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REGULATIONS COMPILER

1 Cabinet for Health and Family Services

2 Office of the Kentucky Health Benefit Exchange

3 (New Administrative Regulation)

4 900 KAR 10:030. 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 in the individual market to be offered on the Kentucky Health

18 Benefit Exchange pursuant to, and in accordance with, 42 U.S.C. 18031 and 45 C.F.R.

19 Parts 155 and 156.

20 Section 1. Definitions.

21 (1) "Advance payments of the premium tax credit" or "APTC" means payment of the

1 tax credits authorized by 26 U.S.C. 36B and its implementing regulations, which are
2 provided on an advance basis to an eligible individual enrolled in a qualified health plan
3 through an exchange in accordance with section 1412 of the Affordable Care Act.
4 (2) "Affordable Care Act" or "ACA" means the Patient Protection and Affordable
5 Care Act, Public Law 111-148, enacted March 23, 2010, as amended by the Health
6 Care and Education Reconciliation Act, Public Law 111-152, enacted March 30, 2010.
7 (3) "Annual open enrollment period", except for the initial open enrollment period, is
8 defined by 45 C.F.R. 155.410(e).
9 (4) "Applicant" is defined by 45 C.F.R. 155.20.
10 (5) "Application filer" is defined by 45 C.F.R 155.20.
11 (6) "Benefit year" means a calendar year for which a health plan provides coverage
12 for health benefits.
13 (7) "Catastrophic plan" means a health plan that meets the conditions of 45 C.F.R
14 156.155.
15 (8) "COBRA" means continuation of coverage under the Consolidated Omnibus
16 Budget Reconciliation Act of 1986, as amended.
17 (9) "Cost sharing" is defined by 45 C.F.R. 155.20.
18 (10) "Cost sharing reduction" or "CSR" means a reduction in cost sharing for an
19 eligible individual enrolled in a silver level plan in the KHBE or for an individual who is
20 an Indian enrolled in a qualified health plan in the KHBE.
21 (11) "Date of the notice" means the date on the notice plus five (5) calendar days.
22 (12) "Department of Health and Human Services" or "HHS" means the U.S.
23 Department of Health and Human Services.

1 (13) "Dependent" is defined by 26 C.F.R. 54.9801-2.

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

3 (15) "Family size" means the number of individuals in a family for whom a taxpayer
4 properly claims a deduction for a personal exemption under 151 of the Internal Revenue
5 Code for the taxable year.

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

11 (17) "Health plan" is defined by 42 U.S.C. 18021(b)(1).

12 (18) "Household income" is defined by 26 C.F.R. 1.36B-1(e).

13 (19) "Indian" is defined by 25 U.S.C. 450b(d).

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

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

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

20 (b) A state children's health insurance program (CHIP) under title XXI of the Social
21 Security 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 "KHBE" 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 an:

14 (a) Individual exchange; and

15 (b) Small Business Health Options Program.

16 (26) "Lawfully present" is defined by 45 C.F.R. 155.2.

17 (27) "MAGI-based income" is defined by 42 C.F.R 435.603(e).

18 (28) "Medicaid" means the program established under title XIX of the Social

19 Security Act in accordance with implementing regulations at 42 C.F.R. parts 430

20 through 456.

21 (29) "Minimum essential coverage" is defined by 26 U.S.C. 5000A(f).

22 (30) "Non-citizen" is defined by 8 U.S.C. 1101(a)(3).

23 (31) "Personal exemption deduction" means an amount that can be deducted from

1 taxable income based on the exemption given to any tax filer who cannot be claimed as
2 a dependent by another tax filer.
3 (32) "Public insurance program" means an insurance program that is paid for by a
4 governmental entity and provided to consumers, including Medicare, Medicaid, or
5 Children's Health Insurance Program.
6 (33) "Qualified Health Plan" or "QHP" means a health plan that meets the standards
7 described in 45 C.F.R. 156 Subpart C and that has in effect a certification issued by the
8 OKHBE.
9 (34) "Qualified individual" means an individual who has been determined eligible to
10 enroll through the KHBE in a QHP in the individual market.
11 (35) "Qualifying coverage in an eligible employer-sponsored plan" means coverage
12 in an eligible employer-sponsored plan that meets the affordability and minimum value
13 standards specified in 26 U.S.C. 36B(c)(2)(C).
14 (36) "Shared responsibility payment" means a penalty imposed for failing to meet
15 the requirement to maintain minimum essential coverage in accordance with 26 U.S.C.
16 5000A.
17 (37) "Silver-level" is defined by 42 USC 18022(d)(1)(B).
18 (38) "Special enrollment period" as described in 45 C.F.R. 155.420 means a period
19 during which a qualified individual or enrollee who experiences certain qualifying events
20 may enroll in, or change enrollment in, a QHP through the KHBE outside the initial and
21 annual open enrollment periods.
22 (39) "Tax filer" is defined by 45 C.F.R. 155.300.
23 Section 2. Eligibility Standards to Enroll in a Qualified Health Plan.

