

**State of California  
Office of Administrative Law**

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

**Regulatory Action:**

**Title 10, California Code of Regulations**

**Adopt sections: 6464**

**Amend sections:**

**Repeal sections:**

**NOTICE OF APPROVAL OF CERTIFICATE OF  
COMPLIANCE**

**Government Code Sections 11349.1 and  
11349.6(d)**

**OAL Matter Number: 2019-0827-02**

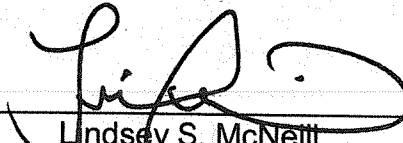
**OAL Matter Type: Certificate of Compliance  
(C)**

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This certificate of compliance filing by the California Health Benefit Exchange makes permanent the regulations adopted in OAL File Nos. 2014-0908-02E and 2016-1116-02EE regarding identity verification requirements.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

**Date: October 9, 2019**

  
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Lindsey S. McNeill  
Attorney

**For: Kenneth J. Pogue  
Director**

**Original: Peter Lee, Executive Director  
Copy: Faviola Adams**

# CERT

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-2019-0423-03	REGULATORY ACTION NUMBER 2019-0827-02c	EMERGENCY NUMBER
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**ENDORSED - FILED**  
In the office of the Secretary of State  
of the State of California

OCT 09 2019  
3:58 PM

For use by Office of Administrative Law (OAL) only

2019 AUG 27 P 4:31

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 Identity Verification Requirement		TITLE(S) 10	FIRST SECTION AFFECTED 6464	2. REQUESTED PUBLICATION DATE 05/03/19
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON Crystal Hirst		TELEPHONE NUMBER (916) 228-8313
5. AGENCY CONTACT PERSON Crystal Hirst		TELEPHONE NUMBER (916) 228-8313		FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE			NOTICE REGISTER NUMBER
<input type="checkbox"/> Approved as Submitted	<input type="checkbox"/> Approved as Modified	<input type="checkbox"/> Disapproved/Withdrawn	2019, 182	PUBLICATION DATE 5/3/2019

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

1a. SUBJECT OF REGULATION(S) Identity Verification Requirement	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2014-0908-02E; 2016-1116-02EE
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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 6464
	AMEND
	REPEAL
TITLE(S) 10	

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 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	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<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 checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM 56660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			

7. CONTACT PERSON Faviola Adams	TELEPHONE NUMBER 916-228-8668	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) faviola.ramirezadams@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.

For use by Office of Administrative Law (OAL) only  
**ENDORSED APPROVED**  
OCT 09 2019  
Office of Administrative Law

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 8/15/19
TYPED NAME AND TITLE OF SIGNATORY Peter V. Lee, Executive Director	

**Title 10. Investment**

**Chapter 12. California Health Benefit Exchange**

**Article 4. General Provisions**

**§ 6464. Identity Verification Requirement.**

(a) Definitions. For purposes of this section, the following terms shall have the following meanings:

(1) RIDP: Remote Identity Proofing service;

(2) FDSH: Federal Data Service Hub;

(3) Certified Representative:

(A) Service Center Representative: Aan Exchange employee operating in a call center as set forth in 45 C.F.R. Ssection 155.205(a) (December 22, 2016), hereby incorporated by reference;

(B) Certified Enrollment Counselor as defined in section 6650;

(C) Certified Application Counselor as defined in 45 C.F.R. <sup>S</sup>section 155.225

(March 8, 2016), hereby incorporated by reference;

(D) Certified Insurance Agent as defined in section 6800;

(E) Certified Plan-Based Enroller as defined in section 6410.

(b) Paper Applications

(1) The Exchange shall accept only paper applications for health insurance coverage that are accompanied by a signature in ink, under penalty of perjury in the declaration and signature section of the Exchange's paper application as defined in section 6470(d).

LM  
per agency  
request  
10/2/19

1. An applicant shall mail, present in person, or electronically transmit through CalHEERS to the Exchange or to a Certified Representative acceptable proof of identity as follows:

(i) A copy of a valid identification card issued by a federal, state, or local governmental entity that bears a recognizable photograph of the applicant or other identifying information of the individual such as name, age, sex, race, height, weight, eye color, or address, including school identification card, voter registration card, Military Dependent's identification card, Native American Tribal document, U.S. Coast Guard Merchant Mariner card, a Certificate of Naturalization (Form N-550 or N-570), Certificate of U.S. Citizenship (Form N-560 or N-561), Permanent Resident Card or Alien Registration Receipt Card (Form I-551), Employment Authorization Document Card that includes a photograph (Form I-766), Foreign Passport or identification card issued by a foreign embassy or consulate that contains a photograph, or

(ii) Two of the following: a birth certificate, Social Security card, marriage certificate, divorce decree, employer identification card, high school or college diploma (including high school equivalency diplomas), property deed or title, an adoption decree for the adoptee, foreign school record that includes a photograph, notice from a public benefits agency, or a union or worker center identification card.

