

**State of California
Office of Administrative Law**

In re:
California Health Benefit Exchange

Regulatory Action:

Title 10, California Code of Regulations

Adopt sections: 6700, 6702, 6704, 6706,
6708, 6710, 6712, 6714,
6716, 6718

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL File No. 2014-0922-03 EE

This action by the California Health Benefit Exchange is a re-adoption of previous emergency rulemaking actions 2013-0920-03E, 2014-0321-02EE, and 2014-0620-07EE. The initial emergency rulemaking created a Certified Plan-Based Enrollment Program (Program), pursuant to which Qualified Health Plan (QHP) Issuers may conduct eligibility determinations, offer enrollment in QHPs, and appropriately handle applications for other insurance affordability programs, including Medi-Cal. This action also provides standards and requirements for QHP Issuers and their employees and contractors to qualify for participation in the Program.

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 10/2/2014 and will expire on 10/1/2015, pursuant to Government Code section 100504(a)(6). The Certificate of Compliance for this action is due no later than 9/30/2015.

Date: 10/2/2014



Eric Partington
Attorney

For: DEBRA M. CORNEZ
Director

Original: Peter Lee
Copy: Gabriela Gonzales

EMERGENCY

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2014-0922-03EE
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ENDORSED FILED
IN THE OFFICE OF
2014 OCT -2 PM 2:08

For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

2014 SEP 22 AM 10:02
OFFICE OF ADMINISTRATIVE LAW

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

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)
OAL USE ONLY	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) Certified Plan-Based Enrollment	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2013-0920-03E, 2014-0321-02EE, 2014-0620-07EE
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
ADOPT <input checked="" type="checkbox"/> <i>per agency request</i>
AMEND <input type="checkbox"/>
6700, 6702, 6704, 6706, 6708, 6710, 6712, 6714, 6716, 6718
TITLE(S) 10
REPEAL <input type="checkbox"/>

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<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"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

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)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
 Effective on filing with Secretary of State
 500 Changes Without Regulatory Effect
 Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660)
 Fair Political Practices Commission
 State Fire Marshal

Other (Specify) _____

7. CONTACT PERSON Gabriela Ventura Gonzales	TELEPHONE NUMBER 916-228-8477	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) gabriela.ventura@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 <i>Peter V. Lee</i>	DATE 9/22/14
TYPED NAME AND TITLE OF SIGNATORY Peter V. Lee, Executive Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED
OCT 02 2014
Office of Administrative Law

California Code of Regulations
Adopt Article 9. Plan-Based Enrollers (§§ 6700 et seq.)
Title 10. Investment
Chapter 12. California Health Benefit Exchange

§ 6700 – Definitions

In addition to the definitions in Section 6410 of Article 2 of this chapter, for purposes of this Article, the following terms shall mean:

- (a) **Cold-Calling:** A Certified Plan-Based Enrollment Entity (PBEE) or Certified Plan Based-Enroller's (PBE's) unsolicited outgoing phone calls that were not prompted by a permissible lead, to an individual that has not expressed an interest in the PBEE's QHPs in the Individual Exchange. Permissible leads include lists that are consumer opt-in and outreach to a PBEE's current or former members.
- (b) **Consumer:** For the purposes of this Article, Consumer shall mean the following targeted populations:
- (1) Issuer's non-group members that meet the requirements of a Qualified Individual in Section 6410 of Article 2 of this chapter;
 - (2) Issuer's members receiving coverage required by the Consolidated Omnibus Budget and Reconciliation Act of 1985 ("COBRA") and the California Continuation Benefits Replacement Act, or Health and Safety Code Section 1366.20 et seq. ("Cal-COBRA") that meet the requirements of a Qualified Individual;
 - (3) Issuer's current members meeting the requirements of a Qualified Individual, or those current members terminating their individual or group coverage including 25 year old dependents;
 - (4) Qualified Individuals interested in obtaining health care coverage through the Exchange; and
 - (5) Individuals eligible for other Insurance Affordability Programs, as defined in Section 6410 of Article 2 of this chapter (e.g. Medi-Cal).
- (c) **Enrollment Assistance:** A ~~Certified Plan-Based Enroller~~ PBE may provide the following direct enrollment assistance to Consumers in the Individual Exchange, provided that the ~~Certified Plan-Based Enroller~~ PBE meets the requirements set forth in this Article:
- (1) Applying for an eligibility determination or redetermination for coverage through the Exchange;
 - (2) Applying for Insurance Affordability Programs;
 - (3) Facilitating the enrollment in a QHP offered by the Issuer; and
 - (4) If the consumer is determined eligible for Medi-Cal following the process in Section 6710(a)(112).

Note: Authority cited: Sections 100503 and 100504, Government Code. Reference: 45 Code of Federal Regulations, Sections 155.20, 155.415, 156.265, and 156.1230.

