November 21, 2014

ADVANCE NOTICE OF RE-ADOPTION OF EMERGENCY REGULATIONS
TITLE 10. INVESTMENT
CHAPTER 12. CALIFORNIA HEALTH BENEFIT EXCHANGE
ARTICLE 8. ENROLLMENT ASSISTANCE

This notice is sent in accordance with Government Code Section 11346.1(a)(2), which requires that State of California agencies give a five working day advance notice of intent to file emergency regulations with the Office of Administrative Law (OAL). The California Health Benefit Exchange ("Exchange") intends to file an Emergency Rulemaking package with the Office of Administrative Law (OAL) that establishes the Navigator program and changes previously adopted enrollment assistance program regulations. 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. Responding to these comments is strictly at the Exchange's discretion.

Comments should be sent simultaneously to:

California Health Benefit Exchange
Attn: Tessa Hammer
1601 Exposition Blvd
Sacramento, CA 95815

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 two years from the initial date of adoption or until revised by the Board. (Government Code section 100504 (a)(6)) 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: hbex.coveredca.com/regulations

If you have any questions regarding this Advance Notice, please contact Tessa Hammer at (916) 228-8232 or email Tessa.Hammer@Covered.ca.gov.

UPDATED FINDING OF EMERGENCY

The Director of the California Health Benefit Exchange finds 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 February 10, 2014, readopted on May 1, 2014, and readopted on July 21, 2014. Government Code section 100504(a)(6) was amended in July 2014 to allow for additional readoptions in excess of the standard two. The Exchange now seeks an additional readoption in accordance with that statute. The regulations will expire two years from the initial date of adoption.

<u>Changes Made to Article 8:</u>

Section 6657:

- In subdivision (a)(3), the provision “and have no substantially related administrative actions taken against them” was added to clarify to applicants that they may not be certified if they have had any administrative actions taken against them.

Section 6658:

- Subdivision (c)(5) was added to incorporate a two year prohibition on reapplying for certification after receipt of a negative final determination.

Section 6660:

- Subdivision (b)(16) was modified to delete the provision making it applicable only to government entities and to refer directly to Exchange regulations.

Section 6664:

- Subdivision (a)(2) was modified to mirror recently effective federal regulations.
- Subdivisions (a)(6)(C)1.: the words “written or electronic” were deleted to provide additional clarity.
- Subdivision (a)(6)(K) was modified to change the record keeping requirements for individuals certified under this Article.
- Subdivision (a)(7) was modified to refer directly to Exchange regulations and to delete the provision making it applicable only to government entities.
- Subdivision (a)(8) was added to mirror recently effective federal regulations.
- Subdivision (h)(11)-(14) were added to mirror recently effective federal regulations.

- Subdivision (i) includes “arrests for which they have been released on bail or personal recognizance” to conform to existing policy and makes textual changes for clarity.

Section 6670:

- Added administrative action to the list of events justifying suspension or revocation of certification in subdivision (a)(2).
- Added subdivision (c) to limit individuals from reapplying for certification after their certification was suspended or revoked.

The Exchange has begun the process of making these regulations permanent to comply with the requirements in Government Code § 11346.1(e), and it has made substantial progress in that regard. For example, the Exchange has made further progress on an Initial Statement of Reasons. The Exchange will continue to reevaluate and refine the Enrollment Assistance program based upon stakeholder feedback and further experience.

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 Sections 100502 and 100504.
Reference: Government Code Sections 100502, 100503; 45 CFR 155.205, 45 CFR 155.210, 45 CFR 155.215, and 45 CFR 155.260.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Documents to be incorporated by reference:

None.

Summary of Existing Laws

Under the federal Patient 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 the Navigator program in accordance with subdivision (i) of Section 1311 of the PPACA. Any entity chosen by the Exchange as a Navigator must conduct public education activities, distribute information about Exchange enrollment and financial assistance, facilitate enrollment, provide referrals to any health insurance consumer assistance offices and provide information in a culturally and linguistically appropriate manner. (Gov. Code § 100502(l)). The Exchange is also required to set performance standards and compensation for Navigators (Gov. Code § 100503(l)).

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

California Code of Regulations

Title 10. Investment

Chapter 12. California Health Benefit Exchange (§ 6650 et seq.)

Article 8. Enrollment Assistance.

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§ 6650. Definitions.

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

Authorized Contact: The individual appointed by the Certified Enrollment Entity to manage the agreement with the Exchange.

Certified Enrollment Counselor: An individual who is certified by the Exchange pursuant to Sections 6654 or 6656 to provide one-on-one Consumer Assistance. A Certified Enrollment Counselor shall be registered in either the In-Person Assistance or the Navigator Program, but not both.

Certified Enrollment Entity: An entity or individual registered by the Exchange to provide one-on-one Consumer Assistance. A Certified Enrollment Entity shall be registered in the In-Person Assistance Program and/or the Navigator Program.

Consumer: A person or entity seeking information on eligibility and enrollment or seeking application assistance with a health insurance or health related product available through the Exchange. The term consumer includes, but is not limited to, an applicant, an application filer, authorized representative, employer, qualified employee, qualified employer, qualified individual, small employer, or enrollee as defined in Section 6410 of Article 2 of this Chapter.

Consumer Assistance: The programs and activities created under 45 C.F.R. § 155.205(d) to provide one-on-one assistance to consumers.

Financial Contact: The individual appointed by the Certified Enrollment Entity to communicate fiscal matters with the Exchange.

In-Person Assistance Program (IPA Program): The Program whereby Certified Enrollment Entities affiliate with Certified Enrollment Counselors to provide face-to-face Consumer Assistance.

In-Person Assister: A Certified Enrollment Counselor who is affiliated pursuant to Section 6654 with a Certified Enrollment Entity who is registered in the IPA Program.

Navigator: A Certified Enrollment Counselor who is affiliated pursuant to Section 6656 with a Certified Enrollment Entity that is registered in the Navigator Program.

