

**State of California
Office of Administrative Law**

In re:
California Health Benefit Exchange

Regulatory Action:

Title 10, California Code of Regulations

Adopt sections: 6910, 6912, 6914, 6916,
6918, 6920, 6922

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2019-0927-05

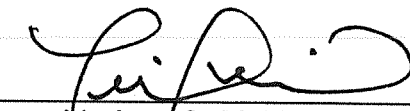
OAL Matter Type: Emergency (E)

This emergency rulemaking action by the California Health Benefit Exchange adopts seven sections to establish the application process, eligibility and redetermination standards, and verification process for hardship and religious conscience exemptions.

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 1/1/2020.

Date: October 7, 2019



Lindsey S. McNeill
Attorney

For: Kenneth J. Pogue
Director

Original: Peter Lee, Executive Director
Copy: Faviola Ramirez-Adams

NOTICE PUBLICATION REGULATIONS SUBMISSION

EMERGENCY

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 2019-0927-05E
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For use by Office of Administrative Law (OAL) only

2019 SEP 27 P 1:02
OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED
In the office of the Secretary of State of the State of California

OCT 07 2019
4:12 PM

NOTICE	REGULATIONS
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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 Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	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) Hardship and Religious Conscience Exemptions Process	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) None
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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 6910, 6912, 6914, 6916, 6918, 6920 and 6922
TITLE(S) 10	AMEND REPEAL

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 §511349.3, 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 checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input checked="" type="checkbox"/> Other (Specify) <u>Gov. Code, §100725(c)</u>	

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 type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) <u>11/2020</u>

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 checked="" type="checkbox"/> Other (Specify) <u>consultation with Franchise Tax Board pursuant to Gov. Code § 100725</u>			

7. CONTACT PERSON Faviola Adams	TELEPHONE NUMBER 916-228-8668	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) faviola.ramirez-adams@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 9/26/19
TYPED NAME AND TITLE OF SIGNATORY Peter V. Lee, Executive Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

OCT 07 2019

Office of Administrative Law

LM per agency request 10/7/19

LM per agency request 10/7/19

California Code of Regulations

Title 10. Investment

Chapter 12. California Health Benefit Exchange

Article 13. Hardship and Religious Conscience Exemptions Process Through the Exchange

§ 6910. Definitions and General Requirements.

(a) For purposes of this article, the following terms shall have the following meanings:

(1) “Applicant” means an individual who is seeking an exemption from the Minimum Essential Coverage Individual Mandate established in Title 24 of the Government Code or from the requirement to maintain minimum essential coverage under Section 5000A of the Internal Revenue Code (26 USC § 5000A) for the purpose of enrollment in a catastrophic plan through an application submitted to the Exchange.

(2) “Application filer” means an applicant, an individual who is liable for the Individual Shared Responsibility Penalty under Part 32 of Division 2 of the Revenue and Taxation Code or the shared responsibility payment under Section 5000A(b) of the Internal Revenue Code (26 USC § 5000A(b)) for an applicant, an authorized representative, or if the applicant is a minor or incapacitated, someone acting responsibly for an applicant.

(3) “Certificate of exemption” is a certification attesting that the individual is exempt from the Minimum Essential Coverage Individual Mandate established in Title 24 of the Government Code or from the requirement to maintain minimum essential coverage under section 5000A of the Internal Revenue Code (26 USC § 5000A) and the Individual Shared Responsibility Penalty imposed under Section 61010 of the Revenue and Taxation Code.

(4) “Exemption” means an exemption from the Minimum Essential Coverage Individual Mandate established in Title 24 of the Government Code and the Individual Shared

Responsibility Penalty imposed under Section 61010 of the Revenue and Taxation Code or from the requirement to maintain minimum essential coverage under section 5000A of the Internal Revenue Code (26 USC § 5000A) for the purpose of enrollment in a catastrophic plan through an application submitted to the Exchange.

(5) "Household income" has the same meaning given the term in Section 5000A(c)(4)(B) of the Internal Revenue Code (26 USC § 5000A(c)(4)(B)) and in 26 CFR Section 1.5000A-1(d)(10) (December 26, 2013), hereby incorporated by reference.

(6) "Incarcerated" has the same meaning given the term in Section 6410 of Article 2 of this chapter.

(7) "Indian tribe" has the same meaning given the term in Section 6410 of Article 2 of this chapter.

