



APRIL 3, 2026

NOTICE OF PROPOSED RULEMAKING

**CALIFORNIA CODE OF REGULATIONS
TITLE 10, CHAPTER 12, ARTICLES 8 AND 11
AMEND SECTIONS 6664 AND 6864**

The Board of Directors for the California Health Benefit Exchange (hereinafter referred to as the “Exchange”) proposes to amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Exchange has not scheduled a public hearing on this proposed action. However, the Exchange will hold a hearing if it receives a written request for a public hearing, pursuant to Government Code Section 11346.8(a), from any interested person, or such person’s duly authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or such person’s duly authorized representative, may submit written statements, arguments, or contentions (hereafter referred to as comments) relevant to the proposed regulatory action to the Exchange. The written comment period closes on **May 19, 2026**. The Exchange will consider only comments received at the Exchange’s office by that time. Submit written comments to:

Jameson Mitchell
Regulations Analyst
California Health Benefit Exchange
1601 Exposition Blvd.
Sacramento, CA 95815

Comments may also be submitted by e-mail to regulations@covered.ca.gov.

AUTHORITY AND REFERENCE

Government Code Section 100504(a)(6) authorizes the Exchange to adopt rules and regulations, as necessary. The proposed regulations implement, interpret, and make specific Government Code Sections 100502 and 100503; Title 25 of the United States

Code, Section 1642; and Title 45 of the Code of Federal Regulations, Sections 155.205, 155.210, and 155.225.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations

Under the federal Patient Protection and Affordable Care Act (“ACA”), each state is required, by January 1, 2014, to establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and small employers. Existing state law, the California Patient Protection and Affordable Care Act (Gov. Code, § 100500 et seq.), established the California Health Benefit Exchange within state government, and it specifies the powers and duties of the executive board of the Exchange, also referred to as Covered California.

Government Code Section 100504(a) authorizes the Exchange to adopt rules and regulations, as necessary to execute the requirements under the ACA. The Exchange implemented regulations in the California Code of Regulations, Title 10, Section 6400 and following. These regulations include the policies and procedures related to eligibility, verification, and enrollment of individuals and small business employees.

On December 23, 2015, the Exchange adopted permanent regulations in Title 10, California Code of Regulations (“CCR”), Chapter 12, Article 8, Section 6664. This regulation is in effect and establishes the roles and responsibilities of Certified Enrollment Entities and Certified Enrollment Counselors, which have a grant agreement in place with the Exchange to provide enrollment assistance to the Exchange consumers, pursuant to the terms of the agreement and the requirements contained in Title 10, CCR, Chapter 12, Article 8. This is known as the Navigator Program.

The Exchange is required to establish the Navigator Program pursuant to section 1311, subdivision (i) of the ACA; Government Code section 100502, subdivision (l); and Title 45, Code of Federal Regulations, section 155.210. The Navigator Program is a partnership with community organizations across the state who have experience in reaching and assisting California’s diverse populations and have proven success enrolling consumers in health care programs. Navigators are Certified Enrollment Entities and Counselors that assist consumers through a variety of outreach, education, enrollment, post enrollment, and renewal support services.

On June 7, 2019, the Exchange adopted permanent regulations in Title 10, CCR, Chapter 12, Article 11, Section 6864. This regulation is in effect and establishes the roles and responsibilities of Certified Application Entities and Certified Application Counselors, which have an agreement in place with the Exchange to provide in-person counseling and assistance to consumers in need of help with applying for the Exchange programs, pursuant to the terms of the agreement and the requirements contained in Title 10, CCR, Chapter 12, Article 11. This is known as the Certified Application Counselor Program.

The Exchange is required to establish the Certified Application Counselor Program pursuant to Title 45, Code of Federal Regulations, section 155.225. The Certified

Application Counselor Program provides trained individuals who are available to offer in-person counseling and assistance to consumers in need of help with applying for programs in the Exchange. Counselors provide assistance in culturally and linguistic appropriate manners to consumers throughout California.

The Exchange is proposing to amend the regulations in Title 10, California Code of Regulations, Sections 6664 and 6864.

Objectives and Anticipated Benefits of the Proposed Rulemaking

The broad objective of this proposed regulatory action is to exempt individuals and entities who are affiliated with American Indian tribes and organizations from certain prohibited acts when providing application and enrollment assistance to consumers of the Exchange pursuant to the requirements under the California Code of Regulations.

Anticipated benefits of the proposed action include:

- Aligning California's regulations with federal law;
- Ensuring American Indian tribes and organizations can continue to perform enrollment and application assistance for their members;
- Providing structure for the Exchange to give predictable and clear standards to the public now and into the future;
- Reducing health care costs for Californians; and
- Providing increased health care access to Californians.

Evaluation Regarding Inconsistency/Incompatibility with Existing State Regulations

After an evaluation of current regulations, the Exchange has determined that these proposed amended regulations are not inconsistent or incompatible with any existing state regulations. This Evaluation included a review of the laws that regulate the Exchange and specifically those statutes and regulations related to health insurance. Exchange staff also conducted an internet search of other state agency regulations.

Several California statutes and regulations govern health insurance and notably include provisions affecting the Exchange in the Government Code, the Health and Safety Code, and the Insurance Code. The Exchange has made its best effort to conform its regulations to State law and does not know of any State statutes or regulations conflicting with these proposed regulations.

DOCUMENTS TO BE INCORPORATED BY REFERENCE

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Executive Director of the California Health Benefit Exchange has made the following initial determinations:

Matters Prescribed by Statute Applicable to the Agency or to Any Specific Regulation or Class of Regulations

None.

Mandate on Local Agencies or School Districts

None. The Executive Director of the California Health Benefit Exchange has determined that this proposed regulatory action does not impose a mandate on local agencies or school districts.

Cost to Any Local Agency or School District Which Must Be Reimbursed in Accordance with Government Code Sections 17500 through 17630

None. This proposal does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

Costs or Savings to State Agencies

None.

Costs or Savings in Federal Funding to the State

The proposal results in additional costs to the California Health Benefit Exchange, which is currently financially self-sustaining and is not funded by federal grant money. There is no other impact on federal funding to the state as a result of these regulations.

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

None.

Significant Effect on Housing Costs

None.

Effect on Small Business

This proposed regulation is not expected to create or expand small business within the State of California.

Significant, Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States

None.

Known Cost Impacts on a Representative Private Person or Business

The Exchange is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Business Reporting Requirement

None.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Exchange concludes regarding the proposed amended regulations:

- (1) They are **unlikely** to create or eliminate jobs in the State;
- (2) They are **unlikely** to create or eliminate businesses in the State;

- (3) They are **unlikely** to impact the expansion of businesses currently doing business in California;
- (4) They are **likely** to provide benefits to the health and welfare of California residents; and
- (5) They are **unlikely** to provide benefits to worker safety and the state's environment.

Benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency

The proposed regulations will benefit American Indian tribes and organizations in California by ensuring they can continue to perform enrollment and application assistance for their members. The proposed regulations will align California's regulations with federal law and provide structure for the Exchange to give predictable and clear standards to the public now and into the future. Additionally, the proposed regulations are expected to reduce health care costs for Californians and provide increased health care access to Californians, which will help save lives and improve the health of the public in California. This proposed regulatory action will not affect worker safety and the state's environment.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Exchange must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Exchange would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Exchange invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Jameson Mitchell
Regulations Analyst
California Health Benefit Exchange
1601 Exposition Blvd.
Sacramento, CA 95815
Telephone: (916) 954-3372

The back-up contact person for inquiries concerning the proposed administrative action may be directed to:

Crystal Hirst
Attorney IV
California Health Benefit Exchange
1601 Exposition Blvd.
Sacramento, CA 95815
Telephone: (916) 228-8313

Please direct questions regarding the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Jameson Mitchell at the above contact information.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND RULEMAKING FILE

The Exchange will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons. Copies may be obtained by contacting Jameson Mitchell at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the hearing, if one is held, and after considering all timely and relevant comments received, the Exchange may adopt the proposed regulations substantially as described in this notice. If the Exchange makes modifications that are sufficiently related to the originally proposed text, it will make the modified text available to the public at least 15 days before the Exchange adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Jameson Mitchell at the address indicated above. The Exchange will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Jameson Mitchell at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the proposed text of the regulations in underline and strikeout can be accessed through our website at <http://hbex.coveredca.com/regulations/>



INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS TITLE 10, CHAPTER 12, ARTICLES 8 AND 11 AMEND SECTIONS 6664 AND 6864

The Administrative Procedure Act (“APA”) requires that an Initial Statement of Reasons be available to the public upon request when a permanent rulemaking action is undertaken. The following information required by the APA pertains to this particular rulemaking action.

BACKGROUND

In March 2010, President Obama signed federal health reform legislation called the Patient Protection and Affordable Care Act (“ACA”). It created the opportunity for each state to establish a state-based health insurance exchange to implement the ACA. California chose to operate an exchange that is commonly known as known as “Covered California.” For purposes of this Initial Statement of Reasons, Covered California will be referred to as the “Exchange.” The Exchange’s mission is to increase the number of insured Californians, improve health care quality, lower costs, and reduce health disparities through an innovative, competitive marketplace that empowers consumers to choose their health plan.

State law also specifies the powers and duties of the executive board of the Exchange. Government Code section 100504(a)(6) authorizes the Exchange’s Board of Directors to adopt rules and regulations, as necessary. The Exchange proposes this permanent rulemaking in furtherance of its rulemaking authority to implement, interpret and make specific state and federal laws.

On December 23, 2015, the Exchange adopted permanent regulations in Title 10, California Code of Regulations (“CCR”), Chapter 12, Article 8, Section 6664. This regulation is in effect and establishes the roles and responsibilities of Certified Enrollment Entities and Certified Enrollment Counselors, which have a grant agreement in place with the Exchange to provide enrollment assistance to the Exchange consumers, pursuant to the terms of the agreement and the requirements contained in Title 10, CCR, Chapter 12, Article 8. This is known as the Navigator Program.

The Exchange is required to establish the Navigator Program pursuant to section 1311, subdivision (i) of the ACA; Government Code section 100502, subdivision (l); and Title 45, Code of Federal Regulations, section 155.210. The Navigator Program is a partnership with community organizations across the state who have experience in reaching and assisting California’s diverse populations and have proven success enrolling consumers in health care programs. Navigators are Certified Enrollment

Entities and Counselors that assist consumers through a variety of outreach, education, enrollment, post enrollment, and renewal support services.

On June 6, 2019, the Exchange adopted permanent regulations in Title 10, CCR, Chapter 12, Article 11, Section 6864. This regulation is in effect and establishes the roles and responsibilities of Certified Application Entities and Certified Application Counselors, which have an agreement in place with the Exchange to provide in-person counseling and assistance to consumers in need of help with applying for the Exchange programs, pursuant to the terms of the agreement and the requirements contained in Title 10, CCR, Chapter 12, Article 11. This is known as the Certified Application Counselor Program.

The Exchange is required to establish the Certified Application Counselor Program pursuant to Title 45, Code of Federal Regulations, section 155.225. The Certified Application Counselor Program provides trained individuals who are available to offer in-person counseling and assistance to consumers in need of help with applying for programs in the Exchange. Counselors provide assistance in culturally and linguistic appropriate manners to consumers throughout California.

The Indian Health Care Improvement Act (“IHCA”) is the cornerstone legal authority for the provision of health care to American Indians and Alaska Natives. It was reauthorized and made permanent by President Obama on March 23, 2010, as part of the ACA. One of the provisions of the IHCA authorizes Indian tribes, tribal organizations, and urban Indian organizations to purchase health benefits coverage for members using federal funds. (25 U.S.C. § 1642.) Health benefits coverage may be purchased in any form but is most commonly purchased through a Qualified Health Plan from the ACA Marketplace. This is known as Tribal Sponsorship.

The Exchange is now proposing to amend these permanent regulations in Title 10, CCR, Sections 6664 and 6864.

PROBLEM STATEMENT

Title 10, CCR, Section 6664, subdivisions (h)(5)-(7) prohibit Certified Enrollment Entities and Certified Enrollment Counselors from accepting any premium payments from the consumer, inputting any premium payment information on behalf of the consumer, or paying any part of the premium or any other type of consideration to or on behalf of the consumer.

Similarly, Title 10, CCR, Section 6864, subdivisions (k)(11)-(13) prohibit Certified Application Entities and Certified Application Counselors from accepting any premium payments from the consumer, inputting any premium payment information on behalf of the consumer, or paying any part of the premium or any other type of consideration to or on behalf of the consumer.

In the Exchange, American Indian tribes, tribal organizations, and urban Indian organizations, or individuals affiliated with those entities (for the purposes of this document, collectively referred to as “Tribes”), may become Certified Enrollment

Entities, Certified Enrollment Counselors, Certified Application Entities, or Certified Application Counselors (for the purposes of this document, collectively referred to as “Enrollment Entities”). Once certified by the Exchange, Tribes may act as Enrollment Entities while at the same time providing Tribal Sponsorship for their members pursuant to the IHCA, which includes paying for the health insurance premiums on behalf of their members.

Because Title 10, CCR, sections 6664 and 6864 prohibit payment of any part of the premium to or on behalf of the consumer by Enrollment Entities, but do not exempt Tribes specifically, this creates conflict between the CCR and federal law. The proposed rulemaking package aligns the CCR with federal law by exempting Tribes from the prohibition.

This rulemaking package further exempts Tribes from accepting any premium payments from the consumer and inputting any premium payment information on behalf of the consumer. This is because, as part of Tribal Sponsorship, Tribes may pay a part of the member’s health insurance premium and therefore may need to accept a premium payment from the member to cover the remainder of the monthly premium. Likewise, Tribes may make a collective premium payment to the health insurance issuer on behalf of all sponsored members and therefore may need to input premium payment information on behalf of their members.

Additionally, the Exchange seeks to make these regulations gender neutral.

ANTICIPATED BENEFITS

Anticipated benefits of this proposed regulation include:

- Aligning California’s regulations with federal law;
- Ensuring Tribes may continue to perform health plan enrollment and application assistance for their members;
- Providing structure for the Exchange to give predictable and clear standards to the public now and into the future;
- Reducing health care costs for Californians; and
- Providing increased health care access to Californians.

SUMMARY OF THE PROPOSED AMENDMENTS

The Exchange is proposing to amend Title 10, CCR, Chapter 12, Article 8, Section 6664. The proposed amendments add a new subdivision (h)(15) that will authorize Tribes acting as Certified Enrollment Entities and Certified Enrollment Counselors to accept any premium payments from the consumer, input any premium payment information on behalf of the consumer, and pay any part of the premium or provide any form of consideration to or on behalf of the consumer. The proposed amendments also make non-substantive changes that do not alter the regulatory effect of the provisions.

