



California Health Benefit Exchange

Board Members

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Executive Director

Peter V. Lee

June 26, 2013

NOTIFICATION OF PROPOSED EMERGENCY REGULATORY ACTION

The California Health Benefit Exchange ("Exchange") is proposing to adopt emergency regulations to establish the Enrollment Assistance program. These regulations include eligibility standards, application requirements, and other guidelines for individuals and entities to participate in the Enrollment Assistance program. The emergency regulations are proposed for adoption into California Code of Regulations, Title 10, Chapter 12, Article 8. As required by subdivisions (a)(2) of Government Code Section 11346.1, this notice includes the specific language proposed to be adopted and the Finding of Emergency.

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

Comments on the proposed regulations or the Finding of Emergency may be sent simultaneously to:

California Health Benefit Exchange
Attn: Daniel R. Eliav
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-hundred and eighty (180) days. Within the 180-day effective period, the Exchange will proceed with a regular rulemaking action, including a public comment period. The emergency regulations will remain in effect during this rulemaking action.

You may also review the proposed regulatory language and Finding of Emergency on the Exchange's website at the following address: <http://www.healthexchange.ca.gov>

If you have any questions regarding this proposed emergency action, please contact Daniel R. Eliav at (916) 323-3470 or email Daniel.Eliav@Covered.ca.gov.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

| | | | |
|--|---------------------------------|--------------------------|-----------------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER Z- | REGULATORY ACTION NUMBER | EMERGENCY NUMBER |
| For use by Office of Administrative Law (OAL) only | | | |
| 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)

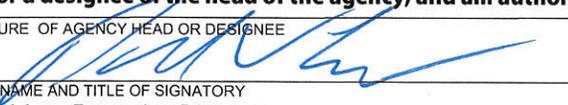
| | | | | |
|--|--|--------------------------|------------------------|-------------------------------|
| 1. SUBJECT OF NOTICE | | TITLE(S) | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |
| 3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other | | 4. AGENCY CONTACT PERSON | TELEPHONE NUMBER | FAX NUMBER (Optional) |
| OAL USE ONLY | ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn | | NOTICE REGISTER NUMBER | PUBLICATION DATE |

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

| | | | |
|--|---|---|---|
| 1a. SUBJECT OF REGULATION(S) Enrollment Assistance | | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) | |
| 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related) | | | |
| SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) | ADOPT 6650, 6652, 6654, 6658, 6660, 6662, 6664, 6666, 6668, and 6670 | | |
| | AMEND | | |
| | REPEAL 10 | | |
| 3. TYPE OF FILING | | | |
| <input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) | <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. | <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) | <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) |
| <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) | <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) | <input type="checkbox"/> File & Print | <input type="checkbox"/> Print Only |
| <input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) | <input type="checkbox"/> Other (Specify) _____ | | |
| 4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) | | | |
| 5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) | | | |
| <input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) | <input checked="" type="checkbox"/> Effective on filing with Secretary of State | <input type="checkbox"/> \$100 Changes Without Regulatory Effect | <input type="checkbox"/> Effective other (Specify) _____ |
| 6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY | | | |
| <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) | <input type="checkbox"/> Fair Political Practices Commission | <input type="checkbox"/> State Fire Marshal | |
| <input type="checkbox"/> Other (Specify) _____ | | | |
| 7. CONTACT PERSON Daniel Eliav | TELEPHONE NUMBER (916) 323-3470 | FAX NUMBER (Optional) | E-MAIL ADDRESS (Optional) Daniel.Eliav@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.

For use by Office of Administrative Law (OAL) only

| | |
|---|-------------------|
| SIGNATURE OF AGENCY HEAD OR DESIGNEE  | DATE 6/26/2013 |
| TYPED NAME AND TITLE OF SIGNATORY Peter V. Lee, Executive Director | |

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 01-2013) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code §11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number (s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

California Code of Regulations

Title 10. Investment

Chapter 12. California Health Benefit Exchange (§ 6400 et seq.)

Article 8. Enrollment Assistance.

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(a) Article 8. Enrollment Assistance.

§ 6650. Definitions.

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

Certified Enrollment Entities: Entities or individuals registered by the Exchange to provide one-on-one consumer assistance. Certified Enrollment Entities shall be registered in the In-Person Assistance 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 § CFR § 155.205(d) to provide one-on-one assistance to consumers.

In-Person Assistance Program (IPA Program): The Program whereby Certified Enrollment Entities may be compensated for successful enrollment of consumers in the Exchange.