Navigator Program: The Program whereby Certified Enrollment Entities are awarded grants for conducting Outreach & Education and Consumer Assistance.

Outreach & Education: The programs and activities created under 45 C.F.R. § 155.205(e) to educate consumers about the Exchange and insurance affordability programs in order to encourage participation.

Personally Identifiable Information: Any information, including electronic, paper or any other media, that identifies or describes an individual, or can be used to distinguish or trace an individual's identity, including, but not limited to, his or her name, social security number, physical description, date, place of birth, mother's maiden name, home address, home telephone number, education, financial matters, medical or employment history, biometric records, and statements made by, or attributed to, the individual, that alone or when combined with other personal or identifying information can be linked or is linkable to a specific individual. Personally Identifiable Information includes Protected Health Information (PHI), as defined in the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. section 1320d-d8).

Primary Contact: The individual appointed by the Certified Enrollment Entity to be a liaison with the Exchange.

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

§ 6652. Certified Enrollment Entities.

(a) The following entities and individuals are eligible to apply to become a Certified Enrollment Entity in the In-Person Assistance Program pursuant to Section 6654:

(1) American Indian Tribes or Tribal Organizations;

(2) Chambers of Commerce;

(3) Cities, Counties, and Local Government Agencies;

(4) Commercial fishing industry organizations;

(5) Community Colleges and Universities;

(6) Faith-Based Organizations;

(7) Indian Health Services Facilities;

(8) Labor Unions;

(9) Licensed attorneys (e.g., family law attorneys who have clients that are experiencing life transitions);

(10) Licensed health care clinics;

(11) Licensed health care institutions;

(12) Licensed health care providers;

(13) Non-Profit Community Organizations;

(14) Ranching and farming organizations;

(15) Resource partners of the Small Business Administration;

(16) School Districts;

(17) Tax preparers as defined in Section 22251(a)(1)(A) of the Business and Professions Code;

(18) Trade, industry, and professional organizations;

(19) Other public or private entities or individuals who meet the requirements of this Article except for:

(A) Entities and individuals who are licensed by the Department of Insurance.

(b) The following entities and individuals are eligible to apply to become a Certified Enrollment Entity in the Navigator Program pursuant to Section 6656:

(1) American Indian Tribes or Tribal Organizations;

(2) Chambers of Commerce;

(3) Cities, Counties, and Local Government Agencies;

(4) Commercial fishing, industry organizations;

(5) Community Colleges and Universities;

(6) Faith-Based Organizations;

(7) Indian Health Services Facilities;

(8) Labor Unions;

(9) Licensed attorneys (e.g., family law attorneys who have clients that are experiencing life transitions);

(10) Non-Profit Community Organizations;

(11) Ranching and farming organizations;

(12) Resource partners of the Small Businesses Administration;

(13) School Districts;

(14) Tax preparers as defined in Section 22251(a)(1)(A) of the Business and Professions Code;

(15) Trade, industry, and professional organizations;

(16) Safety Net Clinics:

(A) Community Clinics as defined in Health and Safety Code Section 1204, subdivision (a)(1)(A);

(B) Free Clinics as defined in Health and Safety Code Section 1204, subdivision (a)(1)(B);

(C) Federally Qualified Health Centers (FQHCs) under Section 330 of the Public Health Service Act, 42 U.S.C. § 254b;

(D) FQHC Look-Alikes designated by the U.S. Department of Health and Human Services, Health Resources and Services Administration, 42 U.S.C. §§ 1395x and 1396d;

(E) Health care facilities directly managed and funded by the Indian Health Services under the Indian Self-Determination and Education Assistance Act of 1975, 25 U.S.C. § 450 et seq.;

(F) 638 Contracting or Compacting Clinics funded by the Indian Health Services under the Indian Self-Determination and Education Assistance Act of 1975, 25 U.S.C. § 450 et seq.;

(G) Urban Indian Health Centers under Title V of the Indian Health Care Improvement Act, 25 U.S.C. § 1601, et seq; and

(17) Other public or private entities or individuals who meet the requirements of this Article except for:

(A) Entities and individuals who are licensed by the Department of Insurance;

(B) Health insurance issuers or stop loss insurance issuers;

(C) Except for the Safety Net Clinics listed in subdivision (b)(16) above, Licensed Health Care Clinics;

(D) Licensed Health Care Institutions; and

(E) Licensed Health Care Providers.

(c) The Exchange may require proof of a current or valid license, authority, certificate, or registration by the appropriate regulatory or licensing entity as a condition of eligibility to be registered as a Certified Enrollment Entity.

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

§ 6654. In-Person Assistance Program Application.

(a) An entity or individual who is eligible pursuant to Section 6652 may apply to register in the IPA Program as a Certified Enrollment Entity according to the following process:

(1) The entity or individual shall submit all information, documentation, and declarations required in subdivision (b) of this Section.

(2) The application shall demonstrate that the entity or individual is capable of carrying out at least those duties described in Section 6664 and has existing relationships, or could readily establish relationships, with employers and employees, consumers (including uninsured and underinsured consumers), or self-employed individuals likely to be eligible for enrollment in a Qualified Health Plan (QHP).

(3) The Exchange shall review the application and, if applicable, request any additional or missing information necessary to determine eligibility.

(4) Entities or individuals who have submitted a completed application and demonstrated ability to meet the above requirements shall

(A) Be notified of available opportunities by the Exchange for the entity or individual's Authorized Contact, or his or her designee, to complete the training requirements established pursuant to Section 6660, subdivision (a); and

(B) Submit the following:

1. An executed agreement conforming to the Roles and Responsibilities defined in Section 6664 and provided in the application provided by the Exchange;

2. Proof of general liability insurance with coverage of not less than $1,000,000 per occurrence with the Exchange named as an additional insured, and workers compensation insurance; and

3. A completed STD.204, Payee Data Record.

(5) Entities or individuals who complete and pass the training requirements established pursuant to Section 6660, subdivision (a), shall be registered as Certified Enrollment Entities by the Exchange and assigned a Certified Enrollment Entity Number. If the Authorized Contact, or his or her designee, fails to complete the training standards described in Section 6660, subdivision (b), within 30 calendar days, the applicant shall be deregistered.