1 (1) An applicant shall be eligible to enroll in a QHP through the KHBE if the
2 applicant:
3 (a) 1. Is a citizen or national of the United States;
4 2. Is a non-citizen who is lawfully present in the United States and is reasonably
5 expected to become a citizen or national; or
6 3. Is a non-citizen who is lawfully present for the entire period for which enrollment
7 is sought; and
8 (b) Except for an incarceration pending a disposition of a charge, is not
9 incarcerated; and
10 (c) Meets a residency requirement in 45 CFR 155.305(a)(3).
11 (2) An applicant may submit an application as described in 45 CFR 155.405 with
12 sufficient information for a determination of eligibility at any time during a year; however,
13 the applicant shall only enroll during open enrollment or special enrollment periods.
14 (3) An applicant determined eligible for enrollment in a QHP as set forth in
15 subsection (1) of this section shall be eligible to enroll in a QHP during:
16 (a) An initial open enrollment period as set forth in Section 6(2) of this administrative
17 regulation;
18 (b) An annual open enrollment period as set forth Section 6(3) of this administrative
19 regulation; or
20 (c) A special enrollment period as set forth Section 6(4) and Section 7 of this
21 administrative regulation.
22 (4) An applicant determined eligible to enroll in a QHP who does not select a QHP
23 within the applicable enrollment period as set forth in Section 6 and 7 or is not eligible

1 for an enrollment period, who seeks a new enrollment period prior to the date on which
2 the applicant's eligibility is redetermined as set forth Section 9, shall attest to whether or
3 not 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), an individual who is not seeking
16 coverage for himself or herself on any application or any supplemental form shall not be
17 required to provide information regarding:
18 (a) Citizenship;
19 (b) Status as a national; or
20 (c) Immigration status of an individual who is not seeking coverage for himself or
21 herself on an application or supplemental form.
22 (8) (a) Except as specified in Section 11(2) of this administrative regulation, an
23 applicant who requests an eligibility determination for an insurance affordability program

1 shall have an eligibility determination for all insurance affordability programs; and

2 (b) An applicant who requests an eligibility determination for a QHP only shall not

3 have an eligibility determination for an insurance affordability program.

4 (9) An applicant shall not provide information beyond the minimum amount

5 necessary to determine eligibility and enrollment through the KHBE.

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

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

8 (a) The tax filer is expected to have a household income greater than or equal to

9 one hundred (100) percent of the FPL but not more than four hundred (400) percent of

10 the FPL for the benefit year for which coverage is requested; and

11 (b) One (1) or more applicants for whom the tax filer expects to claim a personal

12 exemption deduction on the tax filer's tax return for the benefit year:

13 1. Meets the requirements for eligibility for enrollment in a QHP through the KHBE

14 as specified in Section 2 of this administrative regulation; and

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

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

17 (2) A tax filer who is a non-citizen and lawfully present and ineligible for Medicaid for

18 reason of immigration status shall be eligible for APTC if:

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

20 (b) The tax filer is expected to have a household income of less than one hundred

21 (100) percent of the FPL for the benefit year for which coverage is requested; and

22 (c) One (1) or more applicants for whom the tax filer expects to claim a personal

23 exemption deduction on the tax filer's tax return for the benefit year, is:

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

2 2. Not eligible for Medicaid for reason of immigration status.

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 APTCs

7 were made on behalf of the tax filer or tax filer's spouse for a year in accordance with 45

8 C.F.R. 45 C.F.R. 155.305(f)(4).

9 (5) An APTC amount shall be:

10 (a) Calculated in accordance with 26 C.F.R. 1.36B-3; and

11 (b) Allocated between QHPs and stand-alone dental policies in accordance with 45

12 C.F.R 155.340(e).

13 (6) An applicant for APTC may accept less than the full amount of APTC for which

14 the applicant is determined eligible.

