**MARYLAND HEALTH BENEFIT EXCHANGE RESPONSES TO INFORMAL PUBLIC COMMENTS ON PROPOSED COMAR 14.35.01.02 (version 3)**

**The following chart summarizes informal public comments submitted to Maryland Health Benefit Exchange (MHBE) by April 27, 2016 regarding proposed amendments to COMAR 14.35.01.02 (definitions) and MHBE's response to each comment. Comments are organized by regulation (identified in the Source Comment column) and the commenting individual and/or organization is listed in the "Source" column (please refer to Source Key below for abbreviations guidance). Accepted comments are incorporated into the revised and redlined version three of proposed COMAR 14.35.01.02, which is also being shared at this time. MHBE will address these comments at the May 12, 2016 public meeting. Further revisions to COMAR 14.35.01.02 may be incorporated as MHBE reviews and shares revised and redline versions of proposed COMAR 14.35.14-.17.**

**Additional written comments may be submitted to MHBE regarding by May 23, 2016 at mhbe.policy@maryland.gov.**

**Source Key**

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|---|---|---|
| **Carefirst = CareFirst BlueCross BlueShield** | **HEAU = Office of Attorney General, Health Education and Advocacy Unit** | **MIA = Maryland Insurance Administration** |

**Summary of Comments Received and MHBE Response to Comments**

| Source | Comment | MHBE Response |
|---|---|---|
| MIA | **14.35.01 -** Since new definitions are being added to § 31-101 of the Insurance Article each year, it would avoid future amendments to these regulations if each reference to the Insurance Article is only to the section as opposed to the subsection listing the definition. | Edit may be incorporated at a later date. |
| MIA | **14.35.01 -** While this version was amended to try and show new text in italicized type, it did not succeed. The following numbered definitions are new, but are shown as already adopted definitions: (2), (4), (5), (11), (12), (16), (17), (19), (20), (21), (25), (26), (27), (28), (38), (40), (43), (44), (46), (48) and (49). The old numbers do not appear in this draft | Edits incorporated. |

| Source | Comment | MHBE Response |
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| | either - it should show the numbered definitions as they appear in the currently adopted regulations. If new definitions are added, then the old numbers should be bracketed to show that they were deleted and new numbers added in italicized type to indicate that they are new. Otherwise, it is extremely difficult to determine what is being changed. | |
| HEAU | **14.35.01.02** - Binder payments are not required for passive or active renewals into the same plan or "new product because the old product is no longer available". This definition suggests a binder payment would be required for a new product even if passively renewed into the product. Suggestion for consideration/ discussion – "the first month's payment required to effectuate enrollment, other than renewal, in a qualified health plan." | Definition removed. Requirements pertaining to premium payment deadlines are captured within COMAR 14.35.07.10E. |
| MIA | **14.35.01.02(B)(6) -** The "binder payment" definition is not clear. The words "that an enrollee is renewing" should be substituted for the word "renewed" in the last line. Additionally, the definition uses the term "product," which is not defined. | Definition removed. Requirements pertaining to premium payment deadlines are captured within COMAR 14.35.07.10E. |
| Carefirst | **14.35.01.02(B)(6) -** defines binder payment as a payment that it not for the same plan or product. However, a consumer does not need to make a binder payment when renewing into a new plan, just a new product. Accordingly, the definition should be revised to remove "same plan or". | Definition removed. Requirements pertaining to premium payment deadlines are captured within COMAR 14.35.07.10E. |
| MIA | **14.35.01.02(B)(8) -** The term "Board of Trustees" is defined to have the meaning stated in § 31-101(b) of the Insurance Article. However, this term is not defined in that reference. Instead, the defined term in § 31-101 is the term "Board." | Edit incorporated to only use the term "Board" within COMAR 14.35.01.02. |
| Carefirst | **14.35.01.02 (B)(8)** and **(9)** both define "enrollee" almost identically. One definition should be removed. | Definitions included for "enrollee" and "qualified individual" as a qualified individual may not be enrolled in coverage. |
| MIA | **14.35.01.09 -** The "Exchange" definition was deleted - it should have been listed as original definition (9). | Exchange definition edited to mean MHBE. |
| Carefirst | **14.35.01.02(B)(14)** defines cost sharing as "expenditures required by or on behalf of an enrollee with respect to essential health benefits". Deductibles, copays and coinsurance apply to all benefits under a member's health benefit plan regardless of whether they | Edit incorporated. |