The Exchange is proposing to amend Title 10, CCR, Chapter 12, Article 11, Section 6864. The proposed amendments add a new subdivision (k)(16) that will authorize

Tribes acting as Certified Application Entities and Certified Application Counselors to accept any premium payments from the consumer, input any premium payment information on behalf of the consumer, and pay any part of the premium or provide any form of consideration to or on behalf of the consumer.

Lastly, the proposed amendments change “he or she,” “his or her,” and “himself or herself,” to “they,” “their,” and “themselves” respectively as applicable throughout the sections for gender neutrality and consistency purposes.

PURPOSE AND NECESSITY

The broad purpose of this proposed regulatory action is to align California regulations with federal law and provide Tribes with clear and concise rules regarding their roles and responsibilities when acting as Enrollment Entities in the Exchange.

Pursuant to its authorities, the Exchange proposes to permanently adopt and amend certain regulations as follows:

Section 6664. Roles & Responsibilities.

Section 6664, in its entirety, clarifies and makes specific the roles and responsibilities that Certified Enrollment Entities and Certified Enrollment Counselors must adhere to as conditions of participation in the Navigator program.

Section 6664(a)(6)(A): The amended regulation changes “his or her” to “their” for gender neutrality and consistency purposes.

Section 6664(a)(6)(C)(1)(ii): The amended regulation changes “he or she understands” to “they understand” for gender neutrality and consistency purposes.

Section 6664(a)(6)(C)(1)(iii): The amended regulation changes “his or her” to “their” for gender neutrality and consistency purposes.

Section 6664(a)(6)(C)(2)(ii): The amended regulation changes “he or she understands” to “they understand” for gender neutrality and consistency purposes.

Section 6664(a)(6)(C)(2)(iii): The amended regulation changes “his or her” to “their” for gender neutrality and consistency purposes.

Section 6664(a)(6)(E): The amended regulation changes “he or she” to “they” for gender neutrality and consistency purposes.

Section 6664(a)(6)(F): The amended regulation changes “his or her” to “their” for gender neutrality and consistency purposes.

Section 6664(a)(6)(G): The amended regulation changes “he or she” to “they” for gender neutrality and consistency purposes.

Section 6664(h)(7): The amended regulation adds the word “provide” to clarify that Certified Enrollment Entities and Certified Enrollment Counselors may not “provide any other type of consideration to or on behalf of the consumer.” This is a non-substantive change that corrects grammar and does not alter the regulatory effect of the provision.

Section 6664(h)(15): Subdivision (h)(15) has been added to authorize Tribes, when acting as a Certified Enrollment Entities or Certified Enrollment Counselors, to accept any premium payments from the consumer, input any premium payment information on behalf of the consumer, and pay any part of the premium or provide any form of consideration to or on behalf of the consumer. This in effect exempts Tribes from the requirements under subdivisions (h)(5), (h)(6), and (h)(7). This is necessary to remove the conflict between the identified provisions and federal law that allows Tribes to sponsor the premiums of their members and to ensure that Tribes can engage in the activities necessary to pay the premium on behalf of their members.

Section 6864. Roles and Responsibilities.

Section 6864, in its entirety, clarifies and makes specific the roles and responsibilities that Certified Application Entities and Certified Application Counselors must adhere to as conditions of participation in the Certified Application Counselor program.

Section 6864(b)(1): The amended regulation changes “his or her” to “their” for gender neutrality and consistency purposes.

Section 6864(b)(4)(A)(2): The amended regulation changes “he or she understands” to “they understand” for gender neutrality and consistency purposes.

Section 6864(b)(4)(A)(3): The amended regulation changes “his or her” to “their” for gender neutrality and consistency purposes.

Section 6864(b)(4)(B)(2): The amended regulation changes “he or she understands” to “they understand” for gender neutrality and consistency purposes.

Section 6864(b)(4)(B)(3): The amended regulation changes “his or her” to “their” for gender neutrality and consistency purposes.

Section 6864(b)(6): The amended regulation changes “he or she” to “they” for gender neutrality and consistency purposes.

Section 6864(b)(7): The amended regulation changes “his or her” to “their” for gender neutrality and consistency purposes.

Section 6864(b)(8): The amended regulation changes “he or she” to “they” for gender neutrality and consistency purposes.

Section 6864(k)(13): The amended regulation changes “to the consumer on behalf of the consumer” to “to or on behalf of the consumer” for clarity purposes. This is a non-

substantive change that corrects grammar and does not alter the regulatory effect of the provision.

Section 6864(k)(16): Subdivision (k)(16) has been added to authorize Tribes, when acting as a Certified Application Entities or Certified Application Counselors, to accept any premium payments from the consumer, input any premium payment information on behalf of the consumer, and pay any part of the premium or provide any form of consideration to or on behalf of the consumer. This in effect exempts Tribes from the requirements under subdivisions (k)(11), (k)(12), and (k)(13). This is necessary to remove the conflict between the identified provisions and federal law that allows Tribes to sponsor the premiums of their members and to ensure that Tribes can engage in the activities necessary to pay the premium on behalf of their members.

ADVISORY GROUP OR OTHER AGENCY COMMENT, CONSULTATION AND/OR APPROVAL

The Exchange consulted with Tribal governments, conferred with Indian organizations, and met with stakeholder groups in advance of proposing this permanent regulatory action.

DOCUMENTS RELIED UPON

None.

ECONOMIC IMPACT ANALYSIS/ASSESSMENT (EIA)

The proposed amendments seek to align California regulations with federal law and provide Tribes with clear and concise rules regarding their roles and responsibilities when acting as Enrollment Entities in the Exchange. The proposed regulatory package (1) authorizes Tribes, when acting as a Certified Enrollment Entities, Certified Enrollment Counselors, Certified Application Entities, or Certified Application Counselors to accept any premium payments from the consumer, input any premium payment information on behalf of the consumer, and pay any part of the premium or provide any form of consideration to or on behalf of the consumer, (2) makes these regulations gender neutral, and (3) makes non-substantive changes to correct grammar. The proposed amendments have been circulated to and reviewed by affected parties and stakeholder groups. No comments regarding the economic impact of the proposal were received.

Although the proposed amendments will affect Tribal Enrollment Entities statewide, applicants will not seek external assistance for the sole purpose of Tribal Sponsorship because paying the monthly premium is only required after applying for enrollment. Additionally, Tribes have discretion in establishing a Tribal Sponsorship program and some Tribal Enrollment Entities may not have a Tribal Sponsorship program. Individuals who seek external assistance will likely need help in completing the entire application, in addition to paying some or the full monthly premium if available, in which case the Tribal Enrollment Entities would fulfil one of their job responsibilities. There is no additional

compensation provided for Tribal Sponsorship. Therefore, the Exchange concludes that the economic impact, including the ability of California businesses to compete with businesses in other states, will not be significant. These provisions will have no substantial impact on the operation of these organizations and thus the proposed regulation is not expected to have a significant adverse economic impact on businesses.