(8) "Individual Shared Responsibility Penalty" has the same meaning given the term in Section 61010 of the Revenue and Taxation Code.

(9) "Projected household income" means the household income that the applicant reasonably expects for the calendar year.

(10) "Required contribution" has the same meaning given the term in Section 5000A(e)(1)(B) of the Internal Revenue Code (26 USC § 5000A(e)(1)(B)).

(11) "Tax filer" has the same meaning given the term in Section 6410 of Article 2 of this chapter. "Tax filer" also includes an individual who is required to make a return to the Franchise Tax Board in accordance with Section 18501 of the Revenue and Taxation Code.

(b) For purposes of this article, any attestation that an applicant is to provide under this article may be made by the application filer on behalf of the applicant.

(c) For purposes of this article, information obtained through electronic data sources, information provided by the applicant, or other information in the records of the Exchange shall be considered to be reasonably compatible with an applicant's attestation if the difference or discrepancy does not impact the applicant's eligibility for the exemption or exemptions for which the applicant applied.

(d) Information, including notices, forms, and applications, shall be provided to applicants in accordance with the accessibility and readability standards specified in Section 6452.

Note: Authority cited: Sections 100504 and 100725, Government Code. Reference: Sections 100502, 100705 and 100715, Government Code; Section 61010, Revenue and Taxation Code; 26 USC Section 5000A; 45 CFR Section 155.600.

§ 6912. Exemption Applications.

(a) The Exchange shall use an exemption application to collect the applicant's information necessary to determine the applicant's eligibility for religious conscience and hardship exemptions.

(b) To apply for a religious conscience or hardship exemption, an applicant or an application filer shall submit all information, documentation, and declarations required on the application, as specified in subdivisions (c), (d), and (e) of this section, and shall sign and date the application.

(c) An applicant or an application filer shall provide the following information on the applicable exemption application:

(1) The applicant's full name (first, middle, if applicable, and last name).

(2) The applicant's home and mailing address, if different from home address, the applicant's county of residence and telephone number(s). For an applicant who does not have a home address, only a mailing address shall be provided.

(3) The applicant's email address, if the applicant chooses to get correspondence via email from the Exchange.

(4) The applicant's preferred written and spoken language.

(5) The applicant's date of birth.

(6) The applicant's Social Security Number, if one has been issued to the applicant.

(7) The applicant's gender.

(8) For each individual included on the applicant's state tax return, including the applicant and the applicant's spouse or domestic partner, the individual's relationship to the applicant, the individual's full name, date of birth, Social Security Number, gender, and whether the individual wants an exemption.

(d) For a religious conscience exemption, as specified in Section 6914(b), an applicant or an application filer shall provide the following information on the religious conscience exemption application in addition to the information specified in subdivision (c) of this section:

(1) The year for which the applicant or any individual in the applicant's tax household is requesting the exemption.

(2) Whether the applicant or any individual in the applicant's tax household is a member of recognized religious sect or division described in section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1)) and adheres to the established tenets or teachings of such sect or division.

(3) Whether the applicant or any individual in the applicant's tax household has an approved IRS Form 4029 ("Application for Exemption from Social Security and Medicare Taxes and Waiver of Benefits") with required signatures. If so, a copy of the approved form shall be submitted with the application.

(4) Whether the applicant or any individual in the applicant's tax household is a member of a religious sect or division that is not described in Section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1)), relies solely on a religious method of healing, and the acceptance of medical health services would be inconsistent with the religious beliefs of the individual. If so, an attestation signed by the applicant that the member has not received medical health services during the preceding taxable year shall be submitted with the application.

(5) The full name and address of the religious sect or division the applicant or any individual in the applicant's tax household is a member of and the date they became a member.

(e) For a general hardship exemption, as specified in Section 6914(c), an applicant or an application filer shall provide the following information on the general hardship exemption application in addition to the information specified in subdivision (c) of this section:

(1) The type of hardship.

(2) The tax year for which the hardship exemption is requested.

(3) The dates the hardship started and ended, or whether the hardship is ongoing.

(f) For an affordability hardship exemption, as specified in Section 6914(d), an applicant or an application filer shall provide the following information on the affordability hardship exemption application in addition to the information specified in subdivision (c) of this section:

(1) The year and months the applicant or any individual in the applicant's tax household requests the exemption.

(2) Whether the applicant or any other individuals on the exemption application has been offered employer-sponsored health coverage and the name of such individuals.

