

**State of California  
Office of Administrative Law**

**In re:**  
**California Health Benefit Exchange**

**Regulatory Action:**

**Title 10, California Code of Regulations**

**Adopt sections:**

**Amend sections: 6658, 6660, 6664**

**Repeal sections:**

**NOTICE OF APPROVAL OF EMERGENCY  
REGULATORY ACTION**

**Government Code Sections 11346.1 and  
11349.6**

**OAL Matter Number: 2016-1202-03**

**OAL Matter Type: Emergency (E)**

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This emergency rulemaking action by the California Health Benefit Exchange (Exchange) indefinitely extends the time period in which the Exchange will pay fingerprinting costs for certain individuals, and further defines the enrollment assistance responsibilities of Certified Enrollment Entities and Counselors.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 12/12/2016 and will expire on 12/13/2021, pursuant to section 100504 of the Government Code. The Certificate of Compliance for this action is due no later than 12/12/2021.

Date: December 12, 2016



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Eric Partington  
Senior Attorney

For: Debra M. Cornez  
Director

Original: Peter Lee  
Copy: Brian Kearns

# NOTICE PUBLICATION/REGULATIONS SUBMISSION

# EMERGENCY

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS <b>Z-</b>	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER <b>2016-1202-03E</b>
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**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

**DEC 12 2016**  
1:27 p.m.

For use by Office of Administrative Law (OAL) only

**2016 DEC -2 P 3:21**  
**OFFICE OF ADMINISTRATIVE LAW**

**NOTICE**

**REGULATIONS**

**AGENCY WITH RULEMAKING AUTHORITY**  
California Health Benefit Exchange

AGENCY FILE NUMBER (if any)

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Enrollment Assistance	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) per agency request
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
<b>SECTION(S) AFFECTED</b> (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND <b>6658, 6660, 6664</b>
TITLE(S) 10	REPEAL per agency request

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print per agency request	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code §11346.1(b)) per agency request		<input type="checkbox"/> Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY		
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON Brian Kearns	TELEPHONE NUMBER (916) 228-8843	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) brian.kearns@covered.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 11/17/2016
TYPED NAME AND TITLE OF SIGNATORY Peter V. Lee, Executive Director	

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

**DEC 12 2016**

Office of Administrative Law

California Code of Regulations

Title 10. Investment

Chapter 12. California Health Benefit Exchange (§ 6650 et seq.)

Article 8. Enrollment Assistance.

California Code of Regulations

**§ 6658. Certified Enrollment Counselor Fingerprinting and Criminal Record Checks.**

(d) Costs.

- (1) The Exchange shall pay the costs incurred by individuals whose duties require fingerprinting under subdivision (a) of this Section, ~~until December 31, 2015. After December 31, 2015, background check costs for individuals seeking certification under this Article shall be paid by the Certified Enrollment Entity.~~

Note: Authority cited: Sections 1043 and 100504, Government Code. Reference: Section 100502, Government Code; Section 11105, Penal Code; and 45 C.F.R. §§ 155.205, 155.210, 155.215 and 155.260.

**§ 6660. Training Standards.**

(b) ...

- (3) The tax implications of enrollment decisions and the available resources for consumers who require tax advice and assistance with tax preparation;

Note: Authority cited: Section 100504, Government Code. Reference: Sections 100502 and 100503, Government Code; and 45 C.F.R. §§ 155.205, 155.210 and 155.260.

**§ 6664. Roles & Responsibilities.**

- (a) Certified Enrollment Entities and Certified Enrollment Counselors shall perform the following functions:

[(a)(1)-(a)(6)(J): No change]

(K) Maintain a record of such authorization for a minimum of six (6) years.

(4) [(a)](7) Ensure that voter registration assistance is available in compliance with Section 6462 of Article 4;

(2) [(a)](8) For Certified Enrollment Entities only, maintain a physical presence in the state of California so that face-to-face assistance can be provided to applicants and enrollees; and

(9) Provide information regarding the process of filing Exchange eligibility appeals;

(10) Provide referrals to licensed tax advisers, tax preparers, or other resources for assistance with tax preparation and tax advice related to consumer questions about the Exchange application and enrollment process, exemptions from the requirement to maintain minimum essential coverage and from the individual shared responsibility payment, and premium tax credit reconciliations;

(11) Inform each consumer that Certified Enrollment Entities and Certified Enrollment Counselors are not acting as tax advisors or attorneys when providing enrollment assistance and cannot provide tax or legal advice within their capacity as a Certified Enrollment Entity or Certified Enrollment Counselor;

(12) Provide targeted assistance to serve underserved or vulnerable populations, as identified by the Exchange, within the Exchange service area; and

~~(9)~~(13) Comply with any applicable federal or state laws and regulations.

...

(h) The Certified Enrollment Entity and Certified Enrollment Counselor shall never:

(11) Provide gifts, including gift cards or cash or provide promotional items that market or promote the products or services of a third party, to any applicant or potential enrollee as an inducement for enrollment. The value of gifts provided to applicants and potential enrollees for purposes other than as an inducement for enrollment must not exceed nominal value, either individually or in the aggregate, when provided to that individual during a single encounter. The nominal value is equal to or less than \$15. Gifts of nominal value may not include beer, wine, liquor, cigarettes, tobacco, or lottery tickets. Gifts, gift cards, or cash may be provided for the purpose of providing reimbursement for legitimate expenses incurred by a consumer in effort to receive Exchange application assistance, such as, but not limited to, travel or postage expenses;

Note: Authority cited: Sections 100502 and 100504, Government Code. Reference: Sections 1043, 100502 and 100503, Government Code; and 45 C.F.R. §§ 155.205, 155.210, 155.215 and 155.260.