Creation of Jobs

For the reasons stated above, the proposed amendments are not expected to create or eliminate any jobs within the State of California. The focus of the amendments is on allowing Tribes who choose to sponsor the premiums of their members to do so without conflicting with their roles and responsibilities as Enrollment Entities. The proposed amendments are intended to clarify the regulations already in existence, align the regulations with federal law, and align the current practices already being used by Tribes when acting as Enrollment Entities. Therefore, no new job creation or elimination is expected to occur due to this rulemaking package.

Creation of Businesses

For the reasons stated above, the proposed amendments are not expected to create or eliminate businesses within the State of California. The regulations pertaining to Enrollment Entities are already in existence, and the proposed amendments align those regulations with federal law. The regulations do not create conditions conducive to the establishment of new businesses, nor do they impose restrictions that would necessitate the closure of existing ones. Tribal Enrollment Entities are already assisting consumers with enrolling in coverage through the Exchange, so businesses will not be created or eliminated to comply with these regulations. Thus, there is no expected direct impact on the creation or elimination of California businesses due to these regulations.

Expansion of Businesses

For the reasons stated above, the proposed amendments are not expected to expand any businesses currently doing business within the State of California. The regulations pertaining to Enrollment Entities are already in existence, and the proposed amendments align those regulations with federal law. Tribal Enrollment Entities are already assisting consumers with enrolling in coverage through the Exchange, so businesses will not expand to comply with these regulations. These amendments are not expected to facilitate market expansion, affect operational capacities, or boost financial growth for businesses. Thus, there is no expected direct effect on the expansion of businesses due to these regulations.

Benefits

The benefits of this rulemaking package are tied to the Exchange's overall mission. The Exchange is committed to improving the consumer's experience when working with an Enrollment Entity to receive assistance with enrollment and applying for health insurance. The proposed amendments ensure that the roles and responsibilities of Enrollment Entities that are Tribes are not in conflict with federal law and provide clarity to all stakeholders of the Exchange.

Anticipated benefits including nonmonetary benefits to the protection of public health and safety, worker safety, the environment, the prevention of discrimination, or the promotion of fairness or social equity, from this proposed regulatory action are:

- Aligning California's regulations with federal law;
- Ensuring American Indian tribes and organizations can continue to perform enrollment and application assistance for their members;
- Providing structure for the Exchange to give predictable and clear standards to the public now and into the future;
- Reducing health care costs for Californians; and
- Providing increased health care access to Californians.

This proposed regulatory action will not affect worker safety and the state's environment.

REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Exchange has determined that no reasonable alternative considered or otherwise identified and brought to the attention of the Exchange would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Exchange invites interested persons to present statements or arguments with respect to alternatives to the proposed amendments at the scheduled hearing or during the written comment period.

SUPPORT FOR DETERMINATION OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

For the reasons stated above, the Exchange has determined that the proposed rulemaking will have no significant, statewide adverse economic impact affecting businesses, either directly or indirectly, including the ability of California businesses to compete with businesses in other states. The proposed regulation describes action taken by the Exchange and does not impose any direct requirements on businesses.

Title 10. Investment

Chapter 12. California Health Benefit Exchange

Article 8. Enrollment Assistance

§ 6664. Roles and Responsibilities.

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

(1) Maintain expertise in eligibility, enrollment, and program specifications. Individuals and entities registered under the Navigator Program must also conduct outreach and education to raise awareness about the Exchange;

(2) Provide information and services in a fair, accurate and impartial manner, which includes providing information that assists consumers with submitting the eligibility application, clarifying the distinctions among health coverage options, including QHPs, and helping consumers make informed decisions during the health coverage selection process. Such information and services shall include assistance with all other insurance affordability programs (e.g., Medicaid and Children's Health Insurance Programs);

(3) Facilitate selection of a QHP;

(4) 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, 42 U.S.C. § 300gg-93, 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;

(5) Comply with the privacy and security requirements in 45 C.F.R. § 155.260;

(6) Prior to receiving access to any consumer's personally identifiable information as defined in Section 6650 of Article 8, the Certified Enrollment Counselor shall:

(A) Inform the consumer that the Certified Enrollment Counselor must obtain ~~his or her~~ their authorization prior to accessing any personally identifiable information;

(B) Inform each consumer of the roles and responsibilities of the Certified Enrollment Counselor as set forth in Section 6664, subdivisions (a)(1)-(5), (7);

(C) Obtain oral or written authorization from the consumer to access the consumer's personally identifiable information;

1. Written authorization shall contain a consumer's signature and a written attestation completed by the Certified Enrollment Counselor affirming under penalty of perjury that the Certified Enrollment Counselor:

i. Is a Certified Enrollment Counselor affiliated with a Certified Enrollment Entity in the Navigator program as defined in Section 6650;

ii. Conveyed all the information required under this subdivision to the consumer in a language and manner which ~~he or she understands~~ they understand; and

iii. Obtained written authorization from the consumer consenting to the release of ~~his or her~~ their personally identifiable information in order to fulfill the duties as described in Section 6664.

2. Oral authorization shall be accompanied by a written attestation completed by the Certified Enrollment Counselor affirming under penalty of perjury that the Certified Enrollment Counselor:

i. Is a Certified Enrollment Counselor affiliated with a Certified Enrollment Entity in the Navigator program as defined in Section 6650;

ii. Conveyed all the information required under this subdivision to the consumer in a language and manner which ~~he or she understands~~ they understand; and

iii. Obtained oral authorization from the consumer consenting to the release of ~~his or her~~ their personally identifiable information in order to fulfill the duties as described in Section 6664.

(D) Inform the consumer that the Certified Enrollment Counselor cannot choose a health insurance plan on the consumer's behalf;

(E) Inform the consumer that the Certified Enrollment Counselor will provide the consumer with information regarding the health insurance options and insurance affordability programs for which ~~he or she~~ they may be eligible;

(F) Inform the consumer that ~~his or her~~ their personally identifiable information will be kept private and secure in accordance with 45 C.F.R. § 155.260;

(G) Inform the consumer that if the Certified Enrollment Counselor cannot assist the consumer, ~~he or she~~ they will refer the consumer to another Certified Enrollment Counselor or the Covered California call center;

(H) Inform the consumer that the Certified Enrollment Counselor will not charge a fee in exchange for performing the duties described in Section 6664;

(I) Inform the consumer that the assistance is based only on the information provided by the consumer, and if the information given is inaccurate or incomplete, the Certified Enrollment Counselor may not be able to offer assistance;

(J) Inform the consumer that the authorization set forth in Section 6664, subdivision (a)(6)(C), may be revoked at any time; and

(K) Maintain a record of such authorization for a minimum of ten (10) years.

(7) Ensure that voter registration assistance is available in compliance with Chapter 6 of the California Elections Code;

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

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

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

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

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

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

(b) To ensure that information provided as part of any Consumer Assistance is culturally and linguistically appropriate to the needs of the population being served, including individuals with limited English proficiency as required by 45 C.F.R. §§

155.205(c)(2) and 155.210(e)(5), Certified Enrollment Entities and Certified Enrollment Counselors shall:

(1) Develop and maintain general knowledge about the racial, ethnic, and cultural groups in their service area, including each group's diverse cultural health beliefs and practices, preferred languages, health literacy, and other needs;

(2) Collect and maintain updated information to help understand the composition of the communities in the service area, including the primary languages spoken;

(3) Provide consumers with information and assistance in the consumer's preferred language, at no cost to the consumer, including the provision of oral interpretation of non-English languages and the translation of written documents in non-English languages when necessary to ensure meaningful access. Use of a consumer's family or friends as oral interpreters can satisfy the requirement to provide linguistically appropriate services only when requested by the consumer as the preferred alternative to an offer of other interpretive services;

(4) Provide oral and written notice to consumers with limited English proficiency informing them of their right to receive language assistance services and how to obtain them;

(5) Receive ongoing education and training in culturally and linguistically appropriate service delivery; and

(6) Implement strategies to recruit, support, and promote a staff that is representative of the demographic characteristics, including primary languages spoken, of the communities in their service area.