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

Certified Enrollment Counselor: An individual who is certified by the Exchange per Sections 6654 or 6656 to provide face-to-face one-on-one-consumer assistance.

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

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

§ 6652. Certified Enrollment Entities.

(a) The following entities and individuals are eligible to apply to become a Certified Enrollment Entity:

- (1) American Indian Tribes or Tribal Organizations;
- (2) Chambers of Commerce;
- (3) City Government Agencies;
- (4) Commercial fishing, industry organizations;
- (5) Community Colleges and Universities;
- (6) County departments of public health, city health departments, or county departments that deliver health services;

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- (7) Faith-Based Organizations;
 - (8) Indian Health Services Facilities;
 - (9) Labor Unions;
 - (10) Licensed attorneys (e.g., family law attorneys who have clients that are experiencing life transitions);
 - (11) Licensed health care clinics;
 - (12) Licensed health care institutions;
 - (13) Licensed health care provider;
 - (14) Non-Profit Community Organizations;
 - (15) Ranching and farming organizations;
 - (16) Resource partners of Small Businesses;
 - (17) School Districts;
 - (18) Tax preparers as defined in Section 22251(a)(1)(A) of the Business and Professions Code;
 - (19) Trade, industry, and professional organizations;
 - (20) Other public or private entities or individuals that meet the requirements of this Article except for:
 - (A) Entities and individuals which are licensed by the Department of Insurance.
- (b) 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 an Certified Enrollment Entity.

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

§ 6654. In-Person Assistance Program Application.

- (a) An entity or individual that is eligible per 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 paragraph (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.

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- (4) Entities or individuals which have submitted a completed application and demonstrated ability to meet the above requirements shall 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, paragraph (a).
 - (5) Entities or individuals which complete and pass the training requirements established pursuant to Section 6660, paragraph (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, paragraph (b) within 90 calendar days, the applicant shall be deregistered.
 - (6) All individuals who are not yet certified by the Exchange as Certified Enrollment Counselors and included in the initial application of the Certified Enrollment Entity shall become certified in accordance with the following process:
 - (A) Pass the Assister Fingerprinting and Criminal Record Check described in Section 6658;
 - (B) Complete the required training established in Section 6660(b); and
 - (C) Pass the required certification exam administered by the Exchange.
 - (7) Individuals and entities applying for the IPA program which have been denied may appeal the denial of their 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;

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- (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) For each County served, indication of the projected:
 - (A) Number of individuals served;
 - (B) Percentage (%) of total individuals served in each language;
 - (C) Percentage (%) of total individuals served in each ethnicity;
 - (D) Percentage (%) of individuals served by age; and
 - (E) An indication of the types of industries served;
- (18) 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) Number of Individuals served annually;
 - (K) Spoken languages;
 - (L) Written languages;
 - (M) Ethnicities served;

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- (N) Number of individuals served by age; and
 - (O) Types of industries served;
- (19) 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;
- (20) Certified Enrollment Entity payment information:
- (A) Bank Name;
 - (B) Bank Routing Number;
 - (C) Bank Account Number;
 - (D) Account Type (Checking or Savings);
 - (E) Payment Method (Paper Check or Electronic Funds Transfer);
 - (F) Bank Address; and
 - (G) Payment Address;
- (21) A certification by the Authorized Contact that the information presented is true and correct to the best of the signer's knowledge;
- (22) For each In-Person Assister to be affiliated with the applicant,
- (A) All information required by paragraph (d) of this section 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;
- (23) The applicant and any Certified Enrollment Counselor included in the application shall submit an executed agreement conforming to the Roles and Responsibilities defined in Section 6664;
- (24) Submit proof of general liability insurance with coverage of not less than \$1,000,000 per occurrence with the Exchange named as an additional insured, automobile insurance of not less than \$1,000,000 per occurrence with the Exchange named as an additional insured, and workers compensation insurance; and
- (25) Submit a completed STD-204, Payee Data Record.
- (c) An individual who is not included in an initial Certified Enrollment Entity application may become an In-Person Assister 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 paragraph (e) of this section.
 - (2) The individual shall:

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- (A) Submit all information, documentation, and declarations required in paragraph (d) of this section;
 - (B) Pass the Certified Enrollment Counselor Fingerprinting and Criminal Record Check described in Section 6658;
 - (C) Complete the required training established in Section 6660; and
 - (D) Pass the required certification exam administered by the Exchange.
- (3) Individuals who complete the training requirements and pass the required certification exam shall be certified as Certified Enrollment Counselors by the Exchange.
- (4) Applicants who have been denied for reasons other than failure to pass the Assister fingerprinting and criminal record check may appeal the denial of their Certified Enrollment Counselor Application through the process established by Section 6662.
- (d) An individual's application to become an In-Person Assister shall contain the following information:
- (1) Name, e-mail address, primary and secondary phone number, and preferred method of communication;
 - (2) Identification of the Certified Enrollment Entity that the individual will affiliate with;
 - (3) Affiliated Assister Enrollment Entity's primary site location address;
 - (4) Site(s) served by the individual;
 - (5) Mailing Address of the primary site for the Assister Enrollment Entity;
 - (6) An indication of the languages which the Certified Enrollment Counselor can speak;
 - (7) An indication of the languages which the Certified Enrollment Counselor can write;
 - (8) Disclosure of all criminal convictions and administrative actions taken against the individual;
 - (9) A certification by the individual that:
 - i. The individual complies with Section 6666;
 - ii. The individual is a natural person of not less than 18 years of age; and
 - iii. The statements made in the application are true, correct and complete to the best of his or her knowledge and belief.
 - (10) For the individual applying to become an Certified Enrollment Counselor, signature, and date signed; and
 - (11) For the Authorized Contact from the Certified Enrollment Entity that the individual will be affiliated with, name, signature, and date signed; and

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- (e) 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, 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; 45 CFR §§ 155.205, 155.210, and 155.260.

§ 6656. Navigator Program Application. [Reserved]

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

(a) Roles Requiring Fingerprinting

- (1) All Certified Enrollment Counselors shall submit fingerprint images and associated criminal history information pursuant to 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 whose duties require fingerprinting under paragraph (a) of this section 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.

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- (1) (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 paragraph (b)(2) of this section is inaccurate or incomplete, within 60 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.
 - (B) 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 paragraph (b)(2) of this section is inaccurate or incomplete, within 60 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.
- (2) If the individual determines that his or her criminal record is accurate, within 60 days from the date of the notice in paragraph (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 paragraph (c)(2) 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 paragraph (c)(2) 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 paragraph (a) of this section.
 - (iv) Information received as a result of the individual's employment history or qualifications for a position requiring fingerprinting in paragraph (a) of this section.

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(3) Absent good cause for late filing, the interim fitness determination shall become final.

(d) Costs.

(1) The Exchange shall pay the costs incurred by individuals whose duties require fingerprinting under paragraph (a) of this section until December 31, 2014.

Note: Authority cited: Sections 100504 and 1043, Government Code. Reference: Section 100502, Government Code; Section 11105, Penal Code; 45 CFR §§ 155.205, 155.210, 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 CFR 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;

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- (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 CFR § 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, procedures for assisting consumers with voter registration in compliance with the National Voter Rights Act of 1993.
- (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; 45 CFR §§ 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

(a) Article 8. Enrollment Assistance.

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; 45 CFR § 155.205 and 155.210.

§ 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;
- (2) Provide information and services in a fair, accurate and impartial manner. 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, 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 the Exchange pursuant to 45 CFR § 155.260;
- (6) For governmental entities, ensure that voter registration assistance is available as required under the National Voter Rights Act of 1993; and
- (7) 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 CFR §§ 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;

(a) Article 8. Enrollment Assistance.

- (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 supports programs when appropriate; and
- (d) To ensure that no consumer is discriminated against, Certified Enrollment Entities and Certified Enrollment Entities shall provide the same level of service to all individuals

(a) Article 8. Enrollment Assistance.

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, certification number of the Certified Enrollment Counselor signature and date;
 - (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 paragraph (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 adhere to the following values:
 - (1) Act in a professional and courteous manner;
 - (2) Focus on the consumer, work with integrity and serve as a catalyst for change by communicating the affordability of health care coverage in California;
 - (3) Strive to enroll as many members of an consumer's household, as defined by 45 CFR 435.603(f), as possible in each application; and
 - (4) Earn the public's trust through a commitment to show accountability, responsiveness, transparency, reliability, and cooperation.
- (i) 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;

(a) Article 8. Enrollment Assistance.

- (9) Intentionally create multiple applications from the same household, as defined in 45 CFR 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 CFR § 1.36B-2(c)(3)(v) and (vi), to separate from employer-based group health coverage.
- (j) Certified Enrollment Counselors shall report to Covered California any criminal convictions and administrative actions taken by any other agency within 30 days of the date of the conviction or action.