(3) Documentation of the cost of the premium for the employer-sponsored coverage for the applicant and any covered family members.

(4) The applicant's projected household income from all sources for the year the applicant has requested the exemption and proof of such income.

(5) Whether anyone applying for an exemption on the application is incarcerated.

(g) If the applicant designates an authorized representative, the applicant shall provide the authorized representative's name and address, and the applicant's signature authorizing the designated representative to act on the applicant's behalf for the exemption application, eligibility and enrollment, and appeals process, if applicable.

(h) An applicant or an application filer shall declare under penalty of perjury that the applicant or application filer:

(1) Understood all questions on the application and gave true and correct answers to the best of the applicant's or application filer's personal knowledge.

(2) Knows that if the applicant or application filer does not tell the truth on the exemption application, there may be a civil or criminal penalty for perjury pursuant to Penal Code Section 126.

(3) Knows that the information provided on the exemption application shall only be used for the purpose of determining exemption eligibility for the individuals listed on the application who are requesting an exemption, and that the Exchange shall keep such information private in accordance with the applicable federal and State privacy and security laws.

(4) Understands that the Exchange shall not discriminate against the applicant or anyone on the application because of race, color, national origin, religion, age, sex, sexual orientation, gender identity, or disability, and that the applicant may make a complaint of discrimination through the U.S. Department of Health and Human Services, Office for Civil Rights.

Note: Authority cited: Sections 100504 and 100725, Government Code. Reference: Sections 100502 and 100715, Government Code; 45 CFR Sections 155.605 and 155.610.

§ 6914. Eligibility Standards for Exemptions Through the Exchange.

(a) Except as specified in subdivision (d) of this section, the Exchange shall determine an applicant eligible for and issue a certificate of exemption for the month if the Exchange determines that the applicant meets the requirements for one or more of the exemptions described in this section for at least one day of the month.

(b) The Exchange shall proceed in accordance with the following process for a religious conscience exemption:

(1) The Exchange shall determine an applicant eligible for the religious conscience exemption for any month if, for that month, the applicant is either of the following:

(A) A member of a recognized religious sect or division described in section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1)) and adheres to the established tenets or teachings of such sect or division.

(B) A member of a religious sect or division that is not described in Section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1)), relies solely on a religious method of healing, the acceptance of medical health services would be inconsistent with the religious beliefs of the individual, and who includes an attestation that the individual has not received medical health services during the preceding taxable year. For purposes of this paragraph, the term “medical

health services” does not include routine dental, vision, and hearing services, midwifery services, vaccinations, necessary medical services provided to children, services required by law or by a third party, and other services as the Secretary of United States Department of Health and Human Services may provide in implementing Section 1311(d)(4)(H) of the federal Patient Protection and Affordable Care Act (42 USC § 18031(d)(4)(H)). An individual who claims this exemption, but received medical health services during the coverage year, shall lose eligibility for the religious conscience exemption.

(2) The Exchange shall grant a certificate of exemption to an applicant who meets the standard provided in subdivision (b)(1) of this section for a month on a continuing basis, until the last day of the month after the month of the individual's 21st birthday, or until such time that an individual reports that the individual no longer meets the standard provided in subdivision (b)(1) of this section, whichever comes first.

(3) If the Exchange granted a certificate of exemption for religious conscience to an applicant before reaching the age of 21, the Exchange shall send the applicant a notice upon reaching the age of 21 informing the applicant that the applicant must submit a new exemption application to maintain the certificate of exemption.

(4) The Exchange shall make an exemption in this category available prospectively or retrospectively.

(c) The Exchange shall grant an exemption for general hardship to an applicant eligible for an exemption for at least the month before, the month or months during which, and the month after a specific event or circumstance, if the Exchange determines that the applicant meets at least one of the requirements specified in paragraph (1) of this subdivision.

(1) To qualify for a hardship exemption, the applicant shall meet at least one of the following criteria:

(A) The applicant experienced financial or domestic circumstances, including an unexpected natural or human-caused event, such that the applicant had a significant, unexpected increase in essential expenses that prevented the applicant from obtaining coverage under a QHP;

(B) The expense of purchasing a QHP would have caused the applicant to experience serious deprivation of food, shelter, clothing, or other necessities;

(C) The applicant has experienced other circumstances that prevented the applicant from obtaining coverage under a QHP. Such circumstances shall be determined by the Exchange on a case-by-case basis.