(6) Individuals and entities who have been denied may appeal the denial of their Certified Enrollment Entity Application through the process established by Section 6662.

(b) A Certified Enrollment Entity application for the IPA program shall contain the following information.

(1) Full name;

(2) Legal name;

(3) Primary e-mail address;

(4) Primary phone number;

(5) Secondary phone number;

(6) Fax number;

(7) An indication of whether the entity prefers to communicate via e-mail, phone, fax, or mail;

(8) Website address;

(9) Federal Employment Identification Number;

(10) State Tax Identification Number;

(11) Identification of applicant's status as a non-profit, for-profit, or governmental organization and a copy of supporting documentation;

(12) Identification of the type of organization and, if applicable, a copy of the license or other certification;

(13) Identification of the counties served;

(14) An indication of whether applicant wants to receive compensation;

(15) An indication of whether applicant received an Outreach & Education Grant from the Exchange and/or the Department of Health Care Services and, if applicable, the Grant Contract Number and Grant Award Amount;

(16) A certification that the applicant and all of its employees comply with Section 6666;

(17) Indication of whether the entity serves families of mixed immigration status;

(18) Identification of whether the entity provide services to persons with disabilities;

(19) An indication of whether the entity serves disabled individuals and, if so, the disability(ies) served;

(20) Identification of the year the entity was established;

(21) For the primary site and each sub-site, the following information:

(A) Site Location Address;

(B) Mailing Address;

(C) County;

(D) Contact name;

(E) Primary e-mail address;

(F) Primary phone number;

(G) Secondary phone number;

(H) An indication of whether the entity or individual wants to receive referrals for individuals seeking assistance at this site;

(I) Hours of operation;

(J) Estimated number of individuals served annually;

(K) Spoken languages;

(L) Written languages;

(M) An indication of whether the entity or individual offers services in sign language;

(N) Ethnicities served;

(O) Estimated number of individuals served by age; and

(P) Types of industries served;

(22) Name, e-mail address, primary and secondary phone number, and an indication of the preferred method of communication for the Authorized Contact, Primary Contact, and Financial Contact;

(23) If the Certified Enrollment Entity is eligible for compensation per Section 6668 and wants to receive payment, the applicant shall enter the following payment information:

(A) For Electronic Funds Transfers, the Bank Name, Account Owner, Routing Number, Account Number, Account Type (Checking or Savings); or

(B) For Paper Checks, Bank Address and Payment Address;

(24) A certification by the Authorized Contact that the information presented is true and correct to the best of the signer's knowledge;

(25) For each In-Person Assister to be affiliated with the applicant,

(A) All information required by Section 6657 that is not already included elsewhere in the application; and

(B) An indication of whether or not he or she is certified by the Exchange and, if applicable, the certification number.

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

§ 6656. Navigator Program Request for Application and Selection Criteria

(a) Navigator Program applicants shall submit an application in response to a request for application in accordance with the following process:

(1) The individual or entity shall submit an application that includes all information, documentation, and declarations required in subdivision (b) of this Section.

(2) Grants will be awarded under the Navigator Program to successful applicants using the following evaluation criteria:

(A) Cost effectiveness;

(B) Ability to carry out the duties described in Section 6664;

(C) Existing relationship, or ability to establish relationships with the consumers likely to be eligible for enrollment in a Qualified Health Plan (QHP).

(3) Individuals and Entities selected to participate in the Navigator Program shall:

(A) Submit the following:

1. An executed agreement conforming to the Roles and Responsibilities defined in Section 6664;
2. Proof of general liability insurance with coverage of not less than $1,000,000 per occurrence with the Exchange named as an additional insured, and workers compensation insurance; and
3. A completed STD. 204, payee data record.

(B) Complete the training requirements pursuant to Section 6660.

(4) The Exchange shall review the application and, if applicable, request any additional or missing information necessary to select a Navigator applicant.

(5) Entities not selected to participate in the Navigator Program may submit a protest in writing to the Exchange to 1601 Exposition Blvd, Sacramento, 95815. Letter of protest must be received within five (5) business days of the date they are notified they have not been selected.

(6) Final decisions regarding the selection of entities to participate in the Navigator Program and responses to protests will be at the sole discretion of the Exchange's Executive Director.

(b) The Navigator Program Grant Application shall contain the following information:

(1) Individual or Organization information:

(A) Full and legal name;

(B) Federal Identification Number;

(C) Name of person authorized to enter into contractual obligation;

(D) Physical address of primary office;
(E) Mailing address, if different;
(F) Office phone number;
(G) Fax number;
(H) E-mail address; and
(I) Website address.

(2) Primary contact Information:
(A) Primary contact person;
(B) Physical address;
(C) Phone number;
(D) Fax number; and
(E) E-mail address.

(3) Identification of applicant's status as an eligible entity type pursuant to Section 6652 and a copy of supporting documentation.

(4) Previous experience involving the Navigator Program activities.

(5) Funding from other sources for similar activities including any federal, state, or county grants awarded for outreach, education, or enrollment activities.

(6) Requested funding amount.

(7) Subcontractor('s) information:
(A) Full and legal name;
(B) Federal Identification Number;
(C) Name of person authorized to enter into contractual obligation;
(D) Physical address of primary office;
(E) Mailing address, if different;
(F) Office phone number;
(G) Fax number;
(H) E-mail address; and
(I) Website address.

(8) Subcontractor('s) primary contact information:
(A) Primary contact person;
(B) Physical address;
(C) Phone number;
(D) Fax number; and
(E) E-mail address.