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

(a) Article 8. Enrollment Assistance.

- (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 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; 45 CFR §§155.205, and 155.210.

§ 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 shall not be compensated for providing consumer assistance with address changes, income changes, health status changes, tax or family (dependent) decreases due to divorce or death.

(a) Article 8. Enrollment Assistance.

(c) The following types of Certified Enrollment Entities shall not be compensated by the Exchange for any functions performed as Certified Enrollment Entities:

- (1) County departments of public health, city health departments, or county departments that deliver health services;
- (2) Licensed health care clinics;
- (3) Licensed health care institutions;
- (4) Licensed health care provider; 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) Paragraph (c) of this section shall not apply to:

- (1) Community Clinics as defined in Health and Safety Code Section 1204(a)(1)(A);
- (2) Free Clinics as defined in Health and Safety Code Section 1204(a)(1)(B);
- (3) Federally Qualified Health Centers (FQHCs) under Section 330 of the Public Health Service Act;
- (4) FQHC Look-Alikes designated by the U.S. Department of Health and Human Services, Health Resources and Services Administration;
- (5) Health care facilities directly managed and funded by the Indian Health Services under the Indian Self-Determination and Education Assistance Act of 1975;
- (6) 638 Contracting or Compacting Clinics funded by the Indian Health Services under the Indian Self-Determination and Education Assistance Act of 1975; and
- (7) Urban Indian Health Centers under Title V of the Indian Health Care Improvement Act.

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

§ 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 any and all applicable federal or state law or regulation, including but not limited to, Section 6664 or Section ~~6656~~ of this Article; and
- (2) A potentially disqualifying criminal record under Section 6456 of Article 4 of this Chapter;

(b) Appeals.

(a) Article 8. Enrollment Assistance.

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

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

**CALIFORNIA HEALTH BENEFIT EXCHANGE
BOARD RESOLUTION NO. 2013-46**

In the matter of the approval of the Enrollment Assistance Regulations.

The Board hereby resolves that, in accordance with Sections 100500(i), 100503(s), 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 concerning the Covered California Enrollment Assistance Program. This emergency regulations package shall include the draft regulations reviewed and approved by the Board on this date.

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 June 20, 2013.



Peter V. Lee
Executive Director
California Health Benefit
Exchange



California Health Benefit Exchange

Board Members

Diana S. Dooley, Chair
Kimberly Belshé Paul Fearer
Susan Kennedy Robert Ross, MD

Executive Director

Peter V. Lee

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.

SPECIFIC FACTS SHOWING THE NEED FOR IMMEDIATE ACTION

The necessity of this regulation to be adopted immediately has been declared by the legislature in Government Code section 100504 (a)(6) which deems the Exchange with emergency rule making authority:

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.

AUTHORITY AND REFERENCE

Authority: Sections 100502 and 100504, Government Code.

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

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, and specifies the powers and duties of the executive board of the Exchange.

The specific benefit anticipated from the proposed action is that it will allow the Exchange to establish policies and procedures for accepting applications, selecting applicants, establishing roles and responsibilities, and compensation standards for the Enrollment Assistance Program. With these regulations, individuals and families will be able to get assistance with enrollment into the programs administered by the Exchange.

After an evaluation of current regulations, the Exchange has determined that these proposed regulations are not inconsistent or incompatible with any existing regulations. The Exchange has determined these are the only regulations that concern the establishment of an Enrollment Assistance Program for the Exchange.

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

None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

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 (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 nor does it impact the general fund.

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 California Health Benefit Exchange | CONTACT PERSON Daniel Eliav | TELEPHONE NUMBER 323-3470 |
| DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Enrollment Assistance | | 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:

- a. Impacts businesses 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. 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.

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. Estimated costs of \$17.9M in FY 2013-14, and \$5.8M in FY 2014-15. These costs will be funded by the Federal Grant. See Attachment A. There is no impact on the General Fund.

| | | |
|--|--|-----------|
| FISCAL OFFICER SIGNATURE | | DATE |
|  | | 6.26.2013 |
| AGENCY SECRETARY ¹ APPROVAL/CONCURRENCE |  | DATE |
| | PROGRAM BUDGET MANAGER | 6/26/13 |
| DEPARTMENT OF FINANCE ² APPROVAL/CONCURRENCE |  | 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.