(2) General hardship includes, but is not limited to, the following circumstances where the applicant:

(A) Experienced homelessness;

(B) Was evicted in the past six months, or is facing eviction or foreclosure;

(C) Received a shut-off notice from a utility company;

(D) Recently experienced domestic violence;

(E) Recently experienced the death of a close family member;

(F) Recently experienced a fire, flood, or other natural or human-caused disaster;

(G) Filed for bankruptcy in the last six months;

(H) Incurred unreimbursed medical expenses in the last 24 months that resulted in substantial debt;

(I) Recently experienced an unexpected increase in essential expenses or decrease in household income due to divorce or separation, unexpected or sudden disability, or caring for an ill, disabled, or aging family member;

(J) Is a child who has been determined ineligible for Medi-Cal and CHIP, and for whom a party other than the party who expects to claim the child as a tax dependent is required by court order to provide medical support. This exemption shall only be provided for the months during which the medical support order is in effect; or

(K) As a result of an eligibility appeals decision, is determined eligible for enrollment in a QHP or financial assistance through the Exchange for a period of time during which the applicant was not enrolled in a QHP through the Exchange. This exemption shall only be provided for the period of time affected by the appeals decision.

(d) The Exchange shall determine an applicant eligible for a hardship exemption for a month or months during which the applicant, or another individual the applicant attests will be included in the applicant's tax household, is unable to afford coverage through the Exchange or an employer.

(1) Eligibility for this exemption shall be based on the applicant's projected household income for the taxable year.

(2) An individual cannot afford coverage in a month if the individual's required contribution, determined on an annual basis, for coverage for the month exceeds 8.3 percent of the individual's projected household income for the taxable year. An individual's projected household income shall include any amount of the required contribution made through a salary reduction arrangement that is excluded from gross income.

(3) The required contribution for an employee who is eligible to purchase coverage under an eligible employer-sponsored plan sponsored by the employee's employer is the portion of the annual premium that the employee would pay (whether through salary reduction or otherwise) for the lowest cost self-only coverage.

(4) The required contribution for an individual who is eligible for coverage under an eligible employer-sponsored plan by reason of a relationship to an employee, is the portion of the annual premium that the employee would pay (whether through salary reduction or otherwise) for the lowest cost family coverage that would cover the employee and all other individuals who are included in the employee's family who have not otherwise been granted an exemption through the Exchange.

(5) The required contribution for an individual who is only eligible to purchase minimum essential coverage in the individual market is the annual premium for the lowest cost bronze plan available in the individual market through the Exchange serving the rating area in which the individual resides (without regard to whether the individual purchased a QHP through the Exchange), reduced by the maximum amount of any premium assistance for the taxable year determined as if the individual was covered for the entire taxable year by a QHP offered through the Exchange. All members of the individual's tax household who have not otherwise been granted an exemption through the Exchange and who are not treated as eligible to purchase coverage under an eligible employer-sponsored plan shall be included to determine the required contribution.

(6) The applicant shall apply for this exemption prior to the last date on which the applicant may enroll in a QHP through the Exchange for the month or months of a calendar year for which the exemption is requested.

(7) The Exchange shall make this exemption available prospectively and provide it for all remaining months in a coverage year, notwithstanding any change in an individual's circumstances.

Note: Authority cited: Sections 100504 and 100725, Government Code. Reference: Sections 100502 and 100715, Government Code; 26 USC Section 1402; 42 USC Section 13031; 45 CFR Section 155.605.

§ 6916. Eligibility Process for Exemptions.

(a) The Exchange shall use the exemption applications described in Section 6912 to collect information necessary for determining eligibility for and granting certificates of exemption as described in Section 6914.

(b) If an individual submits the application specified in Section 6470 and then requests an exemption, the Exchange shall use the information collected for purposes of the eligibility determination for enrollment in a QHP and for insurance affordability programs in making the exemption eligibility determination. The Exchange shall not request duplicate information or conduct repeat verifications to the extent that the Exchange finds that such information is still applicable and the standards for such verifications adhere to the standards specified in this article.

(c) The Exchange shall accept the exemption applications specified in Section 6912 from an application filer and shall provide the tools for the application filer to file the application through any of the following channels:

(1) The Exchange's Internet Web site;

(2) Facsimile; or

(3) Mail.

