

NOTICE PUBLICATION/REGULATIONS SUBMISSION

EMERGENCY (See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS Z- NOTICE FILE NUMBER REGULATORY ACTION NUMBER EMERGENCY NUMBER 2014-0321-01EE

For use by Office of Administrative Law (OAL) only

2014 MAR 21 AM 10:25 OFFICE OF ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY California Health Benefit Exchange

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE TITLE(S) FIRST SECTION AFFECTED 2. REQUESTED PUBLICATION DATE 3. NOTICE TYPE 4. AGENCY CONTACT PERSON TELEPHONE NUMBER FAX NUMBER (Optional) OAL USE ONLY ACTION ON PROPOSED NOTICE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) SHOP Eligibility and Enrollment Process 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2013-0920-05 E

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related) SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) TITLE(S) 10

3. TYPE OF FILING Regular Rulemaking (Gov. Code §11346) Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) Emergency (Gov. Code, §11346.1(b)) 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. Emergency Readopt (Gov. Code, §11346.1(h)) File & Print Other (Specify) Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) Effective on filing with Secretary of State \$100 Changes Without Regulatory Effect Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal Other (Specify)

7. CONTACT PERSON Brandon Ross TELEPHONE NUMBER 916-228-8281 FAX NUMBER (Optional) E-MAIL ADDRESS (Optional) brandon.ross@covered.ca.gov

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 3/20/14 TYPED NAME AND TITLE OF SIGNATORY Peter V. Lee, Executive Director

For use by Office of Administrative Law (OAL) only



March 13, 2014

ADVANCE NOTICE OF RE-ADOPTION OF EMERGENCY REGULATIONS

This notice is sent in accordance with Government Code Section 11346.1(a)(2), which requires that State of California agencies give advance notice at least five working days of their intent to file emergency regulations with the Office of Administrative Law (OAL). The California Health Benefit Exchange ("Exchange") intends to file a re-adoption of an Emergency Rulemaking package with the Office of Administrative Law (OAL) that establishes the Exchange's policies and procedures for eligibility determination and redetermination, enrollment in qualified health plans, and termination of coverage through the SHOP Exchange. As required by subdivisions (a)(2) and (b)(2) of Government Code Section 11346.1, this notice appends the following: (1) the specific language of the proposed regulation and (2) the Finding of Emergency, including specific facts demonstrating the need for immediate action, the authority and reference citations, the informative digest and policy statement overview, attached reports, and required determinations.

The Exchange plans to file the Emergency Rulemaking package with OAL at least five working days from the date of this notice. If you would like to make comments on the Finding of Emergency or the proposed regulations (also enclosed), they must be received by both the Exchange and the Office of Administrative Law within five calendar days of the Exchange's filing at OAL. Response to these comments is strictly at the Exchange's discretion.

Comments should be sent simultaneously to:

California Health Benefit Exchange
Attn: Brandon Ross
560 J Street, Suite 290
Sacramento, CA 95814

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Upon filing, OAL will have ten (10) calendar days within which to review and make a decision on the proposed emergency rule. If approved, OAL will file the regulations with the Secretary of State, and the emergency regulations will become effective for one ninety (90) days. Please note that this advance notice and comment period is not intended to replace the public's ability to comment once the emergency regulations are approved.

You may also view the proposed regulatory language and Finding of Emergency on the Exchange's website at the following address:
<https://www.coveredca.com/hbex/regulations/>.

If you have any questions concerning this Advance Notice, please contact Brandon Ross at 916-228-8281.

FINDING OF EMERGENCY

The Director of the California Health Benefit Exchange finds that an emergency exists and that this proposed emergency regulation is necessary to address a situation that calls for immediate action to avoid serious harm to the public peace, health, safety or general welfare.

This emergency rulemaking was previously adopted by OAL on September 30, 2013 and will expire on April 2, 2014. The Exchange now seeks a readoption. The Exchange is also in the process of making this rulemaking permanent and has proceeded with diligence to comply with the requirements in Government Code § 11346.1(e), and has made substantial progress in that regard. For example, the Exchange has begun preparation of the Initial Statement of Reasons for the permanent rulemaking. The California Health Benefit Exchange finance department is analyzing the economic impact on the regulations to complete the Form 399 to publish the rulemaking to begin the permanent rulemaking process. We anticipate that the Initial Statement of Reasons and other necessary documents will be finalized and filed with OAL for publishing in the next three weeks.

This Finding of Emergency hereby incorporates by reference all documents in the original rulemaking file, which is file number 2013-0920-05 E.

DEEMED EMERGENCY

The Exchange may “Adopt rules and regulations, as necessary. Until January 1, 2016, any necessary rules and regulations may be adopted as emergency regulations in accordance with the Administrative Procedures Act. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.” (Gov. Code, § 100504(a)(6)).

AUTHORITY AND REFERENCE

Authority: Government Code Section 100504.

