligible for APTC if:

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

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

21 (c) One (1) or more applicants for whom the tax filer expects to claim a personal
22 exemption deduction on the tax filer's tax return for the benefit year, is:

23 1. A non-citizen who is lawfully present; and

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

3 (3) A tax filer shall attest that one (1) or more applicants for whom the tax filer
4 attests that a personal exemption deduction for the benefit year shall be claimed is
5 enrolled in a QHP that is not a catastrophic plan.

6 (4) A tax filer shall not be eligible for APTC if HHS notifies the KHBE that:

7 (a) APTCs were made on behalf of the tax filer or tax filer's spouse for a year for
8 which tax data would be utilized for verification of household income and family size in
9 accordance with 45 C.F.R. 155.320(c)(1)(i); and

10 (b) The tax filer or the tax filer's spouse did not comply with the requirement to file a
11 tax return in accordance with 26 U.S.C. 6011 and 6012.

12 (5) An APTC amount shall be:

13 (a) Calculated in accordance with 45 C.F.R. 155.325-3; and

14 (b) Allocated between Community and stand-alone dental policies in accordance with 45
15 C.F.R 155.340(e).

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

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

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

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

23 (c) No other taxpayer shall be able to claim the tax filer as a dependent for the

1 benefit year; and

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

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

7 (a) Has a Social Security number; and

8 (b) Filed a tax return for the year for which tax data could be utilized for verification
9 of household income and family size.

10 (9) The effective date for APTC shall be:

11 (a) For an initial eligibility determination, in accordance with the dates specified in
12 Section 6 (1), (2), (3) and (4) of this administrative regulation, as applicable; and

13 (b) For a redetermination, in accordance with the dates specified in 45 C.F.R.
14 155.330(f) and 155.335(i), as applicable.

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

17 Section 4. Eligibility Standards for Cost-sharing Reductions.

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

19 (a) Meets the eligibility requirements for enrollment in a QHP as set forth in Section
20 2 of this administrative regulation;

21 (b) Meets the requirements for APTC as set forth in Section 3 of this administrative
22 regulation;

23 (c) Is expected to have a household income that does not exceed two hundred fifty

1 (250) percent of the FPL for the benefit year for which coverage is requested; and

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

4 (2) An eligibility determination for cost-sharing reductions shall be based on the
5 following categories:

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

9 2. An individual who is eligible for APTC as set forth in Section 3(2) of this
10 administrative regulation, a household income less than one hundred (100) percent of
11 the FPL;

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

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

18 (3) (a) If two or more individuals enrolled in the individual market under a single
19 policy would be eligible for different cost sharing amounts if enrolled in separate
20 policies, the individuals under the single policy shall be deemed by the KHBE to be
21 collectively eligible only for the last category listed in paragraph (b) of this subsection for
22 which all the individuals covered by the policy would be eligible; and

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

- 1 1. Not eligible for changes to cost sharing;
- 2 2. Described in 45 C.F.R. 155.350(b);
- 3 3. Described in paragraph (2)(c) of this section;
- 4 4. Described in paragraph (2)(b) of this section;
- 5 5. Described in paragraph (2)(a) of this section; and
- 6 6. Described in 45 C.F.R. 155.350(a).

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

8 (a) For an initial eligibility determination, in accordance with the dates specified in
9 Section 6(1), (2), (3), and (4), as applicable; and

10 (b) For a redetermination, in accordance with the dates specified in 45 C.F.R.
11 155.330(f) and 45 C.F.R. 155.335(i), as applicable.

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

14 Section 5. Verification procedures.

15 (1) Verification of eligibility for an applicant seeking enrollment in a QHP shall be
16 performed in accordance with:

17 (a) 45 C.F.R. 155.315; and

18 (b) Kentucky QHP/APTC Eligibility Verification Plan as incorporated by reference in
19 this administrative regulation.

