

# **Title 14 INDEPENDENT AGENCIES**

## **Subtitle 35 MARYLAND HEALTH BENEFIT EXCHANGE**

### **14.35.01 General Provisions**

Authority: Insurance Article, §31-106(c)(1)(iv), Annotated Code of Maryland

#### **.01 Compliance with Federal Law.**

[The Maryland Health Benefit Exchange shall comply with all provisions of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), and all associated guidance and regulations hereto and hereafter issued.] *The regulations under Subtitle 35 should be read in pari materia with the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, 124 Stat. 119 (2010), and associated federal regulations issued before and after their promulgation.*

#### **.02 Definitions.**

In this subtitle, the following terms have the meanings indicated.

(1) “Administration” means the Maryland Insurance Administration.

(2) [“Advanced Premium Tax Credit” has the meaning stated in 45 CFR §155.20.]

*“Active carrier business agreement” means the latest iteration of the carrier business agreement provided by the Exchange, signed by the Exchange and the carrier, and on file with the Exchange.*

(3) [“MCHP” means the Maryland Children’s Health Program.] *“Active non-exchange entity agreement” means the latest iteration of the non-exchange entity agreement provided by the Exchange, signed by the Exchange and the carrier, and on file with the Exchange.*

- (4) *“Actuarial value” means the percentage paid by a health benefit plan of the percentage of the total allowed costs of benefits as set forth in 45 CFR §156.140.*
- (5) *“Advance payments of the premium tax credit (APTC)” means payment of the federal tax credits authorized by 26 U.S.C. §36B and its implementing regulations, which are provided on an advance basis to an eligible individual enrolled in a qualified health plan through the Exchange under §1412 of the Affordable Care Act.*
- (6) *“Affordable Care Act (ACA)” means the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148), as amended, including by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152), and the regulations issued under it.*
- (7) *“Authorized carrier” means a carrier that the Exchange certifies is authorized to sell QHPs and catastrophic plans through the Individual Exchange under COMAR 14.35.15.*
- (8) *[“Department” means the Department of Health and Mental Hygiene.] “Board” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.*
- (9) *“Bronze QHP” means a QHP that has an actuarial value of 60 percent.*
- [(4)] (10) *“CARES” means the case management data system that tracks eligibility for Medicaid and other social services.*
- [(5)] (11) *“Carrier” has the meaning set forth in Insurance Article §31-101[(c)], Annotated Code of Maryland.*
- (12) *“Catastrophic plan” means a QHP described in §1302(e) of the Affordable Care Act.*
- (13) *“Carrier business agreement” means the agreement between the Exchange and the carrier that contains terms and conditions regarding compliance with Exchange policies and State and federal regulations.*

*(14) “Certificate of authority” means an authorization issued by the Commissioner to act as an insurer and engage in the business of health insurance or operate as a nonprofit health service plan or a health maintenance organization in the State under the Insurance Article, Title 4, Subtitle 1 (for insurers); Insurance Article, Title 14, Subtitle 1 (for non-profit health service plans); Insurance Article, Title 14, Subtitle 4 (for dental plan organizations); or the Health-General Article, Title 19, Subtitle 7 (for HMOs), Annotated Code of Maryland.*

*(15) “Certification year” means the calendar year for which an authorized carrier shall be certified to offer QHPs and catastrophic plans in the Individual Exchange upon receiving an Individual Exchange carrier certificate of authorization from the Individual Exchange.*

*(16) “Certification standard” means a process, procedure, requirement or condition of an authorized carrier or QHP and catastrophic plan participation in the Individual Exchange.*

*[(6)] (17) “Commissioner” means the [Maryland Insurance Commissioner] Commissioner of the Maryland Insurance Administration.*

*(18) “Cost sharing” means any expenditure required by or on behalf of an enrollee with respect to covered benefits.*

*(a) Cost sharing includes deductibles, coinsurance, copayments, or similar charges.*

*(b) Cost sharing does not include premiums, balance billing amounts for non-network providers, and spending for non-covered services.*

*[(7)] (19) “Cost Sharing Reductions” has the meaning stated in 45 CFR §155.20.*

*(20) “Coverage” means a qualified individual’s enrollment in a qualified plan.*

(21) “Coverage level” has the meaning stated in Insurance Article, §31-101(d), Annotated Code of Maryland.