Reference: Government Code Sections 100502, 100503, and 100504; 45 C.F.R. Parts 155 and 156.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Documents to be incorporated by reference:

None

Summary of Existing Laws

Under the federal Patient and Protection and Affordable Care Act (PPACA), 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, established the California Health Benefit Exchange within state government. (Gov. Code, § 100500 et seq.) The Exchange is required to establish a Small Business Health Options Program (SHOP). (Gov. Code, § 100502(m). The Exchange is further required to establish the criteria and process for eligibility determination, enrollment, and disenrollment of enrollees and potential enrollees in the Exchange's Small Business Health Options Program. (Gov. Code, § 100503(a).

The proposed regulations will establish the Exchange's policies and procedures for eligibility determination and redetermination, enrollment in qualified health plans, and termination of coverage through the SHOP Exchange. The proposed regulations will provide the small employer and employees with clear standards and eligibility requirements to qualify for and sign up for health insurance coverage through the SHOP Exchange. The proposed regulations will also provide the standards and requirements for the qualified health plan issuers regarding enrollment of qualified employers and employees in the qualified health plans and termination of coverage for qualified employers and employees through the SHOP Exchange.

These proposed regulations will benefit the public by providing clear guidelines to access care through enrollment in qualified health plans and for small employers to take advantage of the federal small business tax credit, which is only available to those small employers offering health insurance coverage to its employees through the SHOP Exchange.

After an evaluation of current regulations, the Exchange has determined that these proposed regulations are not inconsistent or incompatible with any existing regulations.

MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

None.

LOCAL MANDATE

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.

FISCAL IMPACT ESTIMATES (Attached Form 399)

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. This proposal does not impose other nondiscretionary cost or savings on local agencies.

**COSTS OR SAVINGS TO STATE AGENCIES AND TO FEDERAL FUNDING
(Attached Form 399)**

The proposal results in additional costs to the California Health Benefit Exchange, which is currently funded by federal grant money and will become financially self-sustaining in 2015. The proposal does not result in any costs or savings to any other state agency.

Adopt Article 6, Sections 6520, 6522, 6524, 6526, 6528, 6530, 6532, 6534, 6536, and 6538, which is all new regulation text to be added, to read:

ARTICLE 6. APPLICATION, ELIGIBILITY, AND ENROLLMENT IN THE SHOP EXCHANGE

SECTION 6520: EMPLOYER AND EMPLOYEE APPLICATION REQUIREMENTS

- (a) A qualified employer who is eligible to purchase coverage from a Qualified Health Plan (QHP) for its qualified employees through the Small Business Health Options Program (SHOP) pursuant to Section 6522, may apply to participate in the SHOP by submitting the following information to the SHOP:
- (1) General employer information: business legal name and whether the employer is doing business under a fictitious name, Federal employer identification number, State employer identification number, organization type (private, nonprofit, government, church/church affiliated), primary business address;
 - (2) The number of qualified employees and the total number of employees employed by the qualified employer;
 - (3) The United States Department of Labor Standard Industrial Code of the qualified employer;
 - (4) Whether the qualified employer is offering dependent health insurance coverage, including whether the qualified employer is offering coverage for non-registered domestic partners;
 - (5) The qualified employer's desired health insurance coverage effective date;
 - (6) Whether the qualified employer is subject to COBRA or Cal-COBRA continuation coverage regulations;
 - (7) The name and primary phone number for the primary contact for the qualified employer;
 - (8) Whether the qualified employer has an agent and if so, the agent's name, general agency name (if applicable), CA insurance license number, and whether the agent is an insurance agent certified by Covered California;
 - (9) Information about the qualified employer's qualified employees, including each qualified employee's taxpayer identification number, full name, date of birth, home address, the qualified employee's number of dependents, if

- (d) All qualified employees are eligible to select a QHP through the SHOP.
- (e) The dependents of qualified employees, if offered health insurance coverage by the qualified employer, are eligible to select a QHP through the SHOP.

Authority: Section 100504, Government Code

Reference: Sections 100502 and 10503, Government Code; 45 CFR §§ 147.104, 155.705, 155.710, 155.715, 155.720

SECTION 6524: VERIFICATION PROCESS FOR ENROLLMENT IN THE SHOP

(a) Verification of Eligibility

- (1) The SHOP shall verify or obtain information as provided in this section to determine whether an employer, employee or dependent meets the eligibility requirements specified in Section 6522 prior to allowing an employer to offer health insurance coverage to its employees or a qualified employee to select a QHP through the SHOP.
- (2) For purposes of verifying employee eligibility, the SHOP must:
 - (A) Verify that the employee or the employee's dependent has been identified by the qualified employer as an employee or dependent being offered health insurance coverage by the qualified employer;
 - (B) Accept the information attested to by the employee under Section 6520 unless the information is inconsistent with the qualified employer-provided information; and
 - (C) Collect only the minimum information necessary for verification of eligibility in accordance with the eligibility requirements in Section 6522.

(b) Inconsistencies

- (1) When the information submitted to the SHOP by an employer is inconsistent with the eligibility requirements in Section 6522, the SHOP must:
 - (A) Make a reasonable effort to identify and address the causes of such inconsistency, including through typographical or other clerical errors;

(B) Provide written notice to the employer of the inconsistency and;

(C) Provide the employer with a period of 30 days from the date on which the notice described in subdivision (b)(1)(B) of this section is sent to the employer to either present satisfactory documentary evidence to support the employer's application or resolve the inconsistency.