15 (7) An APTC shall be authorized by the KHBE on behalf of a tax filer only if the

16 KHBE obtains necessary attestations from the tax filer that:

17 (a) The tax filer shall file an income tax return for the benefit year in accordance with

18 26 U.S.C. 6011 and 6012;

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

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

21 benefit year; and

22 (d) The tax filer shall claim a personal exemption deduction on the tax filer's return

23 for the applicants identified as members of the tax filer's family, including the tax filer

1 and the spouse of the tax filer, in accordance with 45 C.F.R. 155.305(f)(4).

2 (8) An application filer who is not an applicant shall provide the Social Security

3 number of a tax filer only if the applicant attests that the tax filer:

4 (a) Has a Social Security number; and

5 (b) Filed a tax return for the year for which tax data would be utilized for verification

6 of household income and family size.

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

8 (a) For an initial eligibility determination, in accordance with the dates specified in

9 Section 6 (1), (2), (3) and (4) of this administrative regulation, as applicable; and

10 (b) For a redetermination, in accordance with the dates specified in 45 C.F.R.

11 155.330(f) and 155.335(i), as applicable.

12 (10) An employer shall be notified of an employee's eligibility for APTC in

13 accordance with 45 C.F.R 155.310 (h).

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

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

16 (a) Meets the eligibility requirements for enrollment in a QHP as set forth in Section

17 2 of this administrative regulation;

18 (b) Meets the requirements for APTC as set forth in Section 3 of this administrative

19 regulation;

20 (c) Is expected to have a household income that does not exceed 250 percent of

21 the FPL for the benefit year for which coverage is requested; and

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

23 KHBE.

1 (2) An eligibility determination for cost-sharing reductions shall be based on the
2 following categories:
3 (a) 1. An individual who is expected to have a household income greater than or
4 equal to 100 percent of the FPL and less than or equal to 150 percent of the FPL for the
5 benefit year for which coverage is requested; or
6 2. An individual who is eligible for APTC as set forth in Section 3(2) of this
7 administrative regulation, a household income less than 100 percent of the FPL;
8 (b) An individual who is expected to have a household income greater than 150
9 percent of the FPL and less than or equal to 200 percent of the FPL for the benefit year
10 for which coverage is requested; and
11 (c) An individual who is expected to have a household income greater than 200
12 percent of the FPL and less than or equal to 250 percent of the FPL for the benefit year
13 for which coverage is requested.
14 (3) (a) If two or more individuals enrolled in the individual market under a single
15 policy would be eligible for different cost sharing amounts if enrolled in separate
16 policies, the individuals under the single policy shall be deemed by the KHBE to be
17 collectively eligible only for the last category listed in paragraph (b) of this subsection for
18 which all the individuals covered by the policy would be eligible; and
19 (b) The categories of eligibility shall be an individual:
20 1. Not eligible for changes to cost sharing;
21 2. Described in 45 C.F.R. 155.350(b);
22 3. Described in paragraph (2)(c) of this section;
23 4. Described in paragraph (2)(b) of this section;

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

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

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

4 (a) For an initial eligibility determination, in accordance with the dates specified in

5 Section 6(1), (2), (3), and (4) of this administrative regulation, as applicable; and

6 (b) For a redetermination, in accordance with the dates specified in 45 C.F.R.

7 155.330(f) and 45 C.F.R. 155.335(i), as applicable.

8 (5) An employer shall be notified of an employee's eligibility for cost-sharing

9 reductions in accordance with 45 C.F.R 155.310(h).

10 Section 5. Verification processes.

11 (1) Verification of eligibility for an applicant seeking enrollment in a QHP shall be

12 performed in accordance with:

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

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

15 this administrative regulation.

16 (2) Verification of eligibility for an applicant or tax filer who requests an eligibility

17 determination for an insurance affordability program shall be in accordance with:

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

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

20 this administrative regulation.

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

22 (1) A qualified individual shall enroll in a QHP or an enrollee shall change from one

23 (1) QHP to another QHP during the initial open enrollment period.