(d) The Exchange shall require an applicant who has a Social Security Number to provide such number to the Exchange. The Exchange shall not require an individual who is not seeking an exemption for oneself to provide a Social Security Number, except as specified in subdivision (e) of this section.

(e) The Exchange shall require an application filer to provide the Social Security Number of a tax filer who is not an applicant only if an applicant attests that the tax filer has a Social Security Number and filed a tax return for the year for which tax data would be utilized for verification of household income and family size for the hardship exemption as specified in Section 6914(d).

(f) The Exchange shall determine an applicant's eligibility for an exemption in accordance with the standards specified in Section 6914 and grant a certificate of exemption to any applicant determined eligible.

(g) The Exchange shall determine an applicant's eligibility for exemption within 30 calendar days from the date the Exchange receives the applicant's complete exemption application.

(h) The Exchange shall only accept an application for general hardship exemption described in Section 6914(c) during one of the three calendar years after the month or months during which the applicant attests that the hardship occurred.

(i) The Exchange shall provide a written notice to an applicant of any eligibility determination made in accordance with this article within five business days from the date of the eligibility determination. In the case of a determination that an applicant is eligible for an exemption, this notification shall also include the exemption certificate number for the purpose

of tax administration. This notice shall comply with the general standards for Exchange notices specified in Section 6454.

(j) An individual shall retain the records that demonstrate receipt of the certificate of exemption and qualification for the underlying exemption. In the case of any factor of eligibility that is verified through use of the exception described in Section 6918(d)(3), the records that demonstrate qualification for the underlying exemption are the information submitted to the Exchange regarding the circumstances that warranted the use of the exception, as well as records of the Exchange decision to allow such exception.

(k) If an applicant submits an incomplete exemption application that does not include sufficient information for the Exchange to conduct a determination for eligibility of an exemption, the Exchange shall:

(1) Provide notice to the applicant indicating that information necessary to complete an eligibility determination is missing, specifying the missing information, and providing instructions on how to provide the missing information;

(2) Provide the applicant with a period of 30 calendar days from the date on which the notice described in paragraph (1) of this subdivision is sent to the applicant to provide the information needed to complete the application to the Exchange. The Exchange may extend this period for an applicant if the Exchange determines on a case-by-case basis that the applicant has demonstrated a good-faith effort to obtain the required information during the period;

(3) Not proceed with the applicant's eligibility determination during the period described in paragraph (2) of this subdivision; and

(4) Deny the exemption application, notify the applicant in writing that the Exchange cannot process the exemption application, and provide appeal rights to the applicant if the

Exchange does not receive the requested information within the 30-day period specified in paragraph (2) of this subdivision.

Note: Authority cited: Sections 100504 and 100725, Government Code. Reference: Sections 100503 and 100715, Government Code; 45 CFR Section 155.610.

§ 6918. Verification Process Related to Eligibility for Exemptions Through the Exchange.

(a) The Exchange shall verify or obtain information as provided in this section in order to determine that an applicant is eligible for an exemption.

(b) For any applicant who requests an exemption based on religious conscience, the Exchange shall verify that the applicant meets the standards specified in Section 6914(b) in accordance with the following process:

(1) Except as specified in paragraphs (2) and (3) of this subdivision, the Exchange shall accept a form that reflects that the applicant is exempt from Social Security and Medicare taxes under Section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1));

(2) Except as specified in paragraphs (3), (4) and (5) of this subdivision, the Exchange shall accept the applicant's attestation of membership in a religious sect or division, and shall verify that the religious sect or division to which the applicant attests membership is recognized by the Social Security Administration as an approved religious sect or division under Section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1));

(3) Except as specified in paragraphs (4) of this subdivision, the Exchange shall accept the applicant's attestation that the applicant is a member of a religious sect or division described in Section 6914(b)(1)(B) and that the individual has not received medical health services, as specified in Section 6914(b)(1)(B), during the preceding taxable year.

(4) If information provided by an applicant regarding the applicant's membership in a religious sect or division is not reasonably compatible with other information provided by the individual or in the Exchange's records, the Exchange shall follow the inconsistency procedures specified in subdivision (d) of this section.

(5) Except as specified in paragraph (3) of this subdivision, if an applicant attests to membership in a religious sect or division that is not recognized by the Social Security Administration as an approved religious sect or division under Section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1)), the Exchange shall provide the applicant with information regarding how the applicant's religious sect or division can pursue recognition under Section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1)). The Exchange shall determine the applicant ineligible for this exemption until the Exchange obtains information indicating that the religious sect or division has been approved.