(D) If, after the 30-day period described in subdivision (b)(1)(C) of this section, the SHOP has not received satisfactory documentary evidence to support the employer's application or resolve the inconsistency, the SHOP must provide written notice to the employer of its denial of eligibility in accordance with subdivision (c) of this section and of the employer's right to appeal such determination.

(2) When the information submitted to the SHOP by an employee is inconsistent with the information provided by the employee's employer, the SHOP must:

(A) Make a reasonable effort to identify and address the causes of such inconsistency, including through typographical or other clerical errors;

(B) Provide written notice to the employee of the inability to substantiate his or her employee status and;

(C) Provide the employee with a period of 30 days from the date on which the notice described in subdivision (b)(2)(B) of this section is sent to the employee to either present satisfactory documentary evidence to support the employee's application or resolve the inconsistency.

(D) If, after the 30-day period described in subdivision (b)(2)(C) of this section, the SHOP has not received satisfactory documentary evidence to support the employee's application or resolve the inconsistency, the SHOP must provide written notice to the employee of its denial of eligibility in accordance with subdivision (d) of this section.

(c) Notification of Employer Eligibility

(1) The SHOP must provide written notice to an employer applying to participate in the SHOP whether the employer is eligible in accordance with Section 6522 and the employer's right to appeal such determination.

(d) Notification of Employee Eligibility

- (1) The SHOP must provide written notice to an employee seeking to enroll in a QHP offered through the SHOP of the determination by the SHOP whether the employee is eligible in accordance with Section 6522(d) and the employee's right to appeal such eligibility determination.

Authority: Section 100504, Government Code

Reference: Sections 100502 and 10503, Government Code; 45 CFR §§ 155.715, 155.720

SECTION 6526: QUALIFIED EMPLOYER ELECTION OF COVERAGE PERIODS

- (a) Subject to subdivision (b) of this section, a qualified employer who is not already participating in the SHOP may elect to offer health insurance coverage through the SHOP for its qualified employees at any time during the calendar year by submitting the information required in Section 6520.
- (b) If a qualified employer fails to meet the minimum participation or the group contribution requirements in Section 6522(a)(4) and (5), but satisfies the remaining eligibility criteria in Section 6522, the qualified employer may only elect to offer health insurance coverage through SHOP for its qualified employees from November 15th through December 15th of each year.
- (c) A qualified employer's plan year is a 12-month period beginning on the coverage effective date for its qualified employees as described in Section 6536. All qualified employees of a qualified employer will have the same plan year as their qualified employer.
- (d) A qualified employer may only change its offer of health insurance coverage to its qualified employees, as described in Section 6520(a)(10), during the qualified employer's annual election period. The qualified employer's annual election period is 30 days in length, beginning at least 75 days prior to the completion of the employer's plan year and ending before the annual employee open enrollment period described in Section 6528(c).
- (e) Beginning January 1, 2014, the SHOP shall provide a written annual election period notification to each qualified employer at least five (5) business days prior to the beginning of the qualified employer's annual 30-day election period.

Authority: Section 100504, Government Code
Reference: Sections 100502 and 10503, Government Code; 45 CFR §§ 147.104, 155.705, 155.720, 155.725, and 156.285

SECTION 6528: INITIAL AND ANNUAL ENROLLMENT PERIODS FOR QUALIFIED EMPLOYEES

- (a) A qualified employee may enroll in a QHP or change his or her QHP only during the initial employee open enrollment period and annual employee open enrollment period described in this section or during a special enrollment period as described in Section 6530.
- (b) Subject to subdivision (e) of this section, a qualified employee's initial employee open enrollment period begins the day his or her employer submits all of the information required in Section 6520 and the SHOP has determined that the employer is a qualified employer.
- (c) Subject to subdivision (e) of this section, the annual employee open enrollment period begins 45 days prior to the completion of the qualified employee's plan year and after his or her qualified employer's annual election period as described in Section 6526(d)(1).
- (d) For employees of a qualified employer described in Section 6526(b), the initial and annual employee open enrollment period is December 15th through January 15th of each year.
- (e) The initial and annual employee open enrollment period is 30 days or at which time all qualified employees of a qualified employer have submitted the information required in Section 6520(d), whichever occurs first, but in no event longer than 30 days.
- (f) Beginning January 1, 2014, the SHOP shall provide a written annual employee open enrollment period notification to each qualified employee at least five (5) business days prior to the employee's annual 30-day open enrollment period.
- (g) If a qualified employee does not enroll in a different QHP during his or her annual employee open enrollment period, that qualified employee will remain in the QHP selected in the previous year unless:
 - (1) The qualified employee terminates his or her coverage from the QHP in accordance with Section 6538(b), or
 - (2) The QHP is no longer available to the qualified employee.

- (h) An employee who becomes a qualified employee outside of the initial employee open enrollment period, the annual employee open enrollment period, or a special enrollment period shall have a 30-day period to enroll in a QHP beginning on the first day the employee becomes a qualified employee.