| Source | Comment | MHBE Response |
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| | are essential health benefits or not. The phrase "with respect to essential health benefits" should be deleted. | |
| MIA | **14.35.01.02(B)(15) -** Why is the definition being changed from the current definition, which is a cross reference to the definition in federal regulations? The new definition follows the federal regulations, but the change seems unnecessary and may require future amendments if the federal regulations change. | The language of the federal regulations is being adopted here instead of a cross-reference for readability since cost sharing is defined directly above CSR with text in lieu of a cross-reference. |
| MIA | **14.35.01.02(B)(16) -** The word "enrolled" should be substituted for the word "enrollment" in the "coverage" definition. | Edit incorporated. |
| MIA | **14.35.01.02(B)(19) -** The new "dependent" definition is a cross reference to 26 CFR § 54.9801-2. However, this definition does not work for your regulations, as it only refers to someone who can be covered under the group's health plan. Since most of the references to "dependent" in the various MHBE regulations deal with individual coverage, this definition is inappropriate. | Definition removed and added to COMAR 14.35.07.02 for Regulations .11-.18 as definition is intended to apply only for SEPs and mirrors 45 CFR 155.420(a)(2). |
| MIA | **14.35.01.02(B)(20)-(21) -** Both of these definition define the same term "enrollee." Only one definition should appear. Also, the definition does not work for small group plans, since not all individuals enrolling in small group plans through the Exchange would satisfy the definition of a qualified individual. | Edits made to the term "enrollment" to clarify that the enrollment refers to the coverage and the "enrollee" refers to the individual enrolled in the coverage. |
| Carefirst | **14.35.01.02(B)(22)** defines enrollment as an individual's "coverage through the Exchange". An individual is not covered through the Exchange but enrolls in coverage through the Exchange. An individual is covered by a carrier. | Edit incorporated. |
| Carefirst | **14.35.01.02(B)(24)** - definition of grace period is very confusing. CareFirst recommends it be modified to point to the Maryland Insurance Article provisions for ease of reference. | MIA suggested edits incorporated. |
| MIA | **14.35.01.02(B)(24) -**<br><br>**a.** Is the definition of "grace period" supposed to work for both individual and small group plans? If so, the citations listed in the definition apply only to individual coverage. | Definition is only intended for individual plans. Edits incorporated to reflect that term applies to individual plans and words "due to nonpayment of premiums" added. |

| Source | Comment | MHBE Response |
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| | **b.** For purposes of clarity, the words "due to nonpayment of premiums" should be added to the end of this definition. The carrier could terminate the individuals from coverage for other reasons during this time period. | |
| MIA | **14.35.01.02(B)(32) -** The cite in this definition is incorrect. It should refer to § 31-101(j) of the Insurance Article. | This item refers to the Individual Navigator which is at 31-101(i) while the certification is under 31-101(j). |
| MIA | **14.35.01.02(B)(45) -** The new definition of "qualified individual" contradicts § 31-101(s) of the Insurance Article. The current definition in the adopted regulations is correct. | MHBE is further reviewing the different approach to the definition between 31-101(s) and COMAR 14.35.01.02. |
| MIA | **14.35.01.02(B)(47) -** The definition of "single, streamlined application form" is not a complete thought. | Clarification edits incorporated. |
| MIA | **14.35.01.02(B)(48) -** The definition of "special enrollment period" needs to be clarified to indicate that it applies only outside the open enrollment period. | Edits incorporated. |
| Carefirst | **14.35.01.02(B)(48)** defines a special enrollment period as the period an individual can enroll in a qualified plan. Special enrollment periods, however, are only the periods to enroll outside the open enrollment period. This should be clarified. | Edits incorporated. |