(c) For any applicant who requests a hardship exemption based on lack of affordable coverage, the Exchange shall verify whether the applicant has experienced the hardship to which the applicant is attesting in accordance with the following process:

(1) The Exchange shall verify the unavailability of affordable coverage through the procedures used to determine eligibility for APTC, including the procedures described in Section 6478, and the procedures used to verify eligibility for qualifying coverage in an eligible employer-sponsored plan, as specified in Section 6490.

(2) The Exchange shall accept an application filer's attestation for an applicant regarding eligibility for minimum essential coverage other than through an eligible employer-sponsored plan, instead of following the procedures specified in Section 6480.

(3) To the extent that the Exchange is unable to verify any of the information needed to determine an applicant's eligibility for an exemption based on hardship, the Exchange shall follow the procedures specified in subdivision (d) of this section.

(d) Except as otherwise specified in this article, for an applicant for whom the Exchange cannot verify information required to determine eligibility for an exemption, including but not limited to when electronic data is required in accordance with this article but data for individuals relevant to the eligibility determination for an exemption are not included in such data sources or when electronic data is required but it is not reasonably expected that data sources will be available within one day of the initial request to the data source, the Exchange shall follow the inconsistency process specified in Section 6492, except as specified in paragraphs (1) through (3) of this subdivision.

(1) During the 95-day period described in Section 6492(a)(2)(B), the Exchange shall not grant a certificate of exemption based on the information subject to this subdivision.

(2) If, after the period described in paragraph (1) of this subdivision, the Exchange remains unable to verify the attestation, the Exchange shall:

(A) Determine the applicant's eligibility for an exemption based on any information available from the data sources used in accordance with this article, if applicable, unless such applicant qualifies for the exception provided under paragraph (3) of this subdivision; and

(B) Notify the applicant of such determination in accordance with the notice requirements specified in Section 6916(i), including notice that the Exchange is unable to verify the attestation.

(3) For an applicant who does not have documentation with which to resolve the inconsistency through the process described in this subdivision because such documentation does

not exist or is not reasonably available and for whom the Exchange is unable to otherwise resolve the inconsistency, the Exchange shall provide an exception, on a case-by-case basis, to accept an applicant's attestation as to the information which cannot otherwise be verified along with an explanation of circumstances as to why the applicant does not have documentation.

(e) The Exchange shall not require an applicant to provide information beyond the minimum necessary to support the eligibility process for exemptions as described in this article.

(f) The Exchange shall validate the applicant's Social Security Number in accordance with the following process:

(1) For any individual who provides a Social Security Number to the Exchange, the Exchange shall transmit the individual's Social Security Number and other identifying information to HHS, which will submit it to the Social Security Administration.

(2) To the extent that the Exchange is unable to validate an individual's Social Security Number through the Social Security Administration or the Social Security Administration indicates that the individual is deceased, the Exchange shall follow the inconsistency procedures specified in subdivision (d) of this section.

Note: Authority cited: Sections 100504 and 100725, Government Code. Reference: Sections 100503 and 100715, Government Code; 26 USC Section 1402; 45 CFR Section 155.615.

§ 6920. Eligibility Redeterminations for Exemptions During a Calendar Year.

(a) The Exchange shall redetermine the eligibility of an individual with an exemption granted by the Exchange if it receives and verifies new information reported by such an individual, except for the exemption described in Section 6914(d).

(b) An individual who has a certificate of exemption from the Exchange shall report any change with respect to the eligibility standards for the exemption as specified in Section 6914,

except for the exemption described in Section 6914(d), to the Exchange within 30 days of such change through the channels available for the submission of an exemption application, as specified in Section 6916(c).

(c) The Exchange shall verify any information reported by an individual with a certificate of exemption in accordance with the processes specified in Section 6918 prior to using such information in an eligibility redetermination, and shall:

(1) Notify an individual in accordance with Section 6916(i) after redetermining the individual's eligibility based on a reported change; and

(2) Provide periodic electronic notifications regarding the requirements for reporting changes and an individual's opportunity to report any changes, to an individual who has a certificate of exemption for which changes must be reported in accordance with subdivision (b) of this section and who has elected to receive electronic notifications, unless the individual has declined to receive such notifications.

(d) The Exchange shall implement a change resulting from a redetermination under this section for the month or months after the month in which the redetermination occurs, such that a certificate that was provided for the month in which the redetermination occurs, and for prior months remains effective.