Authority: Section 100504, Government Code

Reference: Sections 100502 and 10503, Government Code; 45 CFR §§ 147.104, 155.720, 155.725, and 156.285

SECTION 6530: SPECIAL ENROLLMENT PERIODS FOR QUALIFIED EMPLOYEES AND DEPENDENTS

- (a) A qualified employee may enroll in a QHP or change QHPs during special enrollment periods outside of the initial and annual open enrollment periods in the following situations:
- (1) A qualified employee or dependent loses Minimum Essential Coverage, as specified in subdivision (d) of this section;
 - (2) A qualified employee gains a dependent or becomes a dependent;
 - (3) A qualified employee's, or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS or its instrumentalities as evaluated and determined by the Exchange. In such cases, the Exchange shall take necessary actions to correct or eliminate the effects of such error, misrepresentation, or inaction;
 - (4) A qualified employee, or his or her dependent, adequately demonstrates to the Exchange that the QHP in which he or she is enrolled, substantially violated a material provision of its contract in relation to the qualified employee;
 - (5) A qualified employee, or his or her dependent, gains access to new QHPs as a result of a permanent move;

- (6) An Indian, as defined by Section 4 of the Indian Health Care Improvement Act (25 U.S.C. § 1603(c)), may enroll in a QHP or change from one QHP to another one time per month;
- (7) A qualified employee loses eligibility for coverage under a Medicaid plan under title XIX of the Social Security Act or a State child health plan under title XXI of the Social Security Act;
- (8) A qualified employee or dependent becomes eligible for assistance, with respect to health insurance coverage under a SHOP, under a Medicaid plan or a State child health plan (including any waiver or demonstration project conducted under or in relation to such a plan);
- (9) An individual is mandated to be covered as a dependent pursuant to a valid state or federal court order;
- (10) An individual has been released from incarceration;
- (11) A qualified employee or dependent was receiving services from a contracting provider under another health benefit plan, as defined in Section 1399.845(f) of the Health and Safety Code or Section 10965(f) of the Insurance Code, for one of the conditions described in Section 1373.96(c) of the Health and Safety Code and that provider is no longer participating in the health benefit plan;
- (12) A qualified employee or dependent demonstrates to the Exchange, with respect to health benefit plans offered through the Exchange, or to the applicable regulator, with respect to health benefit plans offered outside the Exchange, that he or she did not enroll in a health benefit plan during the immediately preceding enrollment period available to the employee or dependent because he or she was misinformed that he or she was covered under Minimum Essential Coverage;
- (13) A qualified employee or dependent is a member of the reserve forces of the United States military returning from active duty or a member of the California National Guard returning from active duty service under Title 32 of the United States Code;
- (14) A qualified employee or dependent demonstrates to the Exchange, in accordance with guidelines issued by HHS and as determined by the

Exchange on a case-by-case basis, that the individual meets other exceptional circumstances. Such circumstances include, but are not limited to, the following circumstances:

- (A) If a child who has been determined ineligible for Medi-Cal and CHIP, and for whom a party other than the party who expects to claim him or her as a tax dependent is required by court order to provide health insurance coverage for the child, the child shall be eligible for a special enrollment period if otherwise eligible for enrollment in a QHP.
- (b) A qualified employee or dependent who experiences one of the situations described in subdivision (a) of this section has 60 days from the date of the event described in that subdivision to select a QHP through the SHOP.
- (c) A dependent of a qualified employee is not eligible for a special enrollment period if the qualified employer does not extend the offer of health insurance coverage to dependents.
- (d) Loss of Minimum Essential Coverage (MEC), as specified in subdivision (a)(1) of this section, includes:
 - (1) Loss of eligibility for health insurance coverage, including but not limited to:
 - (A) Loss of eligibility for health insurance coverage as a result of:
 1. Legal separation;
 2. Divorce;
 3. Cessation of dependent status (such as attaining the maximum age to be eligible as a dependent child under the plan);
 4. Death of an employee;
 5. Termination of employment;
 6. Reduction in the number of hours of employment; and

(B) Loss of eligibility for coverage through Medicare, Medicaid, or other government-sponsored health care programs;

(C) In the case of coverage offered through an HMO or similar program in the individual market that does not provide benefits to individuals who no longer reside, live, or work in a service area, loss of health insurance coverage because an individual no longer resides, lives, or works in the service area (whether or not within the choice of the individual);

(D) In the case of coverage offered through an HMO or similar program in the group market that does not provide benefits to individuals who no longer reside, live, or work in a service area, loss of coverage because an individual no longer resides, lives, or works in the service area (whether or not within the choice of the individual), and no other benefit package is available to the individual; and

(E) A situation in which a health plan no longer offers any benefits to the class of similarly situated individuals that includes the individual.

