

1 Cabinet for Health and Family Services

2 Office of the Kentucky Health Benefit Exchange

3 (New Emergency Administrative Regulation)

4 900 KAR 10:050E. Agent participation with the Kentucky Health Benefit Exchange

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

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

7 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family

8 Services, Office of the Kentucky Health Benefit Exchange, has responsibility to

9 administer the state-based American Health Benefit Exchange. KRS 194A.050(1)

10 requires the secretary of the cabinet to promulgate administrative regulations necessary

11 to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency

12 of the individual citizens of the Commonwealth to operate the programs and fulfill the

13 responsibilities vested in the cabinet, and to implement programs mandated by federal

14 law or to qualify for the receipt of federal funds. This administrative regulation

15 establishes the policies and procedures of the Office of the Kentucky Health Benefit

16 Exchange relating to the registration of a business entity or agent in accordance with 42

17 U.S.C. 18031 and 45 C.F.R. Part 155.

18 Section 1. Definitions.

19 (1) "Agent" is defined by KRS 304.9-020.

20 (2) "Business entity" is defined by KRS 304.9-020(5).

21 (3) "Certified application counselor" or "CAC" means an individual employed or

1 volunteer of an entity designed by the Office, Department for Medicaid Services, or
2 KCHIP agencies who meets the requirements of 900 KAR 10:040.

3 (3) "Department" or "DOI" is defined by KRS 304.1-050(2).

4 (4) In-Person Assister entity means an entity described in 45 CFR 155.205 selected
5 by the Office of KHBE that meets the requirements of 900 KAR 10:040.

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

7 (6) "Insurance Affordability Program" means one of the following:

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

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

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

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

16 (7) "Kentucky Health Benefit Exchange" or "KHBE" means the Kentucky state-
17 based exchange conditionally approved by HHS under standards set forth in 45 C.F.R.
18 155.105 to offer QHP's on January 1, 2014.

19 (8) "Kentucky Insurance Code" means KRS Chapter 304 and associated
20 administrative regulations.

21 (9) "Kentucky Online Gateway" means the system for authentication services for
22 users requesting access to the KHBE portal.

23 (10) "KHBE training" means the training established by the Office for agents and

1 kynectors.

2 (11) “Kynectors” means CACs, In-person assisters or Navigators.

3 (12) “Navigator entity” means an entity as described in 45 C.F.R. 155.210 selected
4 by the Office of KHBE who meets the requirements of section 900 KAR 10:040.

5 (13) “Office of the Kentucky Health Benefit Exchange” or “Office” means the office
6 created under Executive Order 2012-587.

7 (14) “Participating Agent” means an agent described in 45 C.F.R. 155.220 that is
8 licensed by the DOI with a health line of authority who is registered with the exchange
9 in accordance with section 2 of the administrative regulation and has been approved by
10 KHBE to participate as an agent on the KHBE.

11 (15) “Qualified Health Plan” and “QHP” means a health plan that has in effect a
12 certification issued by the KHBE that it meets the standards described in 45 C.F.R. 156
13 Subpart C.

14 Section 2. Participating Agent

15 (1) An agent wishing to be a participating agent shall:

16 (a) Be licensed by DOI with a health line of authority;

17 (b) Complete the KHBE approved agent training in accordance with 45 C.F.R.

18 155.220(d)(2);

19 (c) Sign an agent participation agreement;

20 (d) Comply with the privacy and security standards of 45 C.F.R. 155.260;

21 (e) 1. Maintain an appointment with each issuer participating on the KHBE; or

22 2. Maintain an appointment with at least two (2) medical QHP issuers and two (2)

23 dental QHP issuers participating on the KHBE and obtain proof of good standing with

1 any remaining issuers participating on the KHBE; and

2 (f) Register with the KHBE through the Kentucky Online Gateway.

3 (2) A business entity wishing to participate with the KHBE shall:

4 (a) Be a business entity licensed with the DOI;

5 (b) Designate an individual agent to service as the participating business entity
6 administrator who shall:

7 1. Register with KHBE through the Kentucky Online Gateway as an administrator
8 for the business entity;

9 2. Serve as a primary contact for the Office;

10 3. Sign a business entity participation agreement with the Office;

11 4. Be responsible for ensuring that only active Kentucky licensed agents designated
12 with the business entity are provided access to the KHBE through the Kentucky Online
13 gateway; and

14 5. As an individual agent comply with section 2(1).