(c) To ensure that Consumer Assistance is accessible to people with disabilities, Certified Enrollment Entities and Certified Enrollment Counselors shall:

(1) Ensure that any consumer education materials, websites, or other tools utilized for Consumer Assistance purposes are accessible to people with disabilities, including those with sensory impairments, such as visual or hearing impairments, and those with mental illness, addiction, and physical, intellectual, and developmental disabilities;

(2) Provide auxiliary aids and services for individuals with disabilities, at no cost, where necessary for effective communication. Use of a consumer's family or friends as interpreters can satisfy the requirement to provide auxiliary aids and services only when requested by the consumer as the preferred alternative to an offer of other auxiliary aids and services;

(3) Provide assistance to consumers in a location and in a manner that is physically and otherwise accessible to individuals with disabilities;

(4) Ensure that legally authorized representatives are permitted to assist an individual with a disability to make informed decisions; and

(5) Acquire sufficient knowledge to refer people with disabilities to local, state, and federal long-term services and support programs when appropriate.

(d) To ensure that no consumer is discriminated against, Certified Enrollment Entities and Certified Enrollment Counselors shall provide the same level of service to all individuals regardless of age, disability, culture, sexual orientation, or gender identity and seek advice or experts when needed.

(e) Certified Enrollment Counselors shall complete the Certified Enrollment Entity and Certified Enrollment Counselor section of a consumer's application to the Exchange, including the following:

(1) Name and certification number of the Certified Enrollment Counselor;

(2) Name of the Certified Enrollment Entity and the Certified Enrollment Entity Number; and

(3) Signature and date of signature by the Certified Enrollment Counselor;

(f) If any of the information listed in subdivision (e) of this Section is not included on the consumer's original application, it may not be added at a later time.

(g) Certified Enrollment Counselors shall wear the badge issued by the Exchange at all times when providing Consumer Assistance.

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

(1) Have a conflict of interest as defined in Section 6666;

(2) Mail the paper application for the consumer;

(3) Coach the consumer to provide inaccurate information on the application regarding income, residency, immigration status and other eligibility rules;

(4) Coach or recommend one plan or provider over another;

(5) Accept any premium payments from the consumer;

(6) Input any premium payment information on behalf of the consumer;

(7) Pay any part of the premium or provide any other type of consideration to or on behalf of the consumer;

(8) Induce or accept any type of direct or indirect remuneration from the consumer;

(9) Intentionally create multiple applications from the same household, as defined in 42 C.F.R. § 435.603(f);

(10) Invite, influence, or arrange for an individual whose existing coverage through an eligible employer-sponsored plan is affordable and provides minimum value, as described in 26 U.S.C. § 36B(c)(2)(C)) and in 26 C.F.R. § 1.36B-2(c)(3)(v) and (vi), to separate from employer-based group health coverage;

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

(12) Use Exchange funds to purchase gifts or gift cards, or promotional items that market or promote the products or services of a third party, that would be provided to any applicant or potential enrollee;

(13) Solicit any consumer for application or enrollment assistance by going door-to-door or through other unsolicited means of direct contact, including calling a consumer to provide application or enrollment assistance without the consumer initiating the contact, unless the consumer has a pre-existing relationship with the individual Certified Enrollment Counselor or Certified Enrollment Entity and other applicable State and Federal laws are otherwise complied with. Outreach and education activities may be conducted by going door-to-door or through other unsolicited means of direct contact, including calling a consumer; or

(14) Initiate any telephone call to a consumer using an automatic telephone dialing system or an artificial or prerecorded voice, except in cases where the individual Certified Enrollment Counselor or Certified Enrollment Entity has a relationship with the consumer and so long as other applicable State and Federal laws are otherwise complied with.

(15) Notwithstanding subdivisions (h)(5), (h)(6), and (h)(7) of this section, Certified Enrollment Entities and Certified Enrollment Counselors affiliated with Indian tribes, tribal organizations, or urban Indian organizations may accept any premium payments from the consumer, input any premium payment information on behalf of the consumer, and pay any part of the premium or provide any form of consideration to or on behalf of the consumer pursuant to 25 U.S.C. § 1642.

(i) Certified Enrollment Counselors shall report to the Exchange any subsequent arrests for which they have been released on bail or personal recognizance and criminal convictions, received by the Exchange in accordance with Section 6456, subdivision (c),

and administrative actions taken by any other agency, within 30 calendar days of the date of each occurrence.

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

Title 10. Investment

Chapter 12. California Health Benefit Exchange

Article 11. Certified Application Counselor Program

§ 6864. Roles and Responsibilities.

(a) Certified Application Counselors shall perform the following functions:

(1) Provide information to individuals and employees about the full range of QHP options and insurance affordability programs for which they are eligible, which includes providing fair, impartial, and accurate information that assists consumers with submitting the eligibility application; clarifying the distinctions among health coverage options, including QHPs; and helping consumers make informed decisions during the health coverage selection process;

(2) Assist individuals and employees in applying for coverage in a QHP through the Exchange and for insurance affordability programs;

(3) Help to facilitate enrollment of eligible individuals into QHPs and insurance affordability programs;

(4) Comply with the privacy and security requirements in 45 C.F.R. § 155.260;

(5) Act in the best interest of the applicants assisted;

(6) Either directly or through an appropriate referral to assist personnel certified pursuant to Article 8 of this Chapter, provide information in a manner that is accessible to individuals with disabilities, as defined by the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 et seq. and Section 504 of the Rehabilitation Act, as amended, 29 U.S.C. Section 794;

(7) Ensure that voter registration assistance is available in compliance with Section 6462 of Article 4 of this Chapter;

(8) Comply with any applicable federal or state laws and regulations;

(9) 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, 42 U.S.C. § 300gg-93, 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; and

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

(b) Prior to receiving access to any consumer's personally identifiable information as defined in Section 6650 of Article 8, the Certified Application Counselor shall:

(1) Inform the consumer that the Certified Application Counselor must obtain ~~his~~ or ~~her~~ their authorization prior to accessing any personally identifiable information;

(2) Inform each consumer of the roles and responsibilities of the Certified Application Counselor as set forth in this section;

(3) Inform each consumer that Certified Application Counselors are not acting as tax advisers or attorneys when providing assistance as Certified Application Counselors and cannot provide tax or legal advice within their capacity as Certified Application Counselors;

(4) Obtain oral or written authorization from the consumer to access the consumer's personally identifiable information;

(A) Written authorization shall contain a consumer's signature and a written attestation completed by the Certified Application Counselor affirming under penalty of perjury that the Certified Application Counselor:

1. Is a Certified Application Counselor affiliated with a Certified Application Entity;
2. Conveyed all the information required under this subdivision to the consumer in a language and manner which ~~he or she understands~~ they understand; and
3. Obtained written authorization from the consumer consenting to the release of ~~his or her~~ their personally identifiable information as defined in Article 8 in order to fulfill the duties as described in this section.