(2) Termination of qualified employer contributions toward the qualified employee's or dependent's health insurance coverage that is not COBRA continuation coverage, including contributions by any current or former employer that was contributing to health insurance coverage for the qualified employee or dependent;

(3) Exhaustion of COBRA or Cal-COBRA continuation health insurance coverage, meaning that such coverage ceases for any reason other than a reason specified in subdivision (d)(4) of this section. An individual is considered to have exhausted COBRA continuation coverage if such coverage ceases:

(A) Due to the failure of the employer or other responsible entity, but not of the employee or dependent receiving COBRA benefits, to remit premiums on a timely basis; or

(B) When the individual no longer resides, lives, or works in the service area of an HMO or similar program (whether or not within the

choice of the individual) and there is no other COBRA continuation coverage available to the individual.

(4) Loss of MEC, as specified in subdivision (a)(1) of this section, does not include termination or loss due to:

(A) The employee's or dependent's failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage; or

(B) Termination of coverage for cause, such as the making of a fraudulent claim or an intentional misrepresentation of a material fact in connection with a plan.

(e) If requested by a QHP, an employee or a dependent of an employee who experiences a triggering event that gives rise to a special enrollment period pursuant to this section must provide verification of the triggering event.

Authority: Section 100504, Government Code

Reference: Sections 100502 and 10503, Government Code; 26 CFR § 54.9801-2, 45 CFR §§ 147.104, 155.725, 156.285, Sections 1357.503 and 1399.849, Health and Safety Code, and 10753.05 and 10753.063.5, Insurance Code

SECTION 6532: EMPLOYER PAYMENT OF PREMIUMS

(a) Upon completion of the initial employee open enrollment period by all of the qualified employees of a qualified employer, the SHOP will send an invoice to the qualified employer for the premium amount due for all of that qualified employer's qualified employees.

(1) A qualified employer's first full payment must be delivered to the SHOP or postmarked by the due date indicated on the invoice.

(2) If a qualified employer's first full payment is not delivered to the SHOP or postmarked by the due date on the invoice, the SHOP will cancel the application of that qualified employer and the applications of that employer's qualified employees.

- (b) Once coverage is effective, the SHOP will send invoices to qualified employers on the 15th of the month for health insurance coverage for the following month, which payment must be delivered to the SHOP or postmarked by the last day of the invoicing month.
- (c) If a qualified employer makes a payment for less than the full amount due, the payment will be allocated first to the coverage providing health benefits and then to coverage providing dental benefits, if any.
- (d) In months after a qualified employer has paid its initial month's premium in full, if a qualified employer does not pay its premium pursuant to subdivision (b) of this section, the SHOP will, on the day following the due date of the invoice, mail a notice of delinquency to the qualified employer that shows the past due balance, informs the qualified employer of any applicable grace period pursuant to Section 10273.4(a)(1) of the California Insurance Code and Section 1365(a)(1) of the California Health and Safety Code, and of the qualified employer's right to appeal.

Authority: Section 100504, Government Code

Reference: Sections 100502 and 10503, Government Code; 45 CFR §§ 155.705, 155.720, and 156.285

SECTION 6534: COVERAGE EFFECTIVE DATES FOR SPECIAL ENROLLMENT PERIODS

- (a) Except as specified in subdivision (b) of this section, coverage effective dates for special enrollment periods for a QHP selection received by the Exchange from a qualified employee:
 - (1) Shall be the first day of the following month for applications received between the first and fifteenth day of any month, or
 - (2) Shall be the first day of the second following month for applications received between the sixteenth and last day of any month.
- (b) Special coverage effective dates shall apply to the following situations:
 - (1) In the case of birth, adoption, placement for adoption, or placement in foster care, coverage is effective for that enrollee on the date of birth, adoption, placement for adoption, or placement in foster care;

- (2) In the case of marriage, domestic partnership or where a qualified employee loses Minimum Essential Coverage, as described in Section 6530(a)(1), coverage is effective for that qualified employee or dependent on the first day of the month following the date the SHOP receives the request for enrollment; and
- (3) In the case of a qualified employee or dependent eligible for a special enrollment period as described in Section 6530(a)(3) and 6530(a)(4), the coverage is effective on either
 - (A) The date of the event that triggered the special enrollment period under Section 6530(a)(3) or 6530(a)(4), or
 - (B) In accordance with subdivision (a) of this section, whichever is the least financially burdensome on the enrollee, as determined by the Exchange.

Authority: Section 100504, Government Code

Reference: Sections 100502 and 10503, Government Code; 45 CFR §§ 155.725 and 156.285

SECTION 6536: COVERAGE EFFECTIVE DATES FOR QUALIFIED EMPLOYEES

- (a) If the full premium payment from a qualified employer for all of its qualified employees and their dependents who selected coverage is delivered to the SHOP or postmarked by the last calendar day of the month, the effective dates of coverage for qualified employees and dependents who selected QHPs during the initial employee open enrollment, shall be the first day of the following month.
- (b) The effective date of coverage for a qualified employee who selected a QHP during the employee's annual open enrollment period shall be the first day of the following plan year if the qualified employer has elected to offer coverage during its annual election of coverage period pursuant to Section 6526(d)(1).
- (c) The effective date of coverage for a qualified employee described in Section 6528(h) shall be the first day of the month in which the employee became a qualified employee.