Note: Authority cited: Sections 100504 and 100725, Government Code. Reference: Sections 100503 and 100715, Government Code; 45 CFR Section 155.620.

§ 6922. Right to Appeal.

The Exchange shall include the notice of the right to appeal and instructions regarding how to file an appeal in accordance with Article 7 of this chapter in any eligibility determination

and redetermination notice issued to the applicant in accordance with Sections 6916(i),

6916(k)(4), 6918(d)(2)(B) and 6920(c)(1).

Note: Authority cited: Sections 100504 and 100725, Government Code. Reference: Sections 100503, 100506, 100506.1 and 100506.2, Government Code; 45 CFR Section 155.635.

§1.5000A-1 Maintenance of minimum essential coverage and liability for the shared responsibility payment.

(a) *In general.* For each month during the taxable year, a nonexempt individual must have minimum essential coverage or pay the shared responsibility payment. For a month, a nonexempt individual is an individual in existence for the entire month who is not an exempt individual described in §1.5000A-3.

(b) *Coverage under minimum essential coverage—(1) In general.* An individual has minimum essential coverage for a month in which the individual is enrolled in and entitled to receive benefits under a program or plan identified as minimum essential coverage in §1.5000A-2 for at least one day in the month.

(2) *Special rule for United States citizens or residents residing outside the United States or residents of territories.* An individual is treated as having minimum essential coverage for a month—

(i) If the month occurs during any period described in section 911(d)(1)(A) or section 911(d)(1)(B) that is applicable to the individual; or

(ii) If, for the month, the individual is a bona fide resident of a possession of the United States (as determined under section 937(a)).

(c) *Liability for shared responsibility payment—(1) In general.* A taxpayer is liable for the shared responsibility payment for a month for which—

(i) The taxpayer is a nonexempt individual without minimum essential coverage; or

(ii) A nonexempt individual for whom the taxpayer is liable under paragraph (c)(2) or (c)(3) of this section does not have minimum essential coverage.

(2) *Liability for dependents—(i) In general.* For a month when a nonexempt individual does not have minimum essential coverage, if the nonexempt individual is a dependent (as defined in section 152) of another individual for the other individual's taxable year including that month, the other individual is liable for the shared responsibility payment attributable to the dependent's lack of coverage. An individual is a dependent of a taxpayer for a taxable year if the individual satisfies the definition of dependent under section 152, regardless of whether the taxpayer claims the individual as a dependent on a Federal income tax return for the taxable year. If an individual may be claimed as a dependent by more than one taxpayer in the same calendar year, the taxpayer who properly claims the individual as a dependent for the taxable year is liable for the shared responsibility payment attributable to the individual. If more than one taxpayer may claim an individual as a dependent in the same calendar year but no one claims the individual as a dependent, the taxpayer with priority under the rules of section 152 to claim the individual as a dependent is liable for the shared responsibility payment for the individual.

(ii) *Special rules for dependents adopted or placed in foster care during the taxable year* —(A) *Taxpayers adopting an individual.* If a taxpayer adopts a nonexempt dependent (or accepts a nonexempt dependent who is an eligible foster child as defined in section 152(f)(1)(C)) during the taxable year and is otherwise liable for the nonexempt dependent under paragraph (c)(2)(i) of this section, the taxpayer is liable under paragraph (c)(2)(i) of this section for the nonexempt dependent only for the full months in the taxable year that follow the month in which the adoption or acceptance occurs.

(B) *Taxpayers placing an individual for adoption.* If a taxpayer who is otherwise liable for a nonexempt dependent under paragraph (c)(2)(i) of this section places (or, by operation of law, must place) the nonexempt dependent for adoption or foster care during the taxable year, the taxpayer is liable under paragraph (c)(2)(i) of this section for the nonexempt dependent only for the full months in the taxable year that precede the month in which the adoption or foster care placement occurs.

(C) *Examples.* The following examples illustrate the provisions of this paragraph (c)(2)(ii). In each example the taxpayer's taxable year is a calendar year.

Example 1. Taxpayers adopting a child. (i) E and F, married individuals filing a joint return, initiate proceedings for the legal adoption of a 2-year old child, G, in January 2016. On May 15, 2016, G becomes the adopted child (within the meaning of section 152(f)(1)(B)) of E and F, and resides with them for the remainder of 2016. Prior to the adoption, G resides with H, an unmarried individual, with H providing all of G's support. For 2016 G meets all requirements under section 152 to be E and F's dependent, and not H's dependent.