20 (2) Verification of eligibility for an applicant or tax filer who requests an eligibility
21 determination for an insurance affordability program shall be in accordance with:

22 (a) 45 C.F.R. 155.320; and

23 (b) Kentucky QHP/APTC Eligibility Verification Plan as incorporated by reference in

1 this administrative regulation.

2 Section 6. QHP Enrollment Periods and Effective Dates of Coverage.

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

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

7 (a) January 1, 2014, if the QHP selection is received on or before December 15,
8 2013;

9 (b) The first day of the following month, if the QHP selection is received between the
10 first and fifteenth day of the month for any month between January, 2014 and March 31,
11 2014; or

12 (c) The first day of the second following month, if the QHP selection is received
13 between the sixteenth and last day of the month for any month between December,
14 2013 and March 31, 2014.

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

- 18 1. Begins October 15 of the preceding calendar year; and
- 19 2. Extends through December 7 of the preceding calendar year; and

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

23 (4) (a) A qualified individual shall enroll in a QHP or an enrollee shall change from

1 one (1) QHP to another QHP during a special enrollment period as specified in Section
2 7 of this administrative regulation; and

3 (b) A qualified individual or an enrollee who selects a QHP during a special
4 enrollment period shall have an effective date of coverage as set forth in Section 7 of
5 this administrative regulation.

6 (5) (a) An initial enrollment in a QHP shall not be effective until the first month's
7 premium is received by the QHP issuer; and

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

11 Section 7. Special Enrollment Periods.

12 (1) Except as specified in subsection (3) of this section, a qualified individual or
13 enrollee shall have sixty (60) days from the date of a qualifying event as set forth in
14 subsection (2) of this section to select a QHP.

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

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

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

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

23 (d) The qualified individual or dependent of the qualified individual enrolls or fails to

1 enroll in a QHP due to an error, misrepresentation, or inaction of an officer, employee,
2 or agent of the KHBE or HHS;

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

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

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

13 (h) The qualified individual or enrollee, or a dependent of the qualified individual or
14 the enrollee, gains access to a QHP as a result of a change in residence;

15 (i) The qualified individual is an Indian who may enroll in a QHP or change from one
16 (1) QHP to another QHP one (1) time per month; or

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

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

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

1 be:

2 (a) In the case of a decertification of a QHP as set forth 900 KAR 10:010, the date
3 of the notice of decertification; or

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

6 (5) Loss of minimum essential coverage includes those circumstances described in
7 26 CFR 54.9801–6(a)(3)(i) through (iii).

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

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

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

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

15 (a) The first day of the following month for a selection made between the first and
16 the fifteenth day of any month; or

17 (b) The first day of the second following month for a selection made between the
18 sixteenth and last day of any month.

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

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

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

1 essential coverage.

2 (9) An individual described in subsection (2)(g) of this section

3 (a) May access a special enrollment period sixty (60) days prior to the end of the
4 individual's qualifying coverage in the employer-sponsored plan; and

5 (b) Who accesses a special enrollment as set forth in paragraph (a) of this
6 subsection, shall not be eligible for APTCs until the end of the individual's qualifying
7 coverage through the eligible employer-sponsored plan.

8 Section 8. Eligibility Redetermination During a Benefit Year.

9 (1) Eligibility shall be redetermined for an enrollee during a benefit year if the KHBE
10 receives and verifies:

11 (a) New information reported by an enrollee; or

12 (b) Updated information obtained in accordance with 45 C.F.R. 155.315(b)(1) and
13 45 C.F.R. 155.320(b) that identifies a

14 1. Death; or

15 2. For an enrollee who is receiving APTCs or CSRs, a change in eligibility for a
16 public insurance program.

17 (2) Except as specified in subsection (3) of this section, an enrollee or an
18 application filer, on behalf of an enrollee, shall report within thirty (30) days:

19 (a) A change related to an eligibility standard in Section 2, 3, 4, 10, or 11 of this
20 administrative regulation; and

21 (b) Via a method described in Section 2 (5) of this administrative regulation.