(B) Oral authorization shall be accompanied by a written attestation completed by the Certified Application Counselor affirming under penalty of perjury that the Certified Application Counselor:

1. Is a Certified Application Counselor affiliated with a Certified Application Entity;
2. Conveyed all the information required under this subdivision to the consumer in a language and manner which ~~he or she understands~~ they understand; and
3. Obtained oral authorization from the consumer consenting to the release of ~~his or her~~ their personally identifiable information in order to fulfill the duties as described in this section.

(5) Inform the consumer that the Certified Application Counselor cannot choose a health insurance plan on the consumer's behalf;

(6) Inform the consumer that the Certified Application Counselor will provide the consumer with information regarding the health insurance options and insurance affordability programs for which ~~he or she~~ they may be eligible;

(7) Inform the consumer that ~~his or her~~ their personally identifiable information will be kept private and secure in accordance with the standards set forth in 45 C.F.R. § 155.260;

(8) Inform the consumer that if the Certified Application Counselor cannot assist the consumer, ~~he or she~~ they will refer the consumer to another Certified Application Counselor or the Covered California Call Center;

(9) Inform the consumer that the Certified Application Counselor will not charge a fee in exchange for performing the duties described in this section;

(10) Inform the consumer that the assistance is based only on the information provided by the consumer, and if the information given is inaccurate or incomplete, the Certified Application Counselor may not be able to offer assistance;

(11) Inform the consumer that the authorization set forth in subdivision (b)(4) of this section may be revoked at any time; and

(12) Maintain a record of such authorization for a minimum of ten (10) years.

(c) Certified Application Counselors shall include the following in a consumer's application to the Exchange:

(1) Name and certification number of the Certified Application Counselor;

(2) Name of the Certified Application Entity and the Certified Application Entity Number; and

(3) Signature and date of signature by the Certified Application Counselor.

(d) If any of the information listed in subdivision (c) of this section is not included on the consumer's original application, it may not be added at a later time.

(e) Certified Application Counselors shall wear the badge issued by the Exchange at all times when performing duties under this section.

(f) Certified Application Entities must maintain a physical presence in the state of California so that face-to-face assistance can be provided to applicants and enrollees.

(g) Certified Application Entities shall maintain a registration process and method to track the performance of Certified Application Counselors.

(h) To ensure that information provided as part of any Consumer Assistance is culturally and linguistically appropriate to the needs of the population being served, including individuals with limited English proficiency as required by 45 C.F.R. §§ 155.205(c)(2) and 155.225, Certified Application Entities and Certified Application Counselors shall:

(1) Develop and maintain general knowledge about the racial, ethnic, and cultural groups in their service area, including each group's diverse cultural health beliefs and practices, preferred languages, health literacy, and other needs;

(2) Collect and maintain updated information to help understand the composition of the communities in the service area, including the primary languages spoken;

(3) Provide consumers with information and assistance in the consumer's preferred language, at no cost to the consumer, including the provision of oral interpretation of non-English languages and the translation of written documents in non-English languages when necessary to ensure meaningful access. Use of a consumer's family or friends as oral interpreters can satisfy the requirement to provide linguistically

appropriate services only when requested by the consumer as the preferred alternative to an offer of other interpretive services;

(4) Provide oral and written notice to consumers with limited English proficiency informing them of their right to receive language assistance services and how to obtain them;

(5) Receive ongoing education and training in culturally and linguistically appropriate service delivery; and

(6) Implement strategies to recruit, support, and promote a staff that is representative of the demographic characteristics, including primary languages spoken, of the communities in their service area.

(i) To ensure that Consumer Assistance is accessible to people with disabilities, Certified Application Entities and Certified Application Counselors shall:

(1) Ensure that any consumer education materials, web sites, or other tools utilized for Consumer Assistance purposes are accessible to people with disabilities, including those with sensory impairments, such as visual or hearing impairments, and those with mental illness, addiction, and physical, intellectual, and developmental disabilities;

(2) Provide auxiliary aids and services for individuals with disabilities, at no cost, where necessary for effective communication. Use of a consumer's family or friends as interpreters can satisfy the requirement to provide auxiliary aids and services only when requested by the consumer as the preferred alternative to an offer of other auxiliary aids and services;

(3) Provide assistance to consumers in a location and in a manner that is physically and otherwise accessible to individuals with disabilities;

(4) Ensure that legally authorized representatives are permitted to assist an individual with a disability to make informed decisions; and

(5) Acquire sufficient knowledge to refer people with disabilities to local, state, and federal long-term services and support programs when appropriate.

(j) To ensure that no consumer is discriminated against, Certified Application Entities and Certified Application Counselors shall provide the same level of service to all individuals regardless of age, disability, culture, sexual orientation, or gender identity, and seek advice or experts when needed.

(k) Certified Application Entities and Certified Application Counselors may not:

(1) Impose or induce any fee, charge, or remuneration on applicants for application or other assistance related to the Exchange;

(2) Be a QHP;

(3) Receive any direct or indirect consideration from any health insurance issuer or issuer of stop-loss insurance in connection with the enrollment of any individuals in a QHP or a non-QHP;

(4) Refer consumers to a specific insurance agent or specific set of insurance agents;

(5) Provide gifts, including gift cards or cash or provide promotional items that market or promote the products or services of a third party, to any applicant or potential enrollee as an inducement for enrollment. The value of gifts provided to applicants and potential enrollees for purposes other than as an inducement for enrollment must not

exceed nominal value, either individually or in the aggregate, when provided to that individual during a single encounter. The nominal value is equal to or less than \$15. Gifts of nominal value may not include beer, wine, liquor, cigarettes, tobacco, or lottery tickets. Gifts, gift cards, or cash may be provided for the purpose of providing reimbursement for legitimate expenses incurred by a consumer in an effort to receive Exchange application assistance, such as, but not limited to, travel or postage expenses;

(6) Solicit any consumer for application or enrollment assistance by going door to door or through other unsolicited means of direct contact, including calling a consumer to provide application or enrollment assistance without the consumer initiating the contact, unless the individual has a pre-existing relationship with the individual Certified Application Counselor or designated organization and other applicable state and federal laws are otherwise complied with. Outreach and education activities may be conducted by going door to door or through other unsolicited means of direct contact, including calling a consumer;

(7) Initiate any telephone call to a consumer using an automatic telephone dialing system or an artificial or prerecorded voice, except in cases where the individual Certified Application Counselor or designated organization has a relationship with the consumer and so long as other applicable state and federal laws are otherwise complied with;

(8) Mail the paper application for the consumer;

(9) Coach the consumer to provide inaccurate information on the application regarding income, residency, immigration status, and other eligibility criteria;

(10) Coach or recommend one plan or provider over another;

(11) Accept any premium payments from the consumer;

(12) Input any premium payment information on behalf of the consumer;

(13) Pay any part of the premium or provide any form of consideration to ~~the~~ consumer or on behalf of the consumer;

(14) Intentionally create multiple applications from the same household, as defined in 42 C.F.R. § 435.603(f) (November 30, 2016), hereby incorporated by reference; or

(15) Invite, influence, or arrange for an individual whose existing coverage through an eligible employer-sponsored plan is affordable and provides minimum value, as described in 26 U.S.C. § 36B(c)(2)(C) and in 26 C.F.R. § 1.36B-2(c)(3)(v) and (vi) (July 26, 2017), hereby incorporated by reference, to separate from employer-based group health coverage.