(22) “Dental plan” means a plan that provides limited scope dental benefits as described in Insurance Article, §31-108(b)(2), Annotated Code of Maryland.

(23) “Eligibility determination” means a decision by the Individual Exchange about an applicant’s eligibility to enroll in a QHP, catastrophic plan or insurance affordability program or terminate a qualified individual’s enrollment in a QHP, catastrophic plan or insurance affordability program during an open enrollment period or special enrollment period.

(24) “Enrollee” means a qualified individual who is enrolled in a qualified plan through the Individual Exchange.

(25) “Enrollment” means the enrollee’s QHP or catastrophic plan purchased through the Individual Exchange.

[9] (25) “Exchange” [has the meaning stated in Insurance Article §31-101(e), Annotated Code of Maryland] means the Maryland Health Benefit Exchange established as a public corporation under Insurance Article, §31-102, Annotated Code of Maryland and includes the Individual Exchange and the Small Business Health Options Program.

[(10)] (26) “Exchange Annual Training” means the yearly training administered to certified navigators, licensed navigators, *certified application counselors* and authorized producers by the Exchange as part of its training program.

(27) “Gold QHP” means a QHP that has an actuarial value of 80 percent.

(28) “Grace period” means the period of time during which an authorized carrier is prohibited from terminating an enrollee’s enrollment in a qualified plan obtained through the Individual Exchange due to nonpayment of premiums, as specified in:

(a) Insurance Article, §15-1315(c)—(e), Annotated Code of Maryland, if the enrollee is receiving APTC; or

(b) Insurance Article, §15-209, Annotated Code of Maryland, for insurers; COMAR 31.10.25.04C, for non-profit health service plans; COMAR 31.12.07.05D, for HMOs; or COMAR 31.12.04.05A, for dental plan organizations, if the enrollee is not receiving APTC.

(29) “Health benefit plan” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.

(30) “Health Information Exchange” means the State-designated health information exchange.

(31) “Health Maintenance Organization” (HMO) has the meaning stated in Health-General Article, §19-701(g), Annotated Code of Maryland.

(32) “HHS” means the federal Department of Health and Human Services.

[(11)] (33) “Individual Exchange” has the meaning stated in Insurance Article §31-101[(h)], Annotated Code of Maryland.

(34) “Individual Exchange carrier certificate of authorization” means an authorization issued by the Individual Exchange to participate in the Individual Exchange as an authorized carrier.

[(12)] (35) “Individual Exchange Navigator” has the meaning stated in Insurance Article §31-101[(i)], Annotated Code of Maryland.

[(13)] (36) “Individual Exchange Navigator Certification” has the meaning stated in Insurance Article §31-101[(j)], Annotated Code of Maryland.

[(14)] (37) “Individual Exchange Navigator Entity” has the meaning stated in Insurance Article §31-101[(k)], Annotated Code of Maryland.

(38) *“Individual Exchange QHP certificate of authorization” means an authorization issued by the Individual Exchange to offer a QHP or catastrophic plans for sale on the Individual Exchange.*

[(15)] (39) “Insurance Producer” has the meaning stated in Insurance Article §1-101[(u)], Annotated Code of Maryland.

[(16)] (40) “Insurance Producer Authorization” has the meaning stated in Insurance Article §31-101[(m)], Annotated Code of Maryland.

[(17)] (41) “JAIL MATCH” means the data system containing information about incarcerated individuals within the State.

(42) *“Limited cost sharing plan variation” means the cost-sharing reduction variation of a QHP described in 45 CFR §156.420(b)(2).*

[(19)] (43) “Maryland Children’s Health Program (MCHP)” has the meaning stated in COMAR 10.09.43.02B(23).

(44) *“Maryland Health Benefit Exchange” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.*

[(18)] (45) “Managed Care Program” has the meaning stated in COMAR 10.09.62.01B(100).

[(19)] (46) “Maryland Children’s Health Program (MCHP)” has the meaning stated in COMAR 10.09.