22 (3) An enrollee who did not request an eligibility determination for an insurance
23 affordability program shall not report a change related to income.

1 (4) If new information provided by an enrollee in accordance with section (1) (a) of
2 this section is verified:

3 (a) Eligibility shall be redetermined in accordance with the standards in Section 2, 3,
4 4, 10, or 11 of this administrative regulation;

5 (b) The enrollee shall be notified of the redetermination in accordance with the
6 requirements in 45 C.F.R. 155.310(g); and

7 (c) If applicable, the enrollee's employer shall be notified in accordance with the
8 requirement specified in 45 C.F.R. 155.310(h)

9 (5) If updated information obtained in accordance with subsection (1) (b) of this
10 section regarding death or related to eligibility not regarding income, family size, or
11 family composition is identified, an enrollee shall:

12 (a) Be notified by the KHBE of:

- 13 1. The updated information;
- 14 2. The projected enrollee eligibility determination after consideration of the
15 information; and

16 (b) Have thirty (30) days from the date of the notice in paragraph (a) of this
17 subsection to notify the KHBE if the information is inaccurate.

18 (6) If an enrollee responds to the notice in subsection (4) (a) of this section,
19 contesting the updated information in the notice, the KHBE shall proceed in accordance
20 with 45 C.F.R. 155.315(f).

21 (7) If an enrollee does not respond to the notice in subsection (4) (a) of this section
22 within the thirty (30) day timeframe specified in subsection (4) (b) of this section, the
23 KHBE shall:

1 (a) Redetermine eligibility in accordance with the standard in Section 2, 3, 4, 10, or
2 11 of this administrative regulation; and

3 (b) Notify the enrollee regarding the determination in accordance with the
4 requirements specified in 45 C.F.R. 155.310(g).

5 (8) With the exception of information regarding death, if updated information
6 regarding income, family size, or family composition is identified, an enrollee shall:

7 (a) Be notified by the KHBE of:

8 1. The updated information regarding income, family size, and family composition
9 obtained in accordance with subsection (1)(b) of this section,

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

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

12 1. Confirm the updated information; or

13 2. Provide additional information.

14 (9) If the enrollee responds to the notice in subsection (8) (a) of this section by
15 confirming the updated information, the KHBE shall:

16 (a) Redetermine the enrollee's eligibility in accordance with Section 2, 3, 4, 9, or 10
17 of this administrative regulation; and

18 (b) Notify the enrollee regarding the determination in accordance with the
19 requirements specified in 45 C.F.R. 155.310(g).

20 (10) If the enrollee does not respond to the notice in subsection (8) (a) of this
21 section within the thirty (30) day timeframe specified in subsection (8) (b) of the section,
22 the KHBE shall maintain the enrollee's existing eligibility determination without
23 considering the updated information in subsection (8)(a) of this section.

1 (11) If the enrollee responds with more updated information, the KHBE shall verify
2 the updated information in accordance with 45 C.F.R. 155.315 and 155.320.

3 (12) The effective date of a change resulting from a redetermination pursuant to this
4 section shall be in accordance with 45 C.F.R. 155.330(f).

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

8 Section 9. Annual Eligibility Redetermination

9 (1) A qualified individual shall:

10 (a) Have an annual redetermination of eligibility; and

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

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

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

14 and

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

17 (2) (a) A qualified individual requesting an eligibility determination for an insurance
18 affordability program shall authorize the release of updated tax return information, data
19 regarding Social Security benefits, and data regarding MAGI based incomes as
20 described in 45 C.F.R. 155.320(c)(1) for use in the qualified individual's eligibility
21 redetermination; and

22 (b) Eligibility shall not be redetermined for a qualified individual requesting an
23 eligibility determination for an insurance affordability program who does not authorize

1 the release of updated tax return information.