1 (2) A qualified individual or enrollee who selects a QHP during the initial open
2 enrollment period shall have an effective date of coverage of:
3 (a) January 1, 2014, if the QHP selection is received on or before December 15,
4 2013;
5 (b) The first day of the following month, if the QHP selection is received between the
6 first and fifteenth day of the month for any month between January, 2014, and March
7 31, 2014; or
8 (c) The first day of the second following month, if the QHP selection is received
9 between the sixteenth and last day of the month for any month between December,
10 2013, and March 31, 2014.
11 (3) (a) For a benefit year beginning on or after January 1, 2015, a qualified
12 individual shall be able to enroll in a QHP or an enrollee shall be able to change from
13 one (1) QHP to another QHP during an annual open enrollment period that:
14 1. Begins October 15 of the preceding calendar year; and
15 2. Extends through December 7 of the preceding calendar year; and
16 (b) A qualified individual or enrollee who selects a QHP during an annual open
17 enrollment period shall have an effective date of coverage of January 1 of the following
18 benefit year.
19 (4) (a) A qualified individual shall enroll in a QHP or an enrollee shall change from
20 one (1) QHP to another QHP during a special enrollment period as specified in Section
21 7 of this administrative regulation; and
22 (b) A qualified individual or an enrollee who selects a QHP during a special
23 enrollment period shall have an effective date of coverage as set forth in Section 7 of

1 this administrative regulation.

2 (5) (a) An initial enrollment in a QHP shall not be effective until the first month's

3 premium is received by the QHP issuer; and

4 (b) The first month's premium shall be received by a QHP issuer no later than seven

5 (7) days after an effective date of coverage as set forth in subsection (1)(b) of this

6 section.

7 Section 7. Special Enrollment Periods.

8 (1) Except as specified in subsection (3) of this section, a qualified individual or

9 enrollee shall have sixty (60) days from the date of a qualifying event as set forth in

10 subsection (2) of this section to select a QHP.

11 (2) A qualified individual may enroll in a QHP or an enrollee or a dependent of an

12 enrollee may change QHPs during a special enrollment period if:

13 (a) The qualified individual or a dependent of the qualified individual loses minimum

14 essential coverage;

15 (b) The qualified individual gains a dependent or becomes a dependent through

16 marriage, birth, adoption, or placement for adoption;

17 (c) The qualified individual who was not previously a citizen, national, or lawfully

18 present gains status as a citizen, national, or lawfully present;

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

20 enroll in a QHP due to an error, misrepresentation, or inaction of an officer, employee,

21 or agent of the OKHBE or HHS;

22 (e) The enrollee or dependent of the enrollee demonstrates to the KHBE that the

23 QHP in which the enrollee or the dependent of the enrollee is enrolled substantially

1 violated a provision of its contract in relation to the enrollee;

2 (f) The enrollee is determined newly eligible or newly ineligible for APTC or has a

3 change in eligibility for CSR;

4 (g) The qualified individual or a dependent of the qualified individual who is enrolled

5 in qualifying coverage in an employer-sponsored plan is determined newly eligible for

6 APTC in part on a finding that the individual will no longer be eligible for qualifying

7 coverage in the employer-sponsored plan in the next sixty (60) days and is allowed to

8 terminate existing coverage;

9 (h) The qualified individual or enrollee or a dependent of the qualified individual or

10 the enrollee gains access to new QHPs as a result of a change in residence;

11 (i) The qualified individual is an Indian who may enroll in a QHP or change from one

12 (1) QHP to another QHP one (1) time per month; or

13 (j) The qualified individual or a dependent of the qualified individual, demonstrates

14 to the OKHBE, that the individual meets other exceptional circumstances.

15 (3) The qualified individual or dependent of the qualified individual described in

16 subsection (2)(g) of this section may access this special enrollment period sixty (60)

17 days prior to the end of the individual's qualifying coverage in an eligible employer-

18 sponsored plan.

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

20 be:

21 (a) In the case of a decertification of a QHP as set forth 900 KAR 10:010, the date

22 of the notice of decertification; or

23 (b) For all other cases, the date the qualified individual or dependent of the qualified

1 individual loses eligibility for minimum essential coverage.

2 (5) Loss of minimum essential coverage includes those circumstances described in

3 26 CFR 54.9801–6(a)(3)(i) through (iii).

