

**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: 2020-0430-02

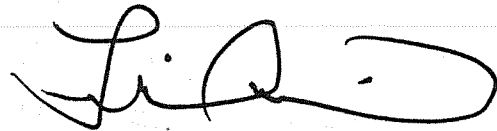
OAL Matter Type: Emergency Readopt (EE)

This proposed emergency rulemaking action by the California Health Benefit Exchange readopts OAL File No. 2019-0927-05E that established 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 5/11/2020.

Date: May 11, 2020



Lindsey S. McNeill
Attorney

For: Kenneth J. Pogue
Director

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

OAL REPORT TO THE PUBLISHER

OAL Matter Number	2020-0430-02
OAL Matter Type	Emergency Readopt (EE)
Agency Name	California Health Benefit Exchange
Title(s)	10
OAL Action	Approval
Date filed with Secretary of State	5/11/2020
Effective Date	5/11/2020
Custom History Note (if any)	"New article 13 (sections 6910-6922) and section refiled 5-11-2020 as a deemed emergency pursuant to Government Code section 100725(c); operative 5-11-2020 (Register 2020, No. **). A Certificate of Compliance must be transmitted to OAL by 1-1-2025 pursuant to Government Code section 100725 or emergency language will be repealed by operation of law on the following day."
Note to Publisher/Special Instructions (if any)	Please do not print the documents incorporated by reference in the CCR. Thank you!
Print Attachments?	<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A
Changes in text from prior emergencies?	<input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
Certificate of Compliance due date (if applicable)	1/1/2025
Expiration Date (if applicable)	1/2/2025
Reviewed by:	Lindsey S. McNeill lindsey.mcneill@oal.ca.gov, (916) 323-6820

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW
EMERGENCY
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 2020-0430-02EE
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

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

MAY 11 2020

1:44PM

2020 APR 30 P 4: 54
 OFFICE OF
 ADMINISTRATIVE LAW

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 <input type="checkbox"/> 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) 2019-0927-05E; 2020-0408-05EE
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SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 6910, 6912, 6914, 6916, 6918, 6920 and 6922
	AMEND
	REPEAL
TITLE(S) 10	

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 §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input checked="" 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 checked="" 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 checked="" type="checkbox"/> Other (Specify) <u>Gov. Code, §100725(c)</u>	<u>5/9/20</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(e))	<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) <u>MM</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	<u>5/9/20</u>
<input checked="" type="checkbox"/> Other (Specify) <u>Consultation with Franchise Tax Board pursuant to GOVERNMENT CODE SECTION 100725</u>			

7. CONTACT PERSON Faviola Adams	TELEPHONE NUMBER 916-284-5547	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 4/24/2020
TYPED NAME AND TITLE OF SIGNATORY Peter V. Lee, Executive Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 11 2020

Office of Administrative Law

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5/8/20

California Code of Regulations

Title 10. Investment

Chapter 12. California Health Benefit Exchange

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

Readopt Section 6910 with Amendments

§ 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) "Qualified Individual" means an individual who meets the eligibility standards for exemption through the Exchange, as specified in Section 6914.

(11) "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)(12) "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.

Readopt Section 6912 with Amendments

§ 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 or Individual Taxpayer Identification 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 or Individual Taxpayer Identification Number, if the individual has one, 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 start and end dates for 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 and whether the employer-sponsored coverage meets the minimum value standards, specified in 45 CFR Section 156.145 (February 27, 2015), hereby incorporated by reference.

(4) The applicant's projected household income from all sources for the year the applicant has requested the exemption, including tax-exempt foreign earned income and tax-exempt income from interest that the applicant receives or accrues during the taxable year, if any, and proof of such income. If self-employed, the amount of net income. The projected household income does not include income from child support payments, veteran's payments, and Supplemental Security Income/State Supplementary Payment (SSI/SSP).

(5) The applicant's expected type and amount of the tax deductions that the applicant is allowed to deduct from the applicant's taxable gross income when calculating the applicant's adjusted gross income on the applicant's federal income tax return.

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(6) Whether the applicant intends to file federal and state income tax returns for the year for which the applicant is requesting coverage, and if so, the applicant's expected tax-filing status.

(7) Whether the applicant is enrolled in minimum essential coverage through any government sponsored programs, as defined in Section 5000A(f)(1)(A) of the Internal Revenue Code (26 USC § 5000A(f)(1)(A)), or is eligible for full-scope Medi-Cal or free Medicare Part A.

(8) The applicant's status as a U.S. Citizen or U.S. National, or the following information if the applicant is not a U.S. Citizen or U.S. National and attests to having lawful presence status:

(A) The applicant's immigration status;

(B) The applicant's immigration document type, identification number, country of issuance, expiration date, and the applicant's name as it appears on the document;

(C) Whether the applicant has lived in the U.S. since 1996; and

(D) Whether the applicant, or the applicant's spouse or parent, is a veteran or an active-duty member of the U.S. military.

(9) Whether the applicant is pregnant, and if so, the number of babies expected and the expected delivery date.

(10) Whether the applicant is 18 to 20 years old and a full-time student.

(11) Whether the applicant is 18 to 26 years old and lived in foster care on the applicant's 18th birthday or whether the applicant was in foster care and enrolled in Medicaid in any state.

(12) Whether the applicant is 18 years old or younger, and if so, the number of parents living with the applicant.

(13) Whether the applicant lives with at least one child under the age of 19 and is the primary person taking care of this child.

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

(15) Whether the applicant is a primary tax filer or a tax dependent. If the applicant is a tax dependent, the non-applicant primary tax filer shall provide the information in subdivision (f)(1) through (14) of this section, except for the information in subdivision (f)(8).

(16) For any other individuals seeking an exemption on the applicant's exemption application, all of the information in subdivision (f)(1) through (15) of this section.

(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.