(ii) Under paragraph (c)(2) of this section, E and F are not liable for a shared responsibility payment attributable to G for January through May of 2016, but are liable for a shared responsibility payment attributable to G, if any, for June through December of 2016. H is not liable for a shared responsibility payment attributable to G for any month in 2016, because G is not H's dependent for 2016 under section 152.

Example 2. Taxpayers placing a child for adoption. (i) The facts are the same as *Example 1*, except the legal adoption occurs on August 15, 2016, and, for 2016, G meets all requirements under section 152 to be H's dependent, and not E and F's dependent.

(ii) Under paragraph (c)(2) of this section, H is liable for a shared responsibility payment attributable to G, if any, for January through July of 2016, but is not liable for a shared responsibility payment attributable to G for August through December of 2016. E and F are not liable for a shared responsibility payment attributable to G for any month in 2016, because G is not E and F's dependent for 2016 under section 152.

(3) *Liability of individuals filing a joint return.* Married individuals (within the meaning of section 7703) who file a joint return for a taxable year are jointly liable for any shared responsibility payment for a month included in the taxable year.

(d) *Definitions.* The definitions in this paragraph (d) apply to this section and §§1.5000A-2 through 1.5000A-5.

(1) *Affordable Care Act.* *Affordable Care Act* refers to the Patient Protection and Affordable Care Act, Public Law 111-148 (124 Stat. 119 (2010)), and the Health Care and Education Reconciliation Act of 2010, Public Law 111-152 (124 Stat. 1029 (2010)), as amended.

(2) *Employee.* *Employee* includes former employees.

(3) *Exchange*. *Exchange* has the same meaning as in 45 CFR 155.20.

(4) *Family*. A taxpayer's family means the individuals for whom the taxpayer properly claims a deduction for a personal exemption under section 151 for the taxable year.

(5) *Family coverage*. *Family coverage* means health insurance that covers more than one individual.

(6) *Group health insurance coverage*. *Group health insurance coverage* has the same meaning as in section 2791(b)(4) of the Public Health Service Act (42 U.S.C. 300gg-91(b)(4)).

(7) *Group health plan*. *Group health plan* has the same meaning as in section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg-91(a)(1)).

(8) *Health insurance coverage*. *Health insurance coverage* has the same meaning as in section 2791(b)(1) of the Public Health Service Act (42 U.S.C. 300gg-91(b)(1)).

(9) *Health insurance issuer*. *Health insurance issuer* has the same meaning as in section 2791(b)(2) of the Public Health Service Act (42 U.S.C. 300gg-91(b)(2)).

(10) *Household income*—(i) *In general*. *Household income* means the sum of—

(A) A taxpayer's modified adjusted gross income; and

(B) The aggregate modified adjusted gross income of all other individuals who—

(1) Are included in the taxpayer's family under paragraph (d)(4) of this section; and

(2) Are required to file a Federal income tax return for the taxable year.

(ii) *Modified adjusted gross income*. *Modified adjusted gross income* means adjusted gross income (within the meaning of section 62) increased by—

(A) Amounts excluded from gross income under section 911; and

(B) Tax-exempt interest the taxpayer receives or accrues during the taxable year.

(11) *Individual market*. *Individual market* has the same meaning as in section 1304(a)(2) of the Affordable Care Act (42 U.S.C. 18024(a)(2)).

(12) *Large and small group market*. *Large group market* and *small group market* have the same meanings as in section 1304(a)(3) of the Affordable Care Act (42 U.S.C. 18024(a)(3)).

(13) *Month*. *Month* means calendar month.

(14) *Qualified health plan*. *Qualified health plan* has the same meaning as in section 1301(a) of the Affordable Care Act (42 U.S.C. 18021(a)).

(15) *Rating area*. *Rating area* has the same meaning as in §1.36B-1(n).

(16) *Self-only coverage.* *Self-only coverage* means health insurance that covers one individual.

(17) *Shared responsibility family.* *Shared responsibility family* means, for a month, all nonexempt individuals for whom the taxpayer (and the taxpayer's spouse, if the taxpayer is married and files a joint return with the spouse) is liable for the shared responsibility payment under paragraph (c) of this section.

(18) *State.* *State* means each of the 50 states and the District of Columbia.

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