Authority: Section 100504, Government Code

Reference: Sections 100502 and 10503, Government Code; 45 CFR §§ 155.720, 155.725, and 156.285

SECTION 6538: DISENROLLMENT AND TERMINATION

- (a) A qualified employer may terminate coverage for its qualified employees and their dependents at the end of each month with at least a 10-day notice to the SHOP, as fully set forth in subdivision (e) of this section. If a qualified employer terminates coverage through the SHOP, the SHOP must:
- (1) Ensure that each QHP terminates the coverage of the qualified employer's qualified employees enrolled in the QHP through the SHOP; and
 - (2) Send a notice to each of the qualified employer's qualified employees enrolled in a QHP through the SHOP prior to the effective date of termination specified in subdivision (e) of this section. Such notification must provide information about other potential sources of coverage, including access to individual market coverage through the Exchange.
- (b) A qualified employer must request that the SHOP or QHP terminate the coverage of a qualified employee or dependent upon receiving written request by the qualified employee.
- (c) The SHOP may initiate termination of a qualified employee's coverage in a QHP or a dependent's coverage in a QHP, and shall permit a QHP issuer to terminate such coverage provided that the QHP issuer makes reasonable accommodations for all individuals with disabilities (as defined by the Americans with Disabilities Act) and complies with any and all requirements for cancellations, rescissions, and nonrenewals pursuant to Health and Safety Code section 1365 and Insurance Code section 10273.4 and relevant state regulations before terminating coverage for such individuals, under the following circumstances:
- (1) The qualified employee or dependent is no longer eligible for coverage in a QHP;
 - (2) The qualified employer fails to pay premiums for coverage, as specified in Section 6532 and any applicable grace period has been exhausted;
 - (3) The qualified employee's or the qualified employee's dependent coverage is rescinded by the QHP issuer in compliance with Health and Safety Code Section 1389.21 or California Insurance Code Section 10384.17;
 - (4) The QHP terminates or is decertified as described in 45 CFR § 155.1080;

- (5) The qualified employee changes from one QHP to another QHP during an annual employee open enrollment period or special enrollment period in accordance with Sections 6528 and 6530;
 - (6) Upon the death of the qualified employee or a dependent of a qualified employee;
 - (7) The qualified employee chooses not to remain enrolled in the QHP at open enrollment;
 - (8) The qualified employee is no longer an employee or a dependent; and
 - (9) The qualified employee is newly eligible for Medi-Cal or CHIP, but only if the qualified employee or dependent requests coverage to be terminated.
- (d) If a QHP issuer terminates coverage pursuant to subdivision (c)(2) and (4) of this section, the QHP issuer must comply with Section 10273.4 of the California Insurance Code and Section 1365 of the California Health and Safety Code, and relevant state regulations.

(e) Effective Dates of Termination

- (1) In the case of a termination in accordance with subsection (a) of this section, the last day of coverage shall be:
 - (A) The end of the month in which the qualified employer provided notice of termination, if the qualified employer provides at least a 10-day notice to the SHOP; or
 - (B) If the qualified employer does not provide at least a 10-day notice to the SHOP, the last day of the month following the month in which the qualified employer gave notice of termination.
- (2) In the case of a termination in accordance with subdivision (b) of this section, the effective date of termination shall be 14 days after the date of the request or the date requested by the qualified employee, whichever is later, or upon agreement between QHP and the qualified employee.
- (3) In the case of a termination in accordance with subdivision (c)(1) of this section, the last day of coverage shall be the last day of the month in which the qualified employee's eligibility or the eligibility of a qualified employee's dependent ceased.

- (4) In the case of a termination in accordance with subdivision (c)(2) of this section, the last day of coverage shall be consistent with the grace periods in Section 10273.4 of the California Insurance Code and Section 1365 of the California Health and Safety Code, and relevant state regulations.
 - (5) In the case of a termination in accordance with subdivision (c)(3) of this section, the last day of coverage shall be the day prior to the day the fraud or misrepresentation occurred.
 - (6) In the case of a termination in accordance with subdivision (c)(4) of this section, the last day of coverage shall be the day before the QHP was decertified or terminated.
 - (7) In the case of a termination in accordance with subdivision (c)(5) of this section, the last day of coverage in an enrollee's prior QHP shall be the day before the effective date of coverage in his or her new QHP.
 - (8) In the case of a termination in accordance with subdivision (c)(6) of this section, the last day of coverage shall be the date of death.
 - (9) In the case of a termination in accordance with subdivision (c)(7) of this section, the last day of coverage shall be the last day of the qualified employer's plan year.
 - (10) In the case of a termination in accordance with subdivision (c)(8) of this section, the last day of coverage shall be the last day of the month in which the employee or dependent ceased being an employee or dependent.
 - (11) In the case of a termination in accordance with subdivision (c)(9), the effective date of termination of coverage shall be the day before such other coverage begins.
- (f) If a qualified employee's coverage or the coverage of a qualified employee's dependent is terminated pursuant to subdivision (b) of this section, the SHOP shall promptly provide the qualified employee or qualified employee's dependent with a notice of termination of coverage that includes the termination effective date and reason for termination.