§ 6702 – Certified Plan-Based Enrollment Program Eligibility Requirements

- ~~(a) The following entities and individuals are eligible to apply to participate in the Plan-Based Enrollment Program through the Exchange (Covered California):~~

- ~~(1) Qualified Health Plan Issuers, as defined in Section 6410 of Article 2 of this chapter, under contract with the Exchange to provide at least one QHP through the Exchange that seek to provide enrollment assistance to Consumers.~~
- ~~(2) Issuer Application Assisters, as defined in 45 C.F.R. § 155.20, or Captive Agents, as defined in Section 6410 of Article 2 of this chapter, that are employed or contracted by a Certified Plan-Based Enrollment Entity.~~
- ~~(b) Certified Plan-Based Enrollment Entity Eligibility Requirements~~
 - ~~(1) QHP Issuers in subdivision (a)(1) shall complete the application for the Certified Plan-Based Enrollment Program pursuant to Section 6704.~~
 - ~~(2) Complete training through the Exchange as required under Section 6706 to become eligible to register to provide enrollment assistance to consumers and help them apply for health coverage in a manner considered to be through the Exchange.~~
 - ~~(3) Demonstrate access to Consumers, as defined in Section 6700, for the Certified Plan-Based Enrollment Program.~~
- ~~(c) Certified Plan-Based Enroller Eligibility Requirements~~
 - ~~(1) Be employed or contracted by a registered Certified Plan-Based Enrollment Entity as a Captive Agent or Issuer Application Assister pursuant to subdivision (a)(2).~~
 - ~~(2) Complete required training on the following:~~
 - ~~(A) QHP options and Insurance Affordability Programs, eligibility, and benefits rules and regulations;~~
 - ~~(B) Requirements of the Plan-Based Enroller Training and Certification Standards in Section 6706.~~
 - ~~(3) Comply with the Exchange's privacy and security requirements in 45 C.F.R. § 155.260;~~
 - ~~(4) Comply with applicable State law related to the sale, solicitation, and negotiation of insurance products, including applicable State law related to agent, broker, and producer licensure; and conflicts of interest;~~
 - ~~(5) Pass the certification exam identified in Section 6706;~~
 - ~~(6) Sign a code of conduct relating to confidentiality and adherence with any applicable state laws and regulations, including this Article and Section 6500(f) of Article 5 of this chapter;~~
 - ~~(7) Complete and pass the Exchange's fingerprinting and criminal background check process in Section 6708;~~
 - ~~(8) Complete refresher trainer, testing and certification renewal each year, and at other times if required by the Exchange.~~

(a) The following entities and individuals are eligible to apply to participate in the Certified Plan-Based Enrollment Program (PBE Program) through the Exchange (Covered California):

- (1) Qualified Health Plan Issuers, as defined in Section 6410 of Article 2 of this chapter, under contract with the Exchange to provide at least one QHP through the Exchange that seek to provide enrollment assistance to Consumers.
- (2) Issuer Application Assisters, as defined in 45 C.F.R. § 155.20, or Captive Agents, as defined in Section 6410 of Article 2 of this chapter, that are employed or contracted by a PBEE.

(b) An entity who is eligible pursuant to subdivision (a)(1) of this Section may apply to become certified in the PBE Program as a Certified Plan-Based Enrollment Entity (PBEE) according to the following process:

- (1) Complete the application for the PBE Program pursuant to Section 6704.
- (2) Complete training through the Exchange as required under Section 6706 to become eligible to register to provide enrollment assistance to consumers and help them apply for health coverage in a manner considered to be through the Exchange.
- (3) Demonstrate access to Consumers, as defined in Section 6700, for the PBE Program.

(c) An individual who is eligible pursuant to subdivision (a)(2) of this Section may apply to become certified in the PBE Program as a Certified Plan-Based Enroller (PBE) according to the following process:

- (1) Be employed or contracted by a registered PBEE as a Captive Agent or Issuer Application Assister pursuant to subdivision (a)(2) of this Section;
- (2) Complete requirements of the PBE Training and Certification Standards in Section 6706;
- (3) Comply with the Exchange's privacy and security requirements in 45 C.F.R. § 155.260;
- (4) Comply with applicable State law related to the sale, solicitation, and negotiation of insurance products, including applicable State law related to agent, broker, and producer licensure; and conflicts of interest;
- (5) Pass the certification exam identified in Section 6706;
- (6) Sign the certification statement required in Section 6704(d)(11)(A)-(D);
- (7) Complete and pass the Exchange's fingerprinting and criminal background check process in Section 6708;
- (8) Complete refresher training, testing and certification renewal each year, and at other times if required by the Exchange.

Note: Authority cited: Sections 100503 and 100504, Government Code. Reference: Section 100503, Government Code; and 45 Code of Federal Regulations, Sections 155.415, 155.260, 156.265, and 156.1230.