CALIFORNIA HEALTH BENEFIT EXCHANGE
 ENROLLMENT ASSISTANCE PROGRAM
 SECTION C -- FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS
 FISCAL IMPACT STATEMENT
 ATTACHMENT A

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

| Expenditure Category* | FY 2013/14 | FY 2014/15 ** | FY 2015/16 | Total |
|-----------------------|-------------------|-------------------|-------------|---------------------|
| Salaries | \$ 448,476 | \$ 224,238 | \$ - | \$ 672,714 |
| Benefits | 152,482 | 76,241 | - | 228,723 |
| OE&E | 98,028 | 49,014 | - | 147,042 |
| Total | \$ 698,986 | \$ 349,493 | \$ - | \$ 1,048,479 |

Projected Federal Costs Associated with the In-Person Assistance Program (IPA) Application (thru 12/31/14)

Percent of Enrollment Assistance Program Unit's Workload 70% 70%

| Expenditure Category | FY 2013/14 | FY 2014/15 | FY 2015/16 | Total |
|--|-------------------|-------------------|-------------|-------------------|
| Salaries | 313,933 | 156,967 | - | 470,900 |
| Benefits | 106,737 | 53,369 | - | 160,106 |
| OE&E | 68,620 | 34,310 | - | 102,929 |
| Sub-Total, Enrollment Asst Program Unit | \$ 489,290 | \$ 244,645 | \$ - | \$ 733,935 |

| | | | | |
|--|---------------------|---------------------|-------------|----------------------|
| Administrative Costs | 8,418,956 | 4,209,478 | - | 12,628,433 |
| Sub-Total, Administrative Costs | \$ 8,418,956 | \$ 4,209,478 | \$ - | \$ 12,628,433 |

| | | | | |
|-------------------------------------|---------------------|------------------|-------------|---------------------|
| Fingerprint Costs* | \$ 1,804,053 | \$ 45,101 | \$ - | \$ 1,849,154 |
| Sub-Total, Fingerprint Costs | \$ 1,804,053 | \$ 45,101 | \$ - | \$ 1,849,154 |

| | | | | |
|--|---------------------|---------------------|-------------|---------------------|
| Enrollees Needing Assistance Of the Number of Enrollees Needing Asst Who Use Certified Enrollment Counselors | 246,705 | 45,545 | - | 292,250 |
| Certified Enrollment Counselors | 123,352 | 22,773 | - | 146,125 |
| Certified Enrollment Counselor Payment @ \$58/enrollee | \$ 7,154,435 | \$ 1,320,815 | \$ - | \$ 8,475,250 |
| Sub-Total, Certified Enrollment Counselor Payment | \$ 7,154,435 | \$ 1,320,815 | \$ - | \$ 8,475,250 |

| | | | | |
|--------------------|----------------------|---------------------|-------------|----------------------|
| Total Costs | \$ 17,866,734 | \$ 5,820,039 | \$ - | \$ 23,686,772 |
|--------------------|----------------------|---------------------|-------------|----------------------|

* See Attachment B for details.

CALIFORNIA HEALTH BENEFIT EXCHANGE
 PROPOSED RULEMAKING
 ENROLLMENT ASSISTANCE PROGRAM (THRU 12/31/14)
 STD 399
 (whole dollars)

FINGERPRINT COSTS

| | Fiscal Year | 2012-13 | 2013-14 | 2014-15 |
|--|-------------|---------|---------|---------|
| Individual Certified Enrollment Counselors | (A) | - | 20,000 | 500 |
| STATE CORI FEE | | \$ 32 | \$ 32 | \$ 32 |
| FEDERAL CORI FEE | | \$ 17 | \$ 17 | \$ 17 |
| ROLLING FEE | | \$ 20 | \$ 20 | \$ 20 |
| TOTAL FEE | (B) | \$ 69 | \$ 69 | \$ 69 |

| | | | | |
|----------------------------------|----------------|-------------|---------------------|------------------|
| FINGERPRINT SERVICES FEES | (A)x(B) | \$ - | \$ 1,380,000 | \$ 34,500 |
|----------------------------------|----------------|-------------|---------------------|------------------|