Authority: Section 100504, Government Code

Reference: Sections 100502 and 10503, Government Code; 45 CFR §§ 155.720, 155.725, 155.735, and 156.285

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2008)

See SAM Section 6601 - 6616 for Instructions and Code Citations

DEPARTMENT NAME Covered California	CONTACT PERSON Brandon Ross	TELEPHONE NUMBER 916-323-3471
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 SHOP Eligibility and Enrollment Process Regulations		NOTICE FILE NUMBER Z

ECONOMIC IMPACT STATEMENT

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:

- | | |
|---|---|
| <input type="checkbox"/> a. Impacts businesses and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.) |

h. (cont.) _____

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: _____ Describe the types of businesses (Include nonprofits.): _____

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

3. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

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

5. Enter the number of jobs created: _____ or eliminated: _____ Describe the types of jobs or occupations impacted: _____

6. 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: _____

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: \$ _____ | Annual ongoing costs: \$ _____ | Years: _____ |
| b. Initial costs for a typical business: \$ _____ | Annual ongoing costs: \$ _____ | Years: _____ |
| c. Initial costs for an individual: \$ _____ | Annual ongoing costs: \$ _____ | Years: _____ |

d. Describe other economic costs that may occur: _____

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

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

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.): \$ _____

4. Will this regulation directly impact housing costs? Yes No If yes, enter the annual dollar cost per housing unit: _____ and the 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: _____

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

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

1. Briefly summarize the benefits that may result from this regulation and who will benefit: _____

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

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

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: _____

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

Regulation:	Benefit: \$ _____	Cost: \$ _____
Alternative 1:	Benefit: \$ _____	Cost: \$ _____
Alternative 2:	Benefit: \$ _____	Cost: \$ _____

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

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: _____

E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record.) Cal/EPA boards, offices, and departments are subject to the following additional requirements per Health and Safety Code section 57005.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? Yes No (If No, skip the rest of this section.)

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

Alternative 1: _____

Alternative 2: _____

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

Regulation:	\$ _____	Cost-effectiveness ratio: \$ _____
Alternative 1:	\$ _____	Cost-effectiveness ratio: \$ _____
Alternative 2:	\$ _____	Cost-effectiveness ratio: \$ _____

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 of approximately \$ _____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

a. is provided in _____, Budget Act of _____ or Chapter _____, Statutes of _____

b. will be requested in the _____ Governor's Budget for appropriation in Budget Act of _____
(FISCAL YEAR)

2. Additional expenditures of approximately \$ _____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

a. implements the Federal mandate contained in _____

b. implements the court mandate set forth by the _____
court in the case of _____ vs. _____

c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____
election; (DATE)

d. is issued only in response to a specific request from the _____
_____, which is/are the only local entity(s) affected;

e. will be fully financed from the _____ authorized by Section _____
(FEES, REVENUE, ETC.)
_____ 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 such unit;

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

3. Savings of approximately \$ _____ annually.

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

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

5. No fiscal impact exists because this regulation does not affect any local entity or program.
6. Other.

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 of approximately \$ _____ in the current State Fiscal Year. It is anticipated that State agencies will:
- a. be able to absorb these additional costs within their existing budgets and resources.
- b. request an increase in the currently authorized budget level for the _____ fiscal year.
2. Savings of approximately \$ _____ in the current State Fiscal Year.
3. No fiscal impact exists because this regulation does not affect any State agency or program.
4. Other. See attached.

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 of approximately \$ _____ in the current State Fiscal Year.
2. Savings of of approximately \$ _____ in the current State Fiscal Year.
3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.
4. Other. See attached.

FISCAL OFFICER SIGNATURE 	DATE 9/26/2013	
AGENCY SECRETARY ¹ APPROVAL/CONCURRENCE 		DATE
DEPARTMENT OF FINANCE ² APPROVAL/CONCURRENCE 	PROGRAM BUDGET MANAGER	DATE

1. The signature attests 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 department not under an Agency Secretary must have the form signed by the highest ranking official in the organization.
2. Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD.399.

COVERED CALIFORNIA
PROPOSED REGULATION
SHOP ELIGIBILITY AND ENROLLMENT PROCESS
STD FORM 399

ATTACHMENT A

FISCAL IMPACT STATEMENT

Section B – Fiscal Effect on State Government

4. Covered California (CC) contracted with an external vendor to administer the SHOP eligibility and enrollment program. As Attachment B indicates, the estimated cost impact to CC is \$4.8 million in FY 2014-15, and \$9.3 million each year thereafter. As CC becomes self-sustaining starting January 1, 2015, CC will adjust the participation fees, if necessary, to collect sufficient revenue to offset these costs.

Section C – Fiscal Effect on Federal Programs

4. Covered California (CC) contracted with an external vendor to administer the SHOP eligibility and enrollment program. The regulation becomes effective immediately once the Office of Administrative Law files with the Secretary of State. As Attachment B indicates, the estimated cost impact to the federal funding (Grant) is \$6.8 million in FY 2013-14 and \$5.8 million in FY 2014-15.