2. If submitted in person or by mail, a Certified Representative shall upload a copy of the identity documents to CalHEERS.

(B) Federal Data Service Hub Remote Identity Proofing service (FDSH RIDP)

(B) The applicant completes the visual verification process as set forth in subdivision (c)(2)(A) of this section; or

(C) The applicant submits a paper application in accordance with subdivision (b) of this section.

(d) An applicant who successfully completes the identity verification requirements set forth in this section may, if otherwise permitted, apply for health insurance for himself or herself and for members of his or her household, without those household members also satisfying the requirements set forth in this section.

(e) Consumers, as defined in section 6650, who submitted an application prior to the effective date of this section are subject to the requirements of this section if they make a change to the Primary Contact screen.

(f) This section shall not apply to individuals applying through CCSB (as defined in section 6410).

Note: Authority cited: Section 100504(a)(6), Government Code. Reference: Sections 100503(a), 100503(h) and 100503(s), Government Code; 45 C.F.R Sections 155.205 and 155.225.

**§155.205 Consumer assistance tools and programs of an Exchange.**

(a) *Call center.* The Exchange must provide for operation of a toll-free call center that addresses the needs of consumers requesting assistance and meets the requirements outlined in paragraphs (c)(1), (c)(2)(i), and (c)(3) of this section, unless it enters into a Federal platform agreement through which it relies on HHS to carry out call center functions, in which case the Exchange must provide at a minimum a toll-free telephone hotline to respond to requests for assistance and appropriately directs consumers to Federal platform services to apply for, and enroll in, Exchange coverage.

(b) *Internet Web site.* The Exchange must maintain an up-to-date Internet Web site that meets the requirements outlined in paragraph (c) of this section and:

(1) Provides standardized comparative information on each available QHP, which may include differential display of standardized options on consumer-facing plan comparison and shopping tools, and at a minimum includes:

(i) Premium and cost-sharing information;

(ii) The summary of benefits and coverage established under section 2715 of the PHS Act;

(iii) Identification of whether the QHP is a bronze, silver, gold, or platinum level plan as defined by section 1302(d) of the Affordable Care Act, or a catastrophic plan as defined by section 1302(e) of the Affordable Care Act;

(iv) The results of the enrollee satisfaction survey, as described in section 1311(c)(4) of the Affordable Care Act;

(v) Quality ratings assigned in accordance with section 1311(c)(3) of the Affordable Care Act;

(vi) Medical loss ratio information as reported to HHS in accordance with 45 CFR part 158;

(vii) Transparency of coverage measures reported to the Exchange during certification in accordance with §155.1040; and

(viii) The provider directory made available to the Exchange in accordance with §156.230.

(2) Publishes the following financial information:

(i) The average costs of licensing required by the Exchange;

(ii) Any regulatory fees required by the Exchange;

(iii) Any payments required by the Exchange in addition to fees under paragraphs (b)(2)(i) and (ii) of this section;

(iv) Administrative costs of such Exchange; and

(v) Monies lost to waste, fraud, and abuse.

(3) Provides applicants with information about Navigators as described in §155.210 and other consumer assistance services, including the toll-free telephone number of the Exchange call center required in paragraph (a) of this section.

(4) Allows for an eligibility determination to be made in accordance with subpart D of this part.

(5) Allows a qualified individual to select a QHP in accordance with subpart E of this part.

(6) Makes available by electronic means a calculator to facilitate the comparison of available QHPs after the application of any advance payments of the premium tax credit and any cost-sharing reductions.

(7) A State-based Exchange on the Federal platform must at a minimum maintain an informational Internet Web site that includes the capability to direct consumers to Federal platform services to apply for, and enroll in, Exchange coverage.

(c) *Accessibility.* Information must be provided to applicants and enrollees in plain language and in a manner that is accessible and timely to—

(1) Individuals living with disabilities including accessible Web sites and the provision of auxiliary aids and services at no cost to the individual in accordance with the Americans with Disabilities Act and section 504 of the Rehabilitation Act.

(2) Individuals who are limited English proficient through the provision of language services at no cost to the individual, including

(i) For all entities subject to this standard, oral interpretation.

(A) For Exchanges and QHP issuers, this standard also includes telephonic interpreter services in at least 150 languages.

(B) For an agent or broker subject to §155.220(c)(3)(i), beginning November 1, 2015, or when such entity been registered with the Exchange for at least 1 year, whichever is later, this standard also includes telephonic interpreter services in at least 150 languages.

(ii) Written translations; and

(iii) For all entities subject to this standard, taglines in non-English languages indicating the availability of language services.