(9) Subcontractor('s) letter of intent to participate.

(10) Identification of subcontractor('s) eligibility type pursuant to Section 6652 and a copy of supporting documentation.

(11) Indication of region or population the applicant proposes to reach and estimated percentage by ethnicity, language, age group and federal poverty level.

(12) Cover Letter including the following information:

(A) Title of the grant application;
(B) Submission date of the proposal;
(C) Funding pool;
(D) Requested funding amount;
(E) A summary of the proposed project, including a description of the populations and communities targeted by the project, proposed approach, and likely impact; and
(F) Signature of an individual authorized to enter into contracts on behalf of the proposer.

(13) Narrative description of the applicant's qualifications.
(14) Letter(s) of reference from organizations previously collaborated with.
(15) Description of the staffing strategy and capacity for the lead organization and subcontractors.
(16) Description of the approach and strategy for reaching the target population.
(17) Description of setting and venue where Navigator activities will take place.
(18) Description of project management and quality monitoring activities.
(19) Description of project costs.

(c) At least one of the grants shall be awarded to each of the following:

(1) A non-profit Community Organization as described in Section 6652(b)(10); and

(2) Any one of the other categories listed in Section 6652.

Note: Authority cited: Sections 100502 and 100504, Government Code. Reference: Sections 100502 and 100503, Government Code; and 45 CFR §§ 155.205, 155.210, and 155.260.

§ 6657. Certified Enrollment Counselor Application.

(a) An individual may become a Certified Enrollment Counselor according to the following process:

(1) The Certified Enrollment Entity shall notify the Exchange of the individual to be affiliated according to the process described in subdivision (c) of this Section.

(2) The individual shall:

(A) Submit the following:

1. All information, documentation, and declarations required in subdivision (b) of this Section; and

2. An executed agreement conforming to the Roles and Responsibilities defined in Section 6664 and as indicated in the application provided by the Exchange;

(B) Within 30 calendar days of completing the requirements in (a)(2)(A) of this Section:

1. Submit fingerprinting images in accordance with Section ~~6558(a)~~ 6658;
2. Disclose to the Exchange all criminal convictions and administrative actions taken against the applicant;
3. Complete the required training established in Section 6660; and
4. Pass the required certification exam administered by the Exchange.

(3) Individuals who complete the above requirements, ~~and~~ pass the Certified Enrollment Counselor Fingerprinting and Criminal Record Check described in Section 6658, and have no substantially related administrative actions taken against them, shall be certified as Certified Enrollment Counselors by the Exchange.

(4) Applicants who have been denied for reasons other than failure to pass the Certified Enrollment Counselor Fingerprinting and Criminal Record Check may appeal the denial of their Certified Enrollment Counselor Application through the process established by Section 6662.

(b) An individual's application to become a Certified Enrollment Counselor shall contain the following information:

(1) Name, e-mail address, primary and secondary phone number, and preferred method of communication;

(2) Driver's License Number or Identification Number issued by the California Department of Motor Vehicles. If neither is available, the applicant may provide any other unique identifier found on an identification card issued by a federal, state, or local government agency or entity;

(3) Identification of the Certified Enrollment Entity that the individual will affiliate with;

(4) Affiliated Certified Enrollment Entity's primary site location address;

(5) An indication of whether the Counselor wants to work in the In-Person Assistance Program or the Navigator Program;

(6) Site(s) served by the individual;

(7) Mailing Address of the primary site for the Certified Enrollment Entity;

(8) An indication of the languages that the Certified Enrollment Counselor can speak;

(9) An indication of the languages that the Certified Enrollment Counselor can write;

(10) Disclosure of all criminal convictions and administrative actions taken against the individual;

(11) A certification by the individual that:

(A) The individual complies with Section 6666;

(B) The individual is a natural person of not less than 18 years of age; and

(C) The statements made in the application are true, correct and complete to the best of his or her knowledge and belief.

(12) For the individual applying to become a Certified Enrollment Counselor, signature, and date signed; and

(13) For the Authorized Contact from the Certified Enrollment Entity that the individual will be affiliated with, name, signature, and date signed.

(c) A Certified Enrollment Entity shall notify the Exchange of every individual to be added or removed as an affiliated Certified Enrollment Counselor. Such notification shall include:

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

(2) Name and signature of the Authorized Contact from the Certified Enrollment Entity;

(3) Name, e-mail, and primary phone number of the individual to be added or removed;

(4) Effective date for the addition or removal of the individual; and

(5) An indication of whether the individual is certified as an Certified Enrollment Counselor, and if so, the following information:

(A) Certification number; and

(B) When adding an individual, site(s) to be served by the individual.

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

§ 6658. Certified Enrollment Counselor Fingerprinting and Criminal Record Checks.

(a) Roles Requiring Fingerprinting.

(1) Individuals seeking certification under this Article shall submit fingerprint images, and associated criminal history information pursuant to Government Code Section 1043 and Section 6456(a)-(e) of Article 4 of this Chapter.

(b) Interim Fitness Determination.

(1) Before any final determination or certification decision is made based on the criminal record, the Exchange shall comply with the requirements of Section 6456(d)-(e) of Article 4 of this Chapter.

(2) If the Exchange finds that an individual seeking certification under this Article has a potentially disqualifying criminal record under Section 6456(d)-(e) of Article 4 of this

chapter, the Exchange shall promptly provide the individual with a copy of his or her criminal record pursuant to Penal Code Section 11105(t), notify the individual of the specific disqualifying offense(s) for the interim determination, and provide the individual information on how to request a written appeal, including examples of the types of additional evidence the individual may provide, to dispute the accuracy and relevancy of the criminal record.

(c) Appeal and Final Determination.

(1) Inaccurate or Incomplete Federal and Out of State Disqualifying Offenses.