§ 6704 – Program Application

~~(a) An entity or individual who is eligible for the Certified Plan-Based Enrollment program may apply to become a Certified Plan-Based Enrollment Entity or a Certified Plan-Based Enroller according to the following process:~~

- ~~(1) The entity or individual shall submit all information, documentation, and declarations required in subdivision (b) of this Section.~~
- ~~(2) The application shall demonstrate that the entity or individual is capable of carrying out at least those duties described in the Certified Plan-Based Enrollment Entity eligibility requirements in this Article and has existing relationships, or could readily establish relationships, with Consumers, as defined in Section 6700.~~
- ~~(3) The Exchange shall review the program application and, if applicable, request any additional or missing information necessary to determine eligibility.~~
- ~~(4) Entities or individuals who have submitted a completed application and demonstrated ability to meet the above requirements shall be notified of available opportunities by the~~

Exchange for the entity or individual's authorized contact, or his or her designee, to complete the training requirements.

(5) Entities or individuals who complete and pass the training requirements shall be registered as Certified Plan-Based Enrollment Entities or Certified Plan-Based Enrollers, respectively, by the Exchange and assigned a Certified Plan-Based Enrollment Entity or Enroller number. If the authorized contact, or his or her designee, fails to complete the training standards within 90 calendar days, the applicant shall be deregistered.

(6) All individuals who are not yet certified by the Exchange as Certified Plan-Based Enrollers and included in the initial application of the Certified Plan-Based Enrollment Entity shall become certified in accordance with the following process:

(A) Pass the Certified Plan-Based Enroller Fingerprinting and Criminal Record Check process in Section 6708;

(B) Complete the required training in Section 6706; and

(C) Pass the required certification exam administered by the Exchange pursuant to Section 6706.

(7) Entities and individuals who have been denied certification by the Exchange may appeal the denial of their certification through the process established by Section 6718 or 6708.

(b) A Certified Plan-Based Enrollment Entity application shall contain the following information:

(1) Full name;

(2) Legal name;

(3) Primary e-mail address;

(4) Primary phone number;

(5) Secondary phone number;

(6) Fax number;

(7) An indication of whether the entity prefers to communicate via e-mail, phone, fax, or mail;

(8) Web site address;

(9) Federal Employment Identification Number;

(10) State Tax Identification Number;

(11) Identification of applicant's status as a non-profit, for-profit, or governmental organization and a copy of supporting documentation;

(12) Identification of the type of organization and, if applicable, a copy of the license or other certification;

(13) Identification of the counties served;

(14) An indication of whether applicant received an Outreach & Education Grant from the Exchange and/or the Department of Health Care Services and, if applicable, the Grant Contract Number and Grant Award Amount;

(15) A certification that the applicant and all of its employees comply with the above requirements;

(16) For the primary site and each sub-site, the following information:

(A) Site Location Address;

(B) Mailing Address;

(C) County;

(D) Contact name;

- (E) Primary e-mail address;
 - (F) Primary phone number;
 - (G) Secondary phone number;
 - (H) An indication of whether the entity or individual wants to receive referrals for individuals seeking assistance at this site;
 - (I) Hours of operation;
 - (J) Estimated number of individuals served annually;
 - (K) Spoken languages;
 - (L) Written languages;
 - (17) Name, e-mail address, primary and secondary phone number, and an indication of the preferred method of communication for the Authorized Contact, Primary Contact, and Financial Contact;
 - (18) A certification by the Authorized Contact that the information presented is true and correct to the best of the signer's knowledge;
 - (19) For each Certified Plan-Based Enroller to be affiliated with the applicant entity, the following must be included in the entity's application:
 - (A) Name, e-mail address;
 - (B) An indication of whether the individual is licensed in good standing as an agent with the California Department of Insurance, and if so the individual's license number;
 - (C) An indication of whether or not he or she is certified by the Exchange as a Certified Insurance Agent, Certified Enrollment Counselor, Certified Application Counselor, or serves in any other enrollment function of the Exchange including Service Center Representative, and County Eligibility Worker, and, if applicable, the certification number;
- (e) An individual who is not included in an initial Certified Plan-Based Enrollment Entity application may become a Certified Plan-Based Enroller according to the following process:
- (1) The Certified Enrollment Entity shall notify the Exchange of the individual to be affiliated according to the process described in subdivision (f) of this Section.
 - (2) The individual shall:
 - (A) Submit all information, documentation, and declarations required in subdivision (d) of this Section;
 - (B) Pass the Certified Plan-Based Enroller Fingerprinting and Criminal Record Check in Section 6708;
 - (C) Complete the required training in Section 6706; and
 - (D) Pass the required certification exam administered by the Exchange in Section 6706.
 - (3) Individuals who complete the training requirements and pass the required certification exam shall be certified as Certified Plan-Based Enrollers by the Exchange.
- (d) An individual's application to become a Certified Plan-Based Enroller shall contain the following information:
- (1) Name, e-mail address;
 - (2) Identification of the Certified Plan-Based Enrollment Entity that the individual will affiliate with;
 - (3) Affiliated Certified Plan-Based Enrollment Entity's primary site location address;
 - (4) Site(s) served by the individual;
 - (5) Mailing Address of the primary site for the Certified Plan-Based Enrollment Entity;