2 (3) A qualified individual may authorize the release of tax return information for a
3 period of no more than five (5) years based on a single authorization, provided the
4 authorization permits the qualified individual to:

5 (a) 1. Decline to authorized the release of updated tax return information; or
6 2. Authorize the release of updated tax return information for fewer than five (5)
7 years; and

8 (b) Discontinue, change, or renew the authorization any time.

9 (4) A qualified individual, an application filer or an authorized representative, on
10 behalf of the enrollee, shall:

11 (a) Report any changes with respect to the information listed in the notice described
12 in subsection (1) (b) of this section:

13 1. Within thirty (30) days from the date of the change; and
14 2. Via a method listed in subsection 2 (5), and

15 (b) Sign and return the notice described in subsection (1) (b) of this section within
16 thirty (30) days of the date of the notice.

17 (5) Any information reported by a qualified individual under subsection (4) of this
18 section shall be verified as set forth in Section 5 of this administrative regulation.

19 (6) For a qualified individual who fails to sign and return the notice described in
20 subsection (1) (b) of this section within the thirty (30) day period specified in subsection
21 (4) of this section, eligibility shall be redetermined as set forth in subsection (7) (a) of
22 this section.

23 (7) (a) After the thirty (30) day period specified in subsection (4) of this section:

1 1. Eligibility of a qualified individual shall be redetermined in accordance with the
2 standards in Section 2, 3, 4, 10, or 11 of this administrative regulation using the
3 information provided in the notice, as supplemented with any information reported by
4 the qualified individual verified in accordance with Section 5 of this administrative
5 regulation;

6 2. The qualified individual shall be notified in accordance with the requirements in
7 45 C.F.R. 155.310(g); and

8 3. If applicable, the qualified individual's employer shall be notified in accordance
9 with 45 C.F.R. 155.310(h); and

10 (b) If a qualified individual reports a change with respect to the information provided
11 in the notice specified in subsection (1) (b) of this section that has not been verified by
12 the KHBE as of the end of the thirty (30) day period specified in subsection (4) of this
13 section, eligibility shall be redetermined after verification in accordance with Section 5 of
14 this administrative regulation.

15 (8) The effective date of a redetermination in accordance with this section shall be
16 the later of:

17 (a) The first day of the coverage year following the year in which the notice in
18 subsection (1) (b) of this section is issued to the qualified individual; or

19 (b) In accordance with 45 C.F.R. 155.330(f).

20 (9) If an enrollee remains eligible for coverage in a QHP upon annual
21 redetermination, the enrollee shall remain in the QHP selected the previous year unless
22 the enrollee terminates coverage from the QHP in accordance with Section 11 of this
23 administrative regulation.

1 (10) Eligibility shall not be redetermined if a qualified individual was redetermined
2 eligible in accordance with this section during the prior year, and the qualified individual
3 was not enrolled in a QHP at the time of the redetermination, and has not enrolled in a
4 QHP since the redetermination

5 Section 10. Eligibility to Enroll in a QHP that is a Catastrophic Plan.

6 (1) In addition to the requirements in Section 2 of this administrative regulation, to
7 enroll in a QHP that is a catastrophic plan, an applicant shall:

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

9 (b) Have a certificate of exemption from the shared responsibility payment issued by
10 the KHBE or HHS for a plan year in accordance with:

11 1. 26 U.S.C. 5000A (e)(1); or

12 2. 26 U.S.C. 5000A (e)(5).

13 (2) Verification related to eligibility for enrollment in a QHP that is a catastrophic
14 plan shall be in accordance with 45 C.F.R. 155.315(j).

15 Section 11. Special Eligibility Standards and Processes for Indians.

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

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

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

21 (c) Enrolls in a QHP through the KHBE.

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

1 eligibility determination for an insurance affordability program.