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

5 (a) Failure to pay premiums on a timely basis, including COBRA premiums prior to

6 expiration of COBRA coverage, or

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

8 (7) Except as specified in subsection (8) of this section, a qualified individual or

9 enrollee who selects a QHP during a special enrollment period shall have an effective

10 date of coverage of:

11 (a) The first day of the following month for a selection made between the first and

12 the fifteenth day of any month; or

13 (b) The first day of the second following month for a selection made between the

14 sixteenth and last day of any month.

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

16 (a) For a birth, adoption, or placement for an adoption, shall have an effective date

17 of coverage of the date of the birth, adoption, or placement for adoption; or

18 (b) For a marriage or loss of minimum essential coverage, shall have an effective

19 date of coverage of the first day of the month following the marriage or loss of minimum

20 essential coverage.

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

22 (a) May access a special enrollment period sixty (60) days prior to the end of the

23 individual's qualifying coverage in the employer-sponsored plan; and

1 (b) Who accesses a special enrollment as set forth in paragraph (a) of this
2 subsection, shall not be eligible for APTCs until the end of the individual's qualifying
3 coverage through the eligible employer-sponsored plan.
4 Section 8. Eligibility Redetermination During a Benefit Year.
5 (1) Eligibility shall be redetermined for an enrollee during a benefit year if the KHBE
6 receives and verifies:
7 (a) New information reported by an enrollee; or
8 (b) Updated information obtained in accordance with 45 C.F.R. 155.315(b)(1) and
9 45 C.F.R. 155.320(b) that identifies a:
10 1. Death; or
11 2. For an enrollee who is receiving APTCs or CSRs, a change in eligibility for a
12 public insurance program.
13 (2) Except as specified in subsection (3) of this section, an enrollee or an
14 application filer, on behalf of an enrollee, shall report within thirty (30) days:
15 (a) A change related to an eligibility standard in Section 2, 3, 4, 10, or 11 of this
16 administrative regulation; and
17 (b) Via a method described in Section 2(5) of this administrative regulation.
18 (3) An enrollee who did not request an eligibility determination for an insurance
19 affordability program shall not report a change related to income.
20 (4) If new information provided by an enrollee in accordance with section (1)(a) of
21 this section is verified:
22 (a) Eligibility shall be redetermined in accordance with the standards in Section 2, 3,
23 4, 10, or 11 of this administrative regulation;

1 (b) The enrollee shall be notified of the redetermination in accordance with the
2 requirements in 45 C.F.R. 155.310(g); and
3 (c) If applicable, the enrollee's employer shall be notified in accordance with the
4 requirement specified in 45 C.F.R. 155.310(h).
5 (5) If updated information obtained in accordance with subsection (1)(b) of this
6 section regarding death or related to eligibility not regarding income, family size, or
7 family composition is identified, an enrollee shall:
8 (a) Be notified by the KHBE of:
9 1. The updated information;
10 2. The projected enrollees' eligibility determination after consideration of the
11 information; and
12 (b) Have thirty (30) days from the date of the notice in paragraph (a) of this
13 subsection to notify the KHBE if the information is inaccurate.
14 (6) If an enrollee responds to the notice in subsection (4)(a) of this section,
15 contesting the updated information in the notice, the KHBE shall proceed in accordance
16 with 45 C.F.R. 155.315(f).
17 (7) If an enrollee does not respond to the notice in subsection (4)(a) of this section
18 within the thirty (30) day timeframe specified in subsection (4)(b) of this section, the
19 KHBE shall:
20 (a) Redetermine eligibility in accordance with the standard in Section 2, 3, 4, 10, or
21 11 of this administrative regulation; and
22 (b) Notify the enrollee regarding the determination in accordance with the
23 requirements specified in 45 C.F.R. 155.310(g).