(16) Notwithstanding subdivisions (k)(11), (k)(12), and (k)(13) of this section, Certified Application Entities and Certified Application Counselors affiliated with Indian tribes, tribal organizations, or urban Indian organizations may accept premium payments from the consumer, input any premium payment information on behalf of the consumer, and pay any part of the premium or provide any form of consideration to or on behalf of the consumer pursuant to 25 U.S.C. § 1642.

(l) Certified Application Counselors shall report to the Exchange any subsequent arrests for which they have been released on bail or personal recognizance, criminal convictions, and administrative actions taken by any other agency within 30 calendar days of the date of the arrest or final administrative action order.

Note: Authority cited: Section 100504, Government Code. Reference: Section 100502, Government Code; 26 C.F.R. Section 1.36B-2; 42 C.F.R. Section 436.603; and 45 C.F.R. Sections 155.205, 155.215, 155.225 and 155.260.

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME California Health Benefit Exchange	CONTACT PERSON Haley Harrington	EMAIL ADDRESS Haley.Harrington@covered.ca.gov	TELEPHONE NUMBER + 1 916-954-3283
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Enrollment Assistance and Certified Application Counselor Program Regulations			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- a. Impacts business and/or employees
- b. Impacts small businesses
- c. Impacts jobs or occupations
- d. Impacts California competitiveness
- e. Imposes reporting requirements
- f. Imposes prescriptive instead of performance
- g. Impacts individuals
- h. None of the above (Explain below):

***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***

2. The California Health Benefit Exchange estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- Below \$10 million
- Between \$10 and \$25 million
- Between \$25 and \$50 million
- Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: None

Describe the types of businesses (Include nonprofits): See Attachment A, Response A.3.1

Enter the number or percentage of total businesses impacted that are small businesses: See A.3.2

4. Enter the number of businesses that will be created: 0 eliminated: 0

Explain: See Attachment A, Response A.4

5. Indicate the geographic extent of impacts: Statewide
 Local or regional (List areas): _____

6. Enter the number of jobs created: 0 and eliminated: 0

Describe the types of jobs or occupations impacted: See Attachment A, Response A.5

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? YES NO

If YES, explain briefly: N/A

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

B. ESTIMATED COSTS *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____
 - a. Initial costs for a small business: \$ 0 Annual ongoing costs: \$ 0 Years: _____
 - b. Initial costs for a typical business: \$ 0 Annual ongoing costs: \$ 0 Years: _____
 - c. Initial costs for an individual: \$ 0 Annual ongoing costs: \$ 0 Years: _____
 - d. Describe other economic costs that may occur: No direct compliance costs. The regulation authorizes, but does not require, Tribal Enrollment Entities to accept and pay premiums and does not impose new obligations or fees on business or individuals. (See Attachment A, Response B.1)

2. If multiple industries are impacted, enter the share of total costs for each industry: N/A

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ 0

4. Will this regulation directly impact housing costs? YES NO
 If YES, enter the annual dollar cost per housing unit: \$ _____
 Number of units: _____

5. Are there comparable Federal regulations? YES NO
 Explain the need for State regulation given the existence or absence of Federal regulations: See Attachment A, Response B.2

- Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: See Attachment A, Response C.1

2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority?
 Explain: See Attachment A, Response C.2

3. What are the total statewide benefits from this regulation over its lifetime? \$ 0 (See Attachment A, Response C.3)

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: This regulation does not result in expansion of businesses currently operating within California; it only clarifies and updates roles of existing Enrollment Entities to comply with federal law

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: See attachment A, D.1.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ N/A Cost: \$ N/A

Alternative 1: Benefit: \$ N/A Cost: \$ N/A

Alternative 2: Benefit: \$ N/A Cost: \$ N/A

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: N/A

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? YES NO

Explain: Not applicable, as the regulations primarily focus on policy and eligibility criteria rather than mandating the use of specific technologies, equipment, or prescribing specific actions, thus aiming to streamline operations and access without imposing direct compliance costs on entities.

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.*

California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? YES NO

***If YES, complete E2. and E3
If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

YES NO

If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

The increase or decrease of investment in the State: N/A

The incentive for innovation in products, materials or processes: N/A

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: The regulation ensures compliance with federal requirements, supporting the health and welfare of California residents by maintaining access to affordable health insurance.

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

a. Implements the Federal mandate contained in _____

b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

3. Annual Savings. (approximate)

\$ _____

4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

5. No fiscal impact exists. This regulation does not affect any local entity or program.

6. Other. Explain _____

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)

B. FISCAL EFFECT ON STATE GOVERNMENT *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ 0

It is anticipated that State agencies will:

a. Absorb these additional costs within their existing budgets and resources.

b. Increase the currently authorized budget level for the _____ Fiscal Year

2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

3. No fiscal impact exists. This regulation does not affect any State agency or program.

4. Other. Explain _____

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

4. Other. Explain _____

FISCAL OFFICER SIGNATURE

DATE

DocuSigned by:

 Jim Watkins

3/4/2026

The signature certifies that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

DATE

Signed by:

 Kathleen Webb

3/4/2026

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER

DATE



ECONOMIC IMPACT STATEMENT [Per SAM Section 6603]

A. Estimated Private Sector Costs

3.1 Describe the types of businesses (including nonprofits):

The amendments to Title 10, CCR, sections 6664 and 6864 apply only to entities already contracted with the Exchange as Enrollment Entities or Certified Application Entities and their associated counselors, including tribal health programs, urban Indian organizations, and nonprofit community-based organizations. The changes clarify roles and responsibilities and create a narrow exemption allowing Tribes, when acting as Enrollment Entities or Counselors, to accept and process premium payments and pay premiums or other consideration on behalf of their members. The regulations do not impose new requirements on health plans, brokers, or other private businesses outside these existing programs.

3.2 Enter the number or percentage of total businesses impacted that are small businesses:

The amendments govern Exchange Enrollment Entities and Counselors and do not regulate the broader private market. The Exchange has determined there is no significant statewide adverse economic impact on businesses, including small businesses, and no effect on their ability to compete with businesses in other states. As a result, the number and percentage of small businesses impacted for SAM §6603 purposes is effectively zero.

4. Enter the number of businesses that will be created or eliminated. Explain:

Number of businesses created: 0. Number of businesses eliminated: 0. The Navigator and Certified Application Counselor frameworks already exist, and Tribes are already assisting with enrollment and sponsoring premiums under federal authority. The amendments simply clarify that these activities are permissible under state regulations and make non-substantive wording changes. They do not create conditions that would cause new businesses to form or existing businesses to close.

5. Describe the types of jobs or occupations impacted:

The amendments affect only existing Certified Enrollment Entities and Counselors and Certified Application Entities and Counselors, including tribal staff in those roles. Their core functions, outreach, education, application assistance, referrals, and compliance with privacy and nondiscrimination rules, remain unchanged. The regulations only clarify that Tribes may handle premiums consistent with federal law. No jobs or occupations are expected to be created or eliminated as a result of this rulemaking.