RHA (CONTRACTOR) INTERIM DETERMINATION

| | Fiscal Year | 2012-13 | 2013-14 | 2014-15 |
|---|--------------------|---------|------------|----------|
| Disqualification @ 10% of total volume | (G)=(A)x10% | - | 2,000 | 50 |
| Annual Hrs (Contractor @ 90 minutes / disqualification) | (H)=(G)x90/60 | - | 3,000 | 75 |
| Pay Rate @ mid rate (\$68-\$102 per hour) | (I)=(H)x(68+102)/2 | \$ - | \$ 255,000 | \$ 6,375 |

| | | | | |
|---|------------|-------------|-------------------|-----------------|
| DISQUALIFICATION DETERMINATION COSTS (RHA) | (I) | \$ - | \$ 255,000 | \$ 6,375 |
|---|------------|-------------|-------------------|-----------------|

FINGERPRINT DISQUALIFICATION REVIEW (LEGAL)

| | Fiscal Year | 2012-13 | 2013-14 | 2014-15 |
|---|-------------------------|---------|-----------|----------|
| Disqualification @ 10% of total volume | (G) | - | 2,000 | 50 |
| Annual Hrs (Attorney @ 1 hour / disqualification) | (J)=(G)x1 | - | 2,000 | 50 |
| Position Equivalent (Annual Hrs / 1,778) | (K)=(J)/1,778 | 0.0 | 1.1 | 0.0 |
| Salary/Wages @ mid-step (\$4,674-\$8,063) | (L)=(K)x(4,674+8,063)/2 | \$ - | \$ 85,964 | \$ 2,149 |
| Benefits @ 39% | (M)=(L)x39% | \$ - | \$ 33,526 | \$ 838 |
| Operating Expenses @ \$14,004 / position | (N)=(K)x14,004 | \$ - | \$ 15,753 | \$ 394 |

| | | | | |
|--|--------------------|-------------|-------------------|-----------------|
| DISQUALIFICATION REVIEW COSTS (LEGAL) | (L)+(M)+(N) | \$ - | \$ 135,242 | \$ 3,381 |
|--|--------------------|-------------|-------------------|-----------------|

APPEALS (LEGAL)

| | Fiscal Year | 2012-13 | 2013-14 | 2014-15 |
|---|-------------------------|---------|-----------|---------|
| Appeal @ 25% of disqualification | (O)=(G)x25% | - | 500 | 13 |
| Annual Hrs (Attorney @ 1 hour / appeal) | (P)=(O)x1 | - | 500 | 13 |
| Position Equivalent (Annual Hrs / 1,778) | (Q)=(P)/1,778 | 0.0 | 0.3 | 0.0 |
| Salary/Wages @ mid-step (\$4,674-\$8,063) | (R)=(Q)x(4,674+8,063)/2 | \$ - | \$ 21,491 | \$ 537 |
| Benefits @ 39% | (S)=(R)x39% | \$ - | \$ 8,381 | \$ 210 |
| Operating Expenses @ \$14,004 / position (prorated) | (T)=(Q)x14,004 | \$ - | \$ 3,938 | \$ 98 |

| | | | | |
|-----------------------------|--------------------|-------------|------------------|---------------|
| APPEAL COSTS (LEGAL) | (R)+(S)+(T) | \$ - | \$ 33,811 | \$ 845 |
|-----------------------------|--------------------|-------------|------------------|---------------|

| | | | | |
|-------------------------|--|-------------|---------------------|------------------|
| TOTAL FEES/COSTS | | \$ - | \$ 1,804,053 | \$ 45,101 |
|-------------------------|--|-------------|---------------------|------------------|

Assumptions:

- Starting July 1, 2013, average of 20,000 Certified Enrollment Counselors. Assume 5% annual turnover rate.
- State and Federal CORI fees extracted from DOJ's website (Certificates/Licenses/Permits - General).
- Rolling fee uses (approximately) the average of the fees in Sacramento county (information from DOJ's website).
- It is assumed that the In-Person Assistance Program will expire when the Federal Grant ends (12/31/14).
- HBEX is paying for Certified Enrollment Counselors fingerprint costs through 12/31/14.
- Cost for HBEX-Accounting to process Live Scan contractor invoice (one per month) is not included, as it is assumed to be minimal.
- HBEX is required to provide the Certified Enrollment Counselor with a copy of his/her criminal record. The cost for HBEX to do so is negligible. (The law only requires HBEX provide a copy of the record we receive from DOJ.)
- Salary/wages includes 3% cost-of-living top step adjustment effective July 1, 2013.
- Benefits rate and Operating Expenses / position tie to Monthly Budget Plan (July 2013).
- The Live Scan Request Form has been created. Therefore, there are no costs relating to the creation of this service form.