1 (8) With the exception of information regarding death, if updated information
2 regarding income, family size, or family composition is identified, an enrollee shall:
3 (a) Be notified by the KHBE of:
4 1. The updated information regarding income, family size, and family composition
5 obtained in accordance with subsection (1)(b) of this section; and
6 2. The projected eligibility determination after consideration of the information; and
7 (b) Have thirty (30) days from the date of the notice to:
8 1. Confirm the updated information; or
9 2. Provide additional information.
10 (9) If the enrollee responds to the notice in subsection (8)(a) of this section by
11 confirming the updated information, the KHBE shall:
12 (a) Redetermine the enrollee's eligibility in accordance with Section 2, 3, 4, 9, or 10
13 of this administrative regulation; and
14 (b) Notify the enrollee regarding the determination in accordance with the
15 requirements specified in 45 C.F.R. 155.310(g).
16 (10) If the enrollee does not respond to the notice in subsection (8)(a) of this
17 section within the thirty (30) day timeframe specified in subsection (8)(b) of the section,
18 the KHBE shall maintain the enrollee's existing eligibility determination without
19 considering the updated information in subsection (8)(a) of this section.
20 (11) If the enrollee responds with more updated information, the KHBE shall verify
21 the updated information in accordance with 45 C.F.R. 155.315 and 155.320.
22 (12) The effective date of a change resulting from a redetermination pursuant to this
23 section shall be in accordance with 45 C.F.R. 155.330(f).

1 (13) The amount of an APTC or eligibility for a cost-sharing reduction as a result of
2 an eligibility redetermination in accordance with this section shall be recalculated in
3 accordance with 45 C.F.R. 155.330(g).
4 Section 9. Annual Eligibility Redetermination.
5 (1) A qualified individual shall:
6 (a) Have an annual redetermination of eligibility; and
7 (b) Be sent a notice of the annual redetermination that includes:
8 1. The data obtained under subsection (2) of this section;
9 2. The data used in the qualified individual's most recent eligibility determination;
10 and
11 3. The projected eligibility determination for the following year, after considering the
12 information in subparagraph 1. of this paragraph.
13 (2) (a) A qualified individual requesting an eligibility determination for an insurance
14 affordability program shall authorize the release of updated tax return information, data
15 regarding Social Security benefits, and data regarding MAGI-based incomes as
16 described in 45 C.F.R. 155.320(c)(1) for use in the qualified individual's eligibility
17 redetermination; and
18 (b) Eligibility shall not be redetermined for a qualified individual requesting an
19 eligibility determination for an insurance affordability program who does not authorize
20 the release of updated tax return information.
21 (3) A qualified individual may authorize the release of tax return information for a
22 period of no more than five (5) years based on a single authorization, provided the
23 authorization permits the qualified individual to:

1 (a) 1. Decline to authorize the release of updated tax return information; or

2 2. Authorize the release of updated tax return information for fewer than five (5)

3 years; and

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

5 (4) A qualified individual, an application filer, or an authorized representative, on

6 behalf of the enrollee, shall:

7 (a) Report any changes with respect to the information listed in the notice described

8 in subsection (1)(b) of this section:

9 1. Within thirty (30) days from the date of the notice; and

10 2. Via a method listed in Section 2(5) of this administrative regulation; and

11 (b) Sign and return the notice described in subsection (1)(b) of this section within

12 thirty (30) days of the date of the notice.

13 (5) Any information reported by a qualified individual under subsection (4) of this

14 section shall be verified as set forth in Section 5 of this administrative regulation.

15 (6) For a qualified individual who fails to sign and return the notice described in

16 subsection (1)(b) of this section within the thirty (30) day period specified in subsection

17 (4) of this section, eligibility shall be redetermined as set forth in subsection (7)(a) of this

18 section.

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

20 1. Eligibility of a qualified individual shall be redetermined in accordance with the

21 standards in Section 2, 3, 4, 10, or 11 of this administrative regulation using the

22 information provided in the notice, as supplemented with any information reported by

23 the qualified individual verified in accordance with Section 5 of this administrative

1 regulation;

2 2. The qualified individual shall be notified in accordance with the requirements in

3 45 C.F.R. 155.310(g); and

4 3. If applicable, the qualified individual's employer shall be notified in accordance

5 with 45 C.F.R. 155.310(h); and

6 (b) If a qualified individual reports a change with respect to the information provided

7 in the notice specified in subsection (1)(b) of this section that has not been verified by

8 the KHBE as of the end of the thirty (30) day period specified in subsection (4) of this

9 section, eligibility shall be redetermined after verification in accordance with Section 5 of

10 this administrative regulation.