2 Section 12. Termination of Coverage.

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

- 5 (a) Via the KHBE website at www.kynect.ky.gov;
- 6 (b) By telephone by contacting the KHBE contact center at 1-800-459-6328;
- 7 (c) To the QHP issuer;
- 8 (d) By mail; or
- 9 (e) In person.

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

- 12 (a) Has been identified as eligible for other minimum essential coverage through the
13 data matching described in 45 C.F.R. 155.330(c);
- 14 (b) Does not request termination in accordance with subsection (1) of this section.

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

- 17 (a) The termination date requested by the enrollee if the enrollee provides
18 reasonable notice in accordance with subsection (7) of this section;
- 19 (b) Fourteen (14) days after the termination is requested by the enrollee, if the
20 enrollee does not provide reasonable notice in accordance with subsection (7) of this
21 section;
- 22 (c) A date determined by the issuer of an enrollee's QHP if the issuer is able to
23 terminate coverage in fewer than fourteen (14) days and the enrollee requests an earlier

1 termination effective date; or

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

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

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

6 (b) The enrollee has failed to pay a premium, and:

7 1. A three (3) month grace period required for an individual receiving an APTC has
8 been exhausted as described in 45 C.F.R. 156.270(a); or

9 2. A thirty (30) day grace period required by KRS 304.17-03 for an individual not
10 receiving an APTC has been exhausted.

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

13 (d) The enrollee is enrolled in a QHP that:

14 1. Has been decertified pursuant to 9 KAR 10:010; or

15 2. Has withdrawn from participation in the KHBE; or

16 (e) The enrollee changes from one (1) QHP to another during an open enrollment
17 period or special enrollment period in accordance with Section 6 or 7 of this

18 administration regulation.

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

20 (a) If terminated in accordance with subsection (4) (a) of this section, the last day of
21 the month following the month in which the notice described in subsection 7 of this

22 section is sent by KHBE, unless the enrollee requests an earlier termination date in

23 accordance with subsection (3) of this section;

1 (b) If terminated in accordance with subsection (4) (b) 1 of this section, the last day
2 of the first month of the three (3) month grace period; or

3 (c) If terminated in accordance with subsection (4) (b) 2 of this section, in
4 accordance with KRS 304.17A-245;

5 (6) For an enrollee who is terminated in accordance with subsection (4) (e) of this
6 section, the last day of coverage in an enrollee's prior QHP shall be the day before the
7 effective date of coverage in the enrollee's new QHP.

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

10 Section 13. Authorized Representative.

11 (1) An individual or employee may designate an individual or organization as an
12 authorized representative:

- 13 (a) 1. At the time of application; and
- 14 2. At another time chosen by the individual or employee; and
- 15 (b) Through a method described in 15 C.F.R. 155.405(c)(2);
- 16 (c) In writing with a signature or other legally binding format; and
- 17 (d) Through a method described in section 2 (5) of this administrative regulation.

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

- 19 (a) Conflict of interest; and
- 20 (b) Confidentiality of information.

21 (3) An applicant may authorize a representative to:

- 22 (a) Sign an application on behalf of the applicant;
- 23 (b) Submit an update or respond to a redetermination of eligibility for the applicant in

1 accordance with Section 8 or 9 of this administrative regulation;

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

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

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

5 (4) An authorized representative shall be valid until:

6 (a) An applicant or employee:

7 1. Changes the authorization; or

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

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

13 Section 14. Appeals.

14 (1) An applicant, a qualified individual, or an enrollee shall have the right to appeal:

15 (a) An initial eligibility determination or redetermination for a QHP, APTC, CSR, or
16 catastrophic plan;

17 (b) Eligibility for a QHP enrollment period;

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

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

20 (2) An applicant shall have the right to appeal an exemption of the shared
21 responsibility payment.

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

1 (4) An employer shall have the right to appeal a determination of an employee's
2 eligibility for APTC or CSR.

3 Section 15. Materials Incorporated by Reference.

4 (1) Kentucky QHP/APTC Eligibility Verification Plan, revised June 2013.

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

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