(A) If the individual believes that the potentially disqualifying offense in the Federal Bureau of Investigation national criminal response identified in the notice sent pursuant to subdivision (b)(2) of this Section is inaccurate or incomplete, within 60 calendar days from the date of the notice, the individual may seek to correct or complete the response by providing information to the Exchange, including official court and law enforcement records, identifying and correcting the incomplete or inaccurate criminal history information. Upon receipt of such information, the Exchange shall reevaluate the interim fitness determination. The Exchange, within 60 calendar days, shall respond to the individual with a final determination.

(2) Inaccurate or Incomplete California Disqualifying Offenses.

(A) If the individual believes that the potentially disqualifying offense in the California Department of Justice state criminal response identified in the notice sent pursuant to subdivision (b)(2) is inaccurate or incomplete, within 60 calendar days from the date of the notice, the individual shall notify the Exchange and follow the procedures set forth in Penal Code Sections 11120-11127 to correct or complete the criminal response with the DOJ. The fitness determination shall not be final until the DOJ has acted to correct the state criminal response. Upon receipt of the corrected response, the Exchange shall reevaluate the interim fitness determination. The Exchange, within 60 calendar days, shall respond to the individual with a final determination.

(3) If the individual determines that his or her criminal record is accurate, within 60 days from the date of the notice in subdivision (b)(2) of this Section, the individual may dispute the interim determination by producing additional written evidence of rehabilitation and mitigating circumstances related to any potentially disqualifying offense. The Exchange, within 60 calendar days, shall respond to the individual with a final determination.

(A) For purposes of reevaluating the interim determination pursuant to subdivision (c)(3) of this Section, the Exchange shall take into account any of the following:

(i) Any additional evidence of rehabilitation and mitigating circumstances provided by the individual in subdivision (c)(3) of this Section;

(ii) Information received as a result of the criminal record check;

(iii) Information received through the individual's application process for a position requiring fingerprinting in subdivision (a) of this Section.

(iv) Information received as a result of the individual's employment history or qualifications for a position requiring fingerprinting in subdivision (a) of this Section.

(4) Absent good cause for late filing as determined by the Exchange on a case by case basis, the interim fitness determination shall become final.

(5) Following the receipt of a final determination pursuant to this Section that an individual is disqualified from certification, the individual shall not reapply for certification for two years absent good cause.

(d) Costs.

(1) The Exchange shall pay the costs incurred by individuals whose duties require fingerprinting under subdivision (a) of this Section until December 31, 2014. After December 31, 2014, background check costs for individuals seeking certification under this Article shall be paid by the Certified Enrollment Entity.

Note: Authority cited: Sections 1043 and 100504, Government Code. Reference: Section 100502, Government Code; Section 11105, Penal Code; and 45 C.F.R. §§ 155.205, 155.210, 155.215, and 155.260.

§ 6660. Training Standards.

(a) All individuals or entities who apply to become a Certified Enrollment Entity shall complete training for the management of Certified Enrollment Entities prior to any affiliated Certified Enrollment Counselors carrying out any Consumer Assistance functions.

(b) To ensure that all Certified Enrollment Counselors are prepared to serve both the individual Exchange and the Small Business Health Options Program, all individuals or entities who carry out Consumer Assistance functions shall complete training in the following subjects prior to carrying out any Consumer Assistance functions:

(1) QHPs (including the metal levels described at 45 C.F.R. § 156.140(b)), and how they operate, including benefits covered, payment processes, rights and processes for appeals and grievances, and contacting individual plans;

(2) The range of insurance affordability programs, including Medicaid, the Children's Health Insurance Program, and other public programs;

(3) The tax implications of enrollment decisions;

(4) Eligibility requirements for premium tax credits and cost-sharing reductions, and the impacts of premium tax credits on the cost of premiums;

(5) Contact information for appropriate federal, state, and local agencies for consumers seeking additional information about specific coverage options not offered through the Exchange;

(6) Basic concepts about health insurance and the Exchange; the benefits of having health insurance and enrolling through an Exchange; and the individual responsibility to have health insurance;

(7) Eligibility and enrollment rules and procedures, including how to appeal an eligibility determination;

(8) Providing culturally and linguistically appropriate services;

(9) Ensuring physical and other accessibility for people with a full range of disabilities;

(10) Understanding differences among health plans;

(11) Privacy and security standards applicable under 45 C.F.R. § 155.260 for handling and safeguarding consumers' personally identifiable information;

(12) Working effectively with individuals with limited English proficiency, people with a full range of disabilities, people of any gender identity, people of any sexual orientation, and vulnerable, rural, and underserved populations;

(13) Customer service standards;

(14) Outreach and education methods and strategies; and

(15) Applicable administrative rules, processes and systems related to Exchanges and QHPs.

(16) ~~For governmental entities only, p~~Procedures for assisting consumers with voter registration in compliance with ~~the National Voter Registration Act of 1993, 42 U.S.C. § 1973gg~~ Section 6462 of Article 4.

(c) Training shall be provided by the Exchange through instructor-led training or computer-based training at the discretion of the Exchange.

(d) Certified Enrollment Counselors shall pass the exam administered by the Exchange on an annual basis to maintain certification with the Exchange.

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

§ 6662. Appeals Process

(a) Other than a determination made pursuant to Section 6658, Certified Enrollment Counselor Fingerprinting and Criminal Record Checks, a decision that an individual or entity is not eligible or qualified to participate or continue to participate in a program under this Article may be appealed to the Exchange in accordance with the requirements of this Section.

(b) The Exchange shall allow an applicant to request an appeal within 60 calendar days of the date of the notice of eligibility determination.

(c) The first phase of the Appeals Process shall include an informal review by the Exchange. The Exchange shall consider the information used to determine the appellant's eligibility as well as any additional relevant evidence presented during the course of the appeal. The Exchange shall make an informal resolution decision within 45 calendar days from the receipt of the appeal. The Exchange shall notify the appellant in writing of the decision.