11 (8) The effective date of a redetermination in accordance with this section shall be

12 the later of:

13 (a) The first day of the coverage year following the year in which the notice in

14 subsection (1)(b) of this section is issued to the qualified individual; or

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

16 (9) If an enrollee remains eligible for coverage in a QHP upon annual

17 redetermination, the enrollee shall remain in the QHP selected the previous year unless

18 the enrollee terminates coverage from the QHP in accordance with Section 11 of this

19 administrative regulation.

20 (10) Eligibility shall not be redetermined if a qualified individual was redetermined

21 eligible in accordance with this section during the prior year, and the qualified individual

22 was not enrolled in a QHP at the time of the redetermination and has not enrolled in a

23 QHP since the redetermination

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

2 (1) In addition to the requirements in Section 2 of this administrative regulation, to

3 enroll in a QHP that is a catastrophic plan an applicant shall:

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

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

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

7 1. 26 U.S.C. 5000A (e)(1); or

8 2. 26 U.S.C. 5000A (e)(5).

9 (2) Verification related to eligibility for enrollment in a QHP that is a catastrophic

10 plan shall be in accordance with 45 C.F.R. 155.315(j).

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

12 (1) An applicant who is an Indian shall be eligible for the special cost-sharing

13 described in section 1402(d)(2) of the ACA if the applicant:

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

15 (b) Is expected to have a household income that does not exceed 300 percent of

16 the FPL for the benefit year for which coverage is requested; and

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

18 (2) An applicant who is an Indian shall have an eligibility determination for the

19 special cost-sharing described in section 1402(d)(2) of the ACA without requesting an

20 eligibility determination for an insurance affordability program.

21 Section 12. Eligibility Determination and Notification Standards.

22 (1) Eligibility shall be determined in accordance with 45 C.F.R 155.310(e).

23 (2) Notifications regarding eligibility determinations shall be made in accordance

1 with 45 CFR 155.310(g).

2 Section 13. 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(d); and

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 shall 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(g); or

9 2. A thirty (30) day grace period required by KRS 304.17A-243 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 900 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 administrative 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 accordance
4 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) calendar days from the requested date
9 of termination of coverage.
10 Section 14. 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; or
14 2. At another time chosen by the individual or employee;
15 (b) Through a method described in 45 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 15. Appeals.

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

15 an adverse determination.

16 (2) An applicant shall have the right to appeal an exemption of the shared

17 responsibility payment.

18 (3) An applicant, qualified individual, or enrollee shall have the right to appeal an

19 eligibility determination for Medicaid or KCHIP in accordance with 907 KAR 1:560;

20 (4) An employer shall have the right to appeal a determination of an employee's

21 eligibility for APTC or CSR.

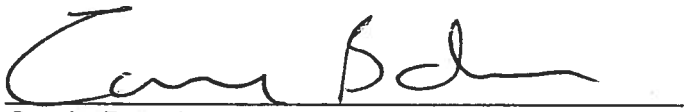
22 Section 16. Materials Incorporated by Reference.

23 (1) "Kentucky QHP/APTC Eligibility Verification Plan", June 2013.

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

900 KAR 10:030

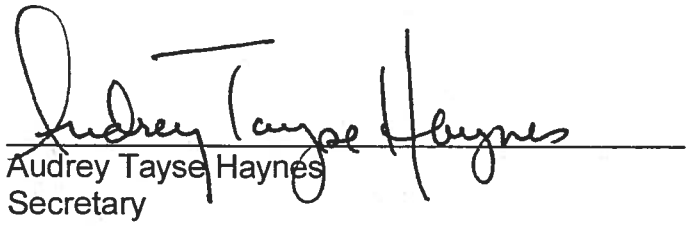
APPROVED:



Carrie Banahan
Executive Director
Office of the Kentucky Health Benefit Exchange

8/7/13
Date

APPROVED:



Audrey Tayse Haynes
Secretary
Cabinet for Health and Family Services

8/12/13
Date

900 KAR 10:030

PUBLIC HEARING AND PUBLIC COMMENTS:

A public hearing on this administrative regulation shall, if requested, be held on October 21, 2013, at 9:00 a.m. in the Public Health Auditorium located on the First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by October 14, 2013, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until October 31, 2013. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40621, (502) 564-7905, Fax: (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TEIRING STATEMENT

Administrative Regulation Number: 900 KAR 10:030
Contact Person: Carrie Banahan (502) 564-7940

1. Provide a brief summary of:

   (a) What this administrative regulation does: This administrative regulation establishes the policies and procedures relating to eligibility and enrollment in a qualified health plan in the individual market to be offered on the Kentucky Health Benefit Exchange, pursuant to, and in accordance with 42 U.S.C. 18031 and 45 C.F.R. Parts 155 and 156.