B. Estimated Costs

1. Describe other economic costs that may occur:

The rulemaking is narrow. It resolves a conflict between state regulations and federal Tribal Sponsorship authority by allowing Tribes, when acting as Enrollment Entities or Counselors, to accept and pay premiums and provide consideration to or on behalf of consumers, and it modernizes wording for gender neutrality and clarity. The Exchange has determined that the amendments do not impose new fees, system costs, or reporting requirements on businesses or individuals and will not have a significant adverse economic impact on businesses. Any implementation activities for the Exchange, such as updating training materials, agreements, and guidance, are routine and absorbed within existing program resources.

2. Explain the need for State regulation given the existence or absence of federal regulations:

Federal law (the ACA and implementing regulations) requires Exchanges to operate Navigator and Certified Application Counselor programs. The Indian Health Care Improvement Act (25 U.S.C. § 1642) authorizes Tribes and tribal organizations to purchase coverage and sponsor premiums for their members, often through Qualified Health Plans in the Exchange. State law (Government Code sections 100502 and 100504(a)(6)) authorizes the Exchange to adopt regulations to implement these requirements. Existing sections 6664 and 6864 broadly prohibited Enrollment Entities and Counselors from accepting or paying premiums or providing consideration on behalf of consumers, which conflicted with federal Tribal Sponsorship authority. The amendments are necessary to harmonize California's regulations with federal law and to allow Tribes to fully exercise their sponsorship authority while participating as Enrollment Entities in the Exchange.

C. Estimated Benefits

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment:

The regulations align California's Navigator and Certified Application Counselor rules with federal Tribal Sponsorship authority, remove legal conflict, and provide clear, narrow exemptions that allow Tribes, when acting as Enrollment Entities or Counselors, to accept and pay premiums and provide consideration on behalf of their members. This supports continued tribal enrollment assistance and premium support, particularly for American Indian and Alaska Native communities, thereby improving access to coverage and helping reduce uninsured rates. The changes also improve clarity, predictability, and fairness in the application of Exchange rules. The rulemaking does not affect worker safety or the environment.

2. Are the benefits the result of specific statutory requirements, or goals developed by the agency based on broad statutory authority? Explain:

The benefits arise from both specific statutory requirements and the Exchange's broader statutory mission. Federal law (ACA) and the Indian Health Care Improvement Act, as well as Government Code sections 100502–100504(a)(6), require the Exchange to operate Navigator and Certified Application Counselor programs and recognize Tribal Sponsorship. Within this framework, the Exchange's mission is to increase coverage, improve quality, lower costs, and reduce health disparities. The amendments implement these specific statutory authorities while advancing the Exchange's broader goals by ensuring Tribes can continue to assist with enrollment and sponsor premiums without conflict with state regulations.

3. What are the total statewide benefits from this regulation over its lifetime?

Over its lifetime, the regulation is expected to preserve and strengthen Tribal Sponsorship, improving coverage continuity and affordability for American Indian and Alaska Native consumers statewide. It should contribute to lower uninsured rates and better access to preventive and chronic care for tribal members, and provide lasting regulatory certainty for Tribes and Enrollment Entities regarding permissible premium-related activities. These benefits support the Exchange's long-term ability to provide accessible, affordable coverage and reduce health disparities in California.

D. Alternatives to the Regulation

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not:

In accordance with Government Code section 11346.5(a)(13), the Exchange determined that no reasonable alternative would be more effective in aligning state regulations with federal Tribal Sponsorship authority, would be as effective and less burdensome to affected private persons or Tribes, or would be more cost-effective and equally effective in implementing the governing statutes. Maintaining existing regulations would leave the conflict with federal law unresolved, and creating a separate regulatory structure for Tribes would introduce unnecessary complexity. Amending sections 6664 and 6864 to add a targeted Tribal exemption and make non-substantive clean-up edits is therefore the least burdensome and most effective approach.

FISCAL IMPACT STATEMENT

B. Fiscal Effect on State Government [Per SAM Sections 6607, 6611, and 6612]

Statement of the Mandate:

Government Code section 100504(a)(6) authorizes the Exchange Board to adopt rules and regulations as necessary to implement state and federal law. Federal law (the ACA and 45 C.F.R. sections 155.205, 155.210, and 155.225) requires the Exchange to operate Navigator and Certified Application Counselor programs, and the Indian Health Care Improvement Act (25 U.S.C. § 1642) authorizes Tribes to purchase coverage and sponsor premiums for their members. This rulemaking is necessary to bring existing California regulations into conformity with these federal requirements, particularly with respect to premium-related activities by Tribes acting as Enrollment Entities or Counselors.

Background or Introductory Material:

The Exchange operates California's health benefit marketplace to increase coverage, improve quality, lower costs, and reduce disparities. Sections 6664 and 6864 already establish roles and responsibilities for Certified Enrollment Entities and Counselors and Certified Application Entities and Counselors. Tribes and affiliated organizations participate in these programs and also sponsor premiums under federal authority. Existing prohibitions on Enrollment Entities and Counselors accepting or paying premiums or providing consideration on behalf of consumers, without a Tribal exemption, created a regulatory conflict with federal Tribal Sponsorship authority. The amendments add a targeted Tribal exemption and make non-substantive gender-neutral and grammatical corrections. The Exchange consulted with Tribal governments and Indian organizations to ensure the amendments accurately reflect Tribal Sponsorship practices.

Key Areas of Regulatory Updates:

- Section 6664 (Navigator Program): clarifies roles and responsibilities for Certified Enrollment Entities and Counselors and adds subdivision (h)(15), authorizing Tribes, when acting in these roles, to accept and process premium payments and pay premiums or other consideration on behalf of consumers, exempting them from existing prohibitions.
- Section 6864 (Certified Application Counselor Program): clarifies roles and responsibilities for Certified Application Entities and Counselors and adds subdivision (k)(16) with the same Tribal authorization and exemption from existing prohibitions.

Working Data:

The fiscal assessment relies on existing Navigator and Certified Application Counselor operations, legal analysis of ACA and IHClA requirements, and input from Tribal governments and Indian organizations on current sponsorship practices. No system development, large-scale technology investment, or new staffing initiatives are attributable solely to these amendments. Implementation activities, such as training and document updates, are part of normal program operations.

Assumptions:

The amendments are primarily clarifying and permissive and do not expand Exchange programs or create new state obligations. Any additional workload, including staff time for training, outreach, and updating templates and guidance, is modest and can be absorbed within existing Exchange staffing and budget. The amendments do not require new appropriations, create reimbursable mandates, or affect other state agencies.

Calculations:

The Notice of Proposed Rulemaking identifies:

- Costs or savings to state agencies: none.
- Costs to local agencies or school districts requiring reimbursement: none.
- Other nondiscretionary costs or savings imposed on local agencies: none.
- Known cost impacts on representative private persons or businesses: none.

The rulemaking results only in minor internal administrative costs to the Exchange (regulatory drafting, consultation, training, and documentation updates), which are absorbed within its existing, self-sustaining operating budget and do not require additional spending authority or affect federal funding to the State.

Conclusion:

The amendments to sections 6664 and 6864 align California regulations with federal Tribal Sponsorship authority, provide clear and narrow exemptions allowing Tribes to handle premiums while acting as Enrollment Entities or Counselors, and preserve existing Navigator and Certified Application Counselor structures without adding new burdens on businesses or other state or local agencies. Fiscal impacts on state government are negligible and fully absorbed within the Exchange's self-sustaining operating budget, with no costs to local agencies or school districts and no impact on the General Fund or federal funding to the State.