(d) If the appellant is satisfied with the outcome of the informal resolution decision, the appeal may be withdrawn. If the appeal is not withdrawn, it shall be automatically escalated to the second phase of the Appeals Process. During the second phase, an independent unit within the Exchange that had no involvement in the original eligibility or qualification determination or informal resolution decision shall review the eligibility or qualification of the appellant *de novo*. The appellant shall be allowed to present additional evidence during the second phase. The Exchange shall consider all relevant evidence presented during the course of the appeal and notify the appellant in writing of the final decision within 60 calendar days from the receipt of the appeal.

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

§ 6664. Roles & 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 (i.e., 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 standards established by the Exchange pursuant to 45 C.F.R. § 155.260;

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

(A) Inform the consumer that the Certified Enrollment Counselor must obtain his or her 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 (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 ~~written or electronic~~ 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 or 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; and

   iii. Obtained written authorization from the consumer consenting to the release of his or her 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 or 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; and

iii. Obtained oral authorization from the consumer consenting to the release of his or her 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 may be eligible;

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

(G) Inform the consumer that if the Certified Enrollment Counselor cannot assist the consumer, he or she 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 (a)(6)(C) may be revoked at any time; and

(K) ~~Submit a written or electronic record of the authorization set forth in Section 6664 (a)(6)(C) to the Exchange.~~ Maintain a record of such authorization for a minimum of six (6) years.

(7) ~~For governmental entities, e~~Ensure that voter registration assistance is available in compliance with Section 6462 of Article 4 ~~as required under the National Voter Registration Act of 1993, 42 U.S.C. § 1973gg~~; ~~and~~

(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; and

(9) 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, 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;

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

(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 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 45 C.F.R. § 435.603(f); ~~or~~

(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 USC § 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. 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.

(i) Certified Enrollment 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 conviction or action~~ each occurrence in accordance with Section 6456 (e)(1) of Article 4.

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

§ 6666. Conflict of Interest Standards.

(a) Certified Enrollment Entities and Certified Enrollment Counselors shall not concurrently hold a license issued by the California Department of Insurance.

(b) Certified Enrollment Entities and Certified Enrollment Counselors shall not employ, be employed by or be in partnership with, or receive any remuneration arising out of functions

performed under this Article from any individual or entity currently licensed by the California Department of Insurance.

(c) Certified Enrollment Entities and Certified Enrollment Counselors shall:

(1) Not be:

(A) Health insurance issuers or stop loss insurance issuers;

(B) Subsidiaries of health insurance issuers or stop loss insurance issuers;

(C) Associations that include members of, or lobby on behalf of, the insurance industry; or

(D) Recipients of any direct or indirect consideration from any health insurance issuer or stop loss insurance issuer in connection with the enrollment of any individuals or employees in a QHP or non-QHP.

(2) Submit to the Exchange a written attestation that the entity or individual:

(A) Is not a health insurance issuer or issuer of stop loss insurance;

(B) Is not a subsidiary of a health insurance issuer or issuer of stop loss insurance;

(C) Is not an association that includes members of, or lobbies on behalf of, the insurance industry; and

(D) Will not receive any consideration directly or indirectly from any health insurance issuer or issuer of stop loss insurance in connection with the enrollment of any individuals or employees in a QHP or non-QHP.

(3) Create a written plan to remain free of conflicts of interest while carrying out Consumer Assistance functions under this Article which shall be made available upon request to the Exchange.

(4) Provide information to consumers about the full range of QHP options and insurance affordability programs for which they are eligible.

(5) Disclose to the Exchange and to each consumer who receives application assistance from the entity or individual:

(A) Any lines of insurance business, not covered by the restrictions on participation and prohibitions on conduct in this Section, which the entity or individual intends to sell while carrying out the Consumer Assistance functions;

(B) Any existing employment relationships, or any former employment relationships within the last five years, with any health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance, including any existing employment relationships between a spouse or domestic partner and any health insurance issuers or

issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance; and

(C) Any existing or anticipated financial, business, or contractual relationships with one or more health insurance issuers or issuers of stop loss insurance, or subsidiaries of health insurance issuers or issuers of stop loss insurance.

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

§ 6668. Compensation.

(a) Certified Enrollment Entities that are registered in the In-Person Assistance Program shall be compensated for Consumer Assistance resulting in successful enrollment and effectuation of coverage in a QHP provided by an affiliated In-Person Assister as follows:

(1) $58 for each initial application during open or special enrollment;

(2) $58 for each re-enrollment application; and

(3) $25 for each annual renewal application.

(b) Certified Enrollment Entities in the In-Person Assistance Program shall not be compensated for providing Consumer Assistance with address changes, income changes, health status changes, or tax or family (dependent) decreases due to divorce or death.

(c) The following types of Certified Enrollment Entities in the In-Person Assistance Program shall not be compensated by the Exchange for any functions performed as Certified Enrollment Entities:

(1) City, County and Local Government Agencies that receive compensation from the Department of Health Care Services for assistance with the application defined under the Section 6470 of Article 5 of this Chapter;

(2) Licensed health care clinics;

(3) Licensed health care institutions;

(4) Licensed health care providers; and

(5) Other public or private entities or individuals as determined by the Exchange to have a conflict of interest or who receive direct or indirect consideration for Consumer Assistance.