(A) For Exchanges and QHP issuers, this standard also includes taglines on Web site content and any document that is critical for obtaining health insurance coverage or access to health care services through a QHP for qualified individuals, applicants, qualified employers, qualified employees, or enrollees. A document is deemed to be critical for obtaining health insurance coverage or access to health care services through a QHP if it is required to be provided by law or regulation to a qualified individual, applicant, qualified employer, qualified employee, or enrollee. Such taglines must indicate the availability of language services in at least the top 15 languages spoken by the limited English proficient population of the relevant State or States, as determined in guidance published by the Secretary. If an Exchange is operated by an entity that operates multiple Exchanges, or if an Exchange relies on an entity to conduct its eligibility or enrollment functions and that entity conducts such functions for multiple Exchanges, the Exchange may aggregate the limited English proficient populations across all the States served by the entity that operates the Exchange or conducts its eligibility or enrollment functions to determine the top 15 languages required for taglines. A QHP issuer may aggregate the limited English proficient populations across all States served by the health insurance issuers within the issuer's controlled group (defined for purposes of this section as a group of two or more persons that is treated as a single employer under sections 52(a), 52(b), 414(m), or 414(o) of the Internal Revenue Code of 1986, as amended), whether or not those health insurance issuers offer plans through the Exchange in each of those States, to determine the top 15 languages required for taglines. Exchanges and QHP issuers may satisfy tagline requirements with respect to Web site content if they post a Web link prominently on their home page that directs individuals to the full text of the taglines indicating how individuals may obtain language assistance services, and if they also include taglines on any critical stand-alone document linked to or embedded in the Web site. Exchanges, and QHP issuers that are also subject to §92.8 of this subtitle, will be deemed in compliance with paragraph (c)(2)(iii)(A) of this section if they are in compliance with §92.8 of this subtitle.

(B) For an agent or broker subject to §155.220(c)(3)(i), beginning when such entity has been registered with the Exchange for at least 1 year, this standard also includes taglines on Web site content and any document that is critical for obtaining health insurance coverage or access to health care services through a QHP for qualified individuals, applicants, qualified employers, qualified employees, or enrollees. A document is deemed to be critical for obtaining health insurance coverage or access to health care services through a QHP if it is required to be provided by law or regulation to a qualified individual, applicant, qualified employer, qualified employee, or enrollee. Such taglines must indicate the availability of language services in at least the top 15 languages spoken by the limited English proficient population of the relevant State or States, as determined in guidance published by the Secretary. An agent or broker subject to §155.220(c)(3)(i) that is licensed in and serving multiple States may aggregate the limited English populations in the States it serves to determine the top 15 languages required for taglines. An agent or broker subject to §155.220(c)(3)(i) may satisfy tagline requirements with respect to Web site content if it posts a Web link prominently on its home page that directs individuals to the full text of the taglines indicating how individuals may obtain language assistance services, and if it also includes taglines on any critical stand-alone document linked to or embedded in the Web site.

(iv) For Exchanges, QHP issuers, and an agent or broker subject to §155.220(c)(3)(i), Web site translations.

(A) For an Exchange, beginning no later than the first day of the individual market open enrollment period for the 2017 benefit year, content that is intended for qualified individuals, applicants, qualified employers, qualified

employees, or enrollees on a Web site that is maintained by the Exchange must be translated into any non-English language that is spoken by a limited English proficient population that reaches 10 percent or more of the population of the relevant State, as determined in guidance published by the Secretary.

(B) For a QHP issuer, beginning no later than the first day of the individual market open enrollment period for the 2017 benefit year, if the content of a Web site maintained by the QHP issuer is critical for obtaining health insurance coverage or access to health care services through a QHP, within the meaning of §156.250 of this subchapter, it must be translated into any non-English language that is spoken by a limited English proficient population that reaches 10 percent or more of the population of the relevant State, as determined in guidance published by the Secretary.

(C) For an agent or broker subject to §155.220(c)(3)(i), beginning on the first day of the individual market open enrollment period for the 2017 benefit year, or when such entity has been registered with the Exchange for at least 1 year, whichever is later, content that is intended for qualified individuals, applicants, qualified employers, qualified employees, or enrollees on a Web site that is maintained by the agent or broker must be translated into any non-English language that is spoken by a limited English proficient population that reaches 10 percent or more of the population of the relevant State, as determined in guidance published by the Secretary.

(3) Inform individuals of the availability of the services described in paragraphs (c)(1) and (2) of this section and how to access such services.

(d) *Consumer assistance.* (1) The Exchange must have a consumer assistance function that meets the standards in paragraph (c) of this section, including the Navigator program described in §155.210. Any individual providing such consumer assistance must be trained regarding QHP options, insurance affordability programs, eligibility, and benefits rules and regulations governing all insurance affordability programs operated in the State, as implemented in the State, prior to providing such assistance or the outreach and education activities specified in paragraph (e) of this section.

(2) The Exchange must provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the Public Health Service Act, or any other appropriate State agency or agencies, for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage.

(e) *Outreach and education.* The Exchange must conduct outreach and education activities that meet the standards in paragraph (c) of this section to educate consumers about the Exchange and insurance affordability programs to encourage participation.

[77 FR 18444, Mar. 27, 2012, as amended at 78 FR 42859, July 17, 2013; 80 FR 10864, Feb. 27, 2015; 81 FR 12337, Mar. 8, 2016; 81 FR 94175, Dec. 22, 2016]

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