COVERED CALIFORNIA
SHOP ELIGIBILITY & ENROLLMENT
EMERGENCY RULEMAKING
FISCAL ANALYSIS

ATTACHMENT B

FY 2013-14	MONTHLY x 3 CY 2013		MONTHLY x 4 CY 2014			FY 2013-14 TOTAL	
	MONTHLY	OCT-DEC	MONTHLY	JAN-APR	MAY		JUN
BASE OPERATIONS	\$ 600,000	\$ 1,800,000	\$ 600,000	\$ 2,400,000	\$ 600,000	\$ 600,000	\$ 5,400,000
PMPM FEE CALCULATION							
ENROLLMENT EST (ORIGINAL)			28,800		52,800	76,800	
ENROLLMENT EST (REVISED) @ 50%			14,400		26,400	38,400	
PMPM RATE PAY TO CONTRACTOR			\$ 14.70		\$ 9.00	\$ 9.00	
PMPM FEE (REV EST x PMPM RATE)			\$ 211,680	\$ 846,720	\$ 237,600	\$ 345,600	\$ 1,429,920
							State Costs \$ -
							Federal Costs \$ 6,829,920
							TOTAL COSTS (BASE OPERATIONS + PMPM FEE) \$ 6,829,920

FY 2014-15	MONTHLY x 5 CY 2014			MONTHLY x 6 CY 2015		FY 2014-15 TOTAL	
	MONTHLY	JUL-NOV	DEC	MONTHLY	JAN-JUN		
BASE OPERATIONS	\$ 600,000	\$ 3,000,000	\$ 600,000	\$ 550,000	\$ 3,300,000	\$ 6,900,000	
PMPM FEE CALCULATION							
ENROLLMENT EST (ORIGINAL)	76,800		96,000	96,000			
ENROLLMENT EST (REVISED) @ 50%	38,400		48,000	48,000			
PMPM RATE PAY TO CONTRACTOR	\$ 9.00		\$ 9.00	\$ 5.15			
PMPM FEE (REV EST x PMPM RATE)	\$ 345,600	\$ 1,728,000	\$ 432,000	\$ 247,200	\$ 1,483,200	\$ 3,643,200	
							State Costs (effective 1/1/15) \$ 4,783,200
							Federal Costs \$ 5,760,000
							TOTAL COSTS (BASE OPERATIONS + PMPM FEE) \$ 10,543,200

FY 2015-16	MONTHLY x 6 CY 2015		MONTHLY x 6 CY 2016		FY 2015-16 TOTAL	
	MONTHLY	JUL-DEC	MONTHLY	JAN-JUN		
BASE OPERATIONS	\$ 550,000	\$ 3,300,000	\$ 550,000	\$ 3,300,000	\$ 6,600,000	
PMPM FEE CALCULATION						
ENROLLMENT EST (ORIGINAL)	96,000		96,000			
ENROLLMENT EST (REVISED) @ 50%	48,000		48,000			
PMPM RATE PAY TO CONTRACTOR	\$ 5.15		\$ 4.35			
PMPM FEE (REV EST x PMPM RATE)	\$ 247,200	\$ 1,483,200	\$ 208,800	\$ 1,252,800	\$ 2,736,000	
						State Costs \$ 9,336,000
						Federal Costs \$ -
						TOTAL COSTS (BASE OPERATIONS + PMPM FEE) \$ 9,336,000

SUMMARY	FY 2013-14	FY 2014-15	FY 2015-16
State Costs (effective 1/1/15)	\$ -	\$ 4,783,200	\$ 9,336,000
Federal Costs	\$ 6,829,920	\$ 5,760,000	\$ -
GRAND TOTAL COSTS	\$ 6,829,920	\$ 10,543,200	\$ 9,336,000

Notes:

1. Revised Enrollment Estimates assume 50% less than originally anticipated.
2. Cost for Base Operations and PMPM Fee based on provisions in the contract.
3. Calculations do not include Bonus Payments.

**CALIFORNIA HEALTH BENEFIT EXCHANGE
BOARD RESOLUTION NO. 2014-23**

In the matter of the readoption of the SHOP Eligibility and Enrollment Process Regulations.

The Board hereby resolves that, in accordance with Sections 100500(i), 100502(m), 100503(a), and 100504(a)(6) of the Government Code, the Executive Director or his authorized designee be authorized to finalize and submit to the Office of Administrative Law an emergency regulations package for the readoption of the SHOP Eligibility and Enrollment Process Regulations.

CERTIFICATION

I, Peter V. Lee, Executive Director of the California Health Benefit Exchange, do hereby certify that the foregoing action was duly passed and adopted by the California Health Benefit Exchange Board at an official meeting thereof on March 20, 2014.



Peter V. Lee
Executive Director
California Health Benefit Exchange



March 21, 2014

**STATEMENT OF CONFIRMATION OF MAILING OF
FIVE-DAY EMERGENCY NOTICE**
(Title 1, CCR section 50(a)(5)(A))

The California Health Benefit Exchange sent notice of the proposed emergency action to every person who has filed a request for notice of regulatory action at least five working days before submitting the emergency regulation to the Office of Administrative law in accordance with the requirements of Government Code section 11346.1, subdivision (a)(2).