15 (c) Designate the individual agent who will participate on the KHBE through the
16 participating business entity and who shall:

17 1. Complete the KHBE agent training provided by the Office or an approved party.

18 2. Sign an agent participation agreement;

19 3. Comply with the privacy and security standards of 45 C.F.R. 155.260; and

20 4. Register with the KHBE through the Kentucky Online Gateway; and

21 (d) 1. Maintain an appointment with each issuer participating on the KHBE; or

22 2. Maintain an appointment with at least two (2) medical QHP issuers and two (2)
23 dental QHP issuers participating on the KHBE and obtain proof of good standing with

1 any remaining issuers participating on the KHBE.

2 (3) After compliance with subsection (1) or (2) of this section, a participating agent
3 may:

4 (a) In accordance with the Kentucky insurance code, enroll individuals, employers
5 or employees in any QHP in the individual or small group market as soon as the QHP is
6 offered through the KHBE;

7 (b) Subject to subsections (4), and (5) of this section, enroll qualified individuals in a
8 QHP in a manner that constitutes enrollment through the Exchange; and

9 (c) Subject to Subsection (5) of this section, assist individuals in applying for
10 advance payments of the premium tax credit and cost-sharing reductions for QHPs.

11 (4) A qualified individual may be enrolled in a QHP through the KHBE with the
12 assistance of an agent if the participating agent ensures the applicant's completion of
13 an eligibility verification and enrollment application through the KHBE Web site as
14 described in 42 C.F.R. 155.400.

15 (5) A participating agent that enrolls qualified individuals in a QHP in a manner that
16 constitutes enrollment through the Exchange or assists individuals in applying for
17 advance payments of the premium tax credit and cost-sharing reductions for QHPs
18 must comply with the Kentucky insurance code related to agents, including applicable
19 State law related to confidentiality and conflicts of interest.

20 (6) A participating agent shall:

21 (a) 1. Disclose to potential applicants any relationships the agent and business
22 entity has with QHPs, issuers, or insurance affordability programs, or other potential
23 conflicts of interest identified by the KHBE;

1 (b) Not:

- 2 1. Impose any charge or fee on applicants for application assistance;
- 3 2. Provide compensation or a referral fee to a kynector; or
- 4 3. Enter into exclusive referral agreements with a kynector.

5 (7) After notice and an opportunity to respond in accordance with section four (4),
6 the Office shall withdraw an agent's registration and participation with the KHBE if it
7 finds noncompliance with the terms and conditions of the agent participation agreement,
8 KHBE policies and procedures, or an administrative regulation of the Office.

9 Section 3. Renewal of Participation and registration with the KHBE.

10 To maintain registration with the KHBE, a participating agent shall:

- 11 (1) Complete annual training program prescribed by the Office;
- 12 (2) Sign an agent participation agreement; and
- 13 (2) Maintain licensure, good standing and appointments as identified in Section 2 of
14 this Administrative regulation.

15 Section 4. Withdrawal, Registration, and Appeals.

16 (1) (a) Except as provided in Subsection (2), if the Office finds noncompliance with
17 the terms and conditions of a participating agreement, KHBE policies and procedures,
18 or an administrative regulation of the Office, the Office shall:

- 19 1. Provide the participating business entity or the participating agent with notice that
20 the applicable registration will be withdrawn as of the date on the notice;
- 21 2. Allow the participating business entity or participating agent an opportunity to
22 submit evidence of compliance or additional information;
- 23 3. Review any information submitted by the participating business entity or

1 participating agent; and

2 4. Based on the information provided, issue a decision to withdraw or reinstate the
3 applicable registration of a participating business entity or participating agent.

4 (b) A participating business entity or participating agent may appeal a decision to
5 withdraw registration in accordance with subparagraph (1) of this subsection through
6 the Office.

7 (2) (a) If the health line of authority or licensure of an agent or business entity is
8 suspended, revoked, or has expired, the registration of the agent or business entity
9 shall be withdrawn immediately in connection with DOI's administrative action; and

10 (b) Any appeal of an action pursuant to subparagraph (a), shall be made to DOI in
11 accordance with the Kentucky Insurance Code.

12 (3) After one (1) year of a decision to withdraw the registration of a participating
13 business entity or an agent, the individual or entity may reapply in accordance with
14 section two (2) of this administrative regulation.