   (b) The necessity of this administrative regulation: This administrative regulation is necessary so the Kentucky Health Benefit may timely determine eligibility and facilitate enrollment in qualified health plans. Eligibility determination and enrollment in qualified health plans is necessary for the provision of health care services provided in the Commonwealth through the Exchange. Additionally, individuals must enroll through the Exchange for the purchase of health insurance to receive advanced payments of the premium tax credit and cost sharing deductions.

   (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation is necessary so that individuals are aware of the eligibility and enrollment requirements to participate in the Kentucky Health Benefit Exchange.

   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides detailed requirements for enrollment and eligibility on the Kentucky Health Benefit Exchange.

2. If this is an amendment to an existing administrative regulation, provide a brief summary of:

   (a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

   (b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

   (c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

   (d) How the amendment will assist in the effective administration of the

statutes: This is a new administrative regulation.

3. List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect approximately 300,000 individuals that may apply for health insurance in a qualified health plan to be offered on the Kentucky Health Benefit Exchange.

4. Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

   (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each entity will make an application for a qualified health plan in the individual market offered on the Exchange. An application may be submitted via the KHBE website, by telephone, by mail, or in person.

   (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to an individual or small employer that wishes to make an application.

   (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will benefit each individual as individuals that enroll in a qualified health plan through the Exchange may be able to receive advanced payments of the premium tax credit and cost sharing deductions for the purchase of health insurance.

5. Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

   (a) Initially: No additional costs will be incurred to implement this administrative regulation.

   (b) On a continuing basis: No additional costs will be incurred.

6. What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding to be used for the implementation and enforcement of this administrative regulation will be from Kentucky Office of Health Benefit Exchange existing budget. No new funding will be needed to implement the provisions of this regulation.

7. Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary.

8. State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees and does not increase any fees either directly or indirectly.

9. TIERING: Is tiering applied? (Explain why or why not)
Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 900 KAR 10:030
Contact Person: Carrie Banahan
Phone number: 502-564-7940

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects the Office of the Kentucky Health Benefit Exchange within the Cabinet for Health and Family Services.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 42 U.S.C. 18031, and 45 C.F.R. Parts 155 and 156.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred to implement this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this administrative regulation on a continuing basis.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation #: 900 KAR 10:030
Contact Person: Carrie Banahan, 564-7940

1. Federal statute or regulation constituting the federal mandate. 42 U.S.C. Section 18031 and 45 C.F.R. Parts 155 and 156.

2. State compliance standards. KRS 194A.050(1) requires the secretary of the cabinet to promulgate administrative regulations necessary to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth; to operate the programs and fulfill the responsibilities vested in the cabinet, and to implement programs mandated by federal law or to qualify for the receipt of federal funds. This administrative regulation establishes the policies and procedures relating to eligibility and enrollment in a qualified health plan in the individual market to be offered on the Kentucky Health Benefit Exchange, pursuant to, and in accordance with 42 U.S.C. 18031 and 45 C.F.R. Parts 155 and 156.

3. Minimum or uniform standards contained in the federal mandate. The Affordable Care Act establishes the creation of the American Health Benefit Exchange as identified in Section 1311(a) of the Affordable Care Act. The "Kentucky Health Benefit Exchange" (KHBE) is the Kentucky state-based exchange conditionally approved by HHS established by 45 C.F.R. 155.105 to offer a QHP in Kentucky beginning January 1, 2014. An Exchange must establish eligibility and enrollment criteria for individuals wishing to enroll in qualified health plans offered on the Exchange.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter requirements than those required by the federal mandate.

COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Kentucky Health Benefit Exchange

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

Summary of Material Incorporated by Reference

1. "Kentucky QHP/APTC eligibility Verification Plan" is used by the Office of the Kentucky Health Benefit Exchange in the verification of eligibility for an applicant seeking enrollment in a QHP or for an applicant or tax filer who requests an eligibility determination for an insurance affordability program. The form contains 3 pages.

The total number of pages incorporated by reference is 3 pages.