(d) Subdivision (c) of this Section shall not apply to:

(1) Community Clinics as defined in Health and Safety Code Section 1204, subdivision (a)(1)(A);

(2) Free Clinics as defined in Health and Safety Code Section 1204, subdivision (a)(1)(B);

(3) Federally Qualified Health Centers (FQHCs) under Section 330 of the Public Health Service Act, 42 U.S.C. § 254b;

(4) FQHC Look-Alikes designated by the U.S. Department of Health and Human Services, Health Resources and Services Administration, 42 U.S.C. §§ 1395x and 1396d;

(5) Health care facilities directly managed and funded by the Indian Health Services under the Indian Self-Determination and Education Assistance Act of 1975, 25 U.S.C. § 450 et seq.;

(6) 638 Contracting or Compacting Clinics funded by the Indian Health Services under the Indian Self-Determination and Education Assistance Act of 1975, 25 U.S.C. § 450 et seq.; and

(7) Urban Indian Health Centers under Title V of the Indian Health Care Improvement Act, 25 U.S.C. § 1601, et seq.

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

§ 6670. Suspension and Revocation.

(a) Each of the following shall be justification for the Exchange to suspend or revoke the certification of any Certified Enrollment Entity or Certified Enrollment Counselor:

(1) Failure to comply with all applicable federal or state laws or regulations, including, but not limited to, Section 6664 or Section 6666 of this Article; and

(2) A potentially disqualifying <u>administrative action or</u> criminal record under Section 6456 of Article 4 of this Chapter.

(b) Appeals~~.~~

(1) Individuals or entities may appeal a determination made pursuant to subdivision (a)(1) of this Section through the process described in Section 6662 of this Article.

(2) Individuals or entities may appeal a determination made pursuant to subdivision (a)(2) of this Section through the process described in Section 6658, subdivision (c).

(3) Until a final determination or decision is made regarding an individual or entity's appeal, the appellant shall be disqualified from performing any functions under this Article.

<u>(c) Following the receipt of a final determination pursuant to this Section that disqualifies an individual or entity from certification, the entity or individual is not eligible to reapply for certification for two years absent good cause.</u>

Note: Authority cited: Sections 100502 and 100504, Government Code. Reference: Sections 100502 and 100503, Government Code.

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT (REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2013)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME	CONTACT PERSON	EMAIL ADDRESS	TELEPHONE NUMBER
California Health Benefit Exchange	Tessa Hammer	Tessa.Hammer@covered.ca	(916) 228-8232

DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400	NOTICE FILE NUMBER
Enrollment Assistance Program -- In-Person Assisters and Navigators	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 _____ (Agency/Department) estimates that the economic impact of this regulation (which includes the fiscal impact) is:

- ☐ 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: _____

Describe the types of businesses (Include nonprofits): _____

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

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

Explain: _____

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

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

Describe the types of jobs or occupations impacted: _____

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: _____

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: $ _____ 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: _____

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: $ _____

   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 of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____

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? $ _____

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

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: _____

ECONOMIC IMPACT STATEMENT (CONTINUED)

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.*

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 through12 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: _____

   The incentive for innovation in products, materials or processes: _____

   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: _____

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2013)

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 Estimated revenue of $39,000 for IPA and $775,000 for Navigators in FY 2014-15. IPA and Navigators will be funded by the Federal Grant and self-sustainability funds, respectively. See Attachment A.

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2013)

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)

$ _____

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 Estimated costs of $17.2M self-sustainability funds in FY 2014-15 for the IPA and Navigator Programs. See Attachment B. There is no impact to General Fund.

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 Estimated costs of $12.9M in FY 2014-15 for both IPA and Navigator Programs. These costs will be funded by the Federal Grant. Refer to Attachment C. There is no impact to General Fund.

FISCAL OFFICER SIGNATURE	DATE
	10/28/14

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 departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY	DATE
	11/21/14

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

FISCAL IMPACT STATEMENT

SECTION A -- FISCAL EFFECT ON LOCAL GOVERNMENT

Projected Local Revenue to Local Government (IPA & Navigator Programs)

Revenue Category	IPA	NAVIGATOR	TOTAL
		FY 2014/15	
CEEs (Payments to Local Government Entity) -- Federal Funding *	39,000		39,000
CEEs (Payments to Local Government Entity) - Navigator -- State Funding */**	0	775,267	775,267
Total Local Government Entity Payment	**$ 39,000**	**$775,267**	**$ 814,267**

*See Attachments B and C, Item (1).

** Navigator Application compensation is supported by self-sustainability funds. Information extracted from September 2014 Board meeting.

FISCAL IMPACT STATEMENT

SECTION B -- FISCAL EFFECT ON STATE GOVERNMENT

Enrollment Assistance Program Unit - Total Projected State Costs (effective 1/1/15)

Expenditure Category *	FY 2014/15**
Salaries (full-time permanent)	134,510
Salaries (temporary help)	42,911
Benefits	63,220
OE&E	35,000
Total	**$275,641**

* Source Data: Exception List (from Program).
1. Used August 2014 actuals to project thru 6/30/15, then divided by two to estimate half fiscal year.
2. Benefits = 47% x Salaries (full-time permanent).
3. OE&E = $14,000 per authorized position x 5 positions.

** Grant ends 12/31/2014. Therefore, only 6 months are used in the projection for FY 2014/15 from Jan 2015 thru June 2015.

Projected State Costs Associated with the In-Person Assistance (IPA) and Navigator Program Applications

Expenditure Category	*74% IPA**	*26% NAVIGATOR***	*TOTAL*
	FY 2014/15		
Salaries	131,292	69,194	200,486
Benefits	46,783	24,656	71,438
OE&E	25,900	13,650	39,550
Sub-Total, Enrollment Assistance Program Unit **	**$203,974**	**$107,500**	**$311,474**
Administrative Costs			0
Sub-Total, Administrative Costs ***	**$0**	**$0**	**$0**
Fingerprint Costs ********		31,172	31,172
Sub-Total, Fingerprint Costs	**$0**	**$31,172**	**$31,172**
(1) CEEs (Local Government Entity) Payment		775,267	775,267
Sub-total Local Gov't Payment		***775,267***	***775,267***
Certified Enrollment Entities Payment		16,124,733	16,124,733
Sub-total Certified Enrollment Entities Payment		***16,124,733***	***16,124,733***
Sub-Total, Local Gov't and Certified Enrollment Entities Payment	**$0**	**$16,900,000**	**$16,900,000**
Total Costs	**$203,974**	**$17,038,672**	**$17,242,646**

* IPA grant funding ends 12/31/14 for sustainability to start 1/1/15.
** 74% and 26% of the workload will be dedicated to the IPA and Navigator Programs respectively.
Navigator program becomes operational effective 10/1/14 (sustainability); calculations include nine months worth of program unit's costs.
*** Assume no administrative costs, as no contracts post 1/1/15 are currently executed.
**** See Attachment D for details.
IPA Program is slowly tapering off. No data for FY 2015-16 are available, as the Navigator program will be evaluated annually.

SECTION C -- FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS

Enrollment Assistance Program Unit - Total Projected Federal Costs (thru 12/31/14)

Expenditure Category *	FY 2014/15**
Salaries (full-time permanent)	134,510
Salaries (temporary help)	42,911
Benefits	63,220
OE&E	35,000
Total	**$275,641**

* Source Data: Exception List (from Program).
1. Used August 2014 actuals to project thru 12/31/14; includes actuals from July 2014.
2. Benefits = 47% x Salaries (full-time permanent).
3. OE&E = $14,000 per authorized position x 5 positions.

** Grant ends 12/31/2014. Therefore, only 6 months are used in the projection for FY 2014/15 from July 2014 through December 2014.

Projected Federal Costs Associated with the In-Person Assistance (IPA) and Navigator Program Applications

Expenditure Category	*74% IPA**	*26% NAVIGATOR***	*TOTAL*
	FY 2014/15		
Salaries	131,292	23,065	154,356
Benefits	46,783	8,219	55,001
OE&E	25,900	4,550	30,450
Sub-Total, Enrollment Assistance Program Unit **	**$203,974**	**$35,833**	**$239,807**
Administrative Costs	6,430,408	2,259,333	8,689,741
Sub-Total, Administrative Costs ***	**$6,430,408**	**$2,259,333**	**$8,689,741**
Fingerprint Costs ********	66,241		66,241
Sub-Total, Fingerprint Costs	**$66,241**	**$0**	**$66,241**
(1) CEEs (Local Government Entity) Payment	39,000		39,000
Sub-total Local Gov't Payment	***39,000***		***39,000***
Certified Enrollment Entities Payment	3,861,000		3,861,000
Sub-total Certified Enrollment Entities Payment	***3,861,000***		***3,861,000***
Sub-Total, Local Gov't and Certified Enrollment Entities Payment *******	**$3,900,000**	**$0**	**$3,900,000**
Total Costs	**$10,600,623**	**$2,295,166**	**$12,895,789**

* IPA grant funding ends 12/31/14.
** 74% and 26% of the workload will be dedicated to the IPA and Navigator Programs respectively.
As Navigator program becomes operational effective 10/1/14, federal funding for this program ends 9/30/14.
*** Administrative costs include the RHA contract (expire 12/31/14). 74% and 26% is allocated to IPA and Navigator Programs respectively.
**** See Attachment D for details.
***** Assume full 2014/15 IPA allotment expended by 12/31/14 (as most CEE contracts expire in 2014).

CALIFORNIA HEALTH BENEFIT EXCHANGE
PROPOSED RULEMAKING
ENROLLMENT ASSISTANCE PROGRAM - IN-PERSON ASSISTERS AND NAVIGATORS
STD 399
(whole dollars)

Attachment D

FINGERPRINT COSTS (HBEX incurs costs thru 12/31/14)

	Fiscal Year	2014-15	
Estimated Certified Enrollment Counselors fingerprinted for IPA and Navigator		Grant Funding	Sustainability
Individual Certified Enrollment Counselors		850	
Certified Navigators			400
TOTAL	(A)	**850**	**400**
STATE CORI FEE		$ 32	$ 32
FEDERAL CORI FEE		$ 17	$ 17
ROLLING FEE		$ 20	$ 20
TOTAL FEE	(B)	$ 69	$ 69
FINGERPRINT SERVICES FEES	**(A)x(B)**	**$ 58,650**	**$ 27,600**

FINGERPRINT DISQUALIFICATION REVIEW (LEGAL)

	Fiscal Year	2014-15	
Disqualification @ 10% of total volume	(G)	85	40
Annual Hrs (Attorney @ 1 hour / disqualification)	(J)=(G)x1	85	40
Position Equivalent (Annual Hours / 1,778)	(K)=(J)/1,778	0.0	0.0
Salary/Wages @ mid-step ($4,674-$8,141)	(L)=(K)x12x(4,674+8,141)/2	$ 3,676	$ 1,730
Benefits @ 47%	(M)=(L)x47%	$ 1,728	$ 813
Operating Expenses @ $14,000 / position	(N)=(K)x14,000	$ 669	$ 315
DISQUALIFICATION REVIEW COSTS (LEGAL)	**(L)+(M)+(N)**	**$ 6,073**	**$ 2,858**

APPEALS (LEGAL)

	Fiscal Year	2014-15	
Appeal @ 25% of disqualification	(O)=(G)x25%	21	10
Annual Hours (Attorney @ 1 hour / appeal)	(P)=(O)x1	21	10
Position Equivalent (Annual Hours / 1,778)	(Q)=(P)/1,778	0.0	0.0
Salary/Wages @ mid-step ($4,674-$8,141)	(R)=(Q)x12x(4,674+8,141)/2	$ 919	$ 432
Benefits @ 47%	(S)=(R)x47%	$ 432	$ 203
Operating Expenses @ $14,000 / position (prorated)	(T)=(Q)x14,000	$ 167	$ 79
APPEAL COSTS (LEGAL)	**(R)+(S)+(T)**	**$ 1,518**	**$ 714**
TOTAL FEES/COSTS		**$ 66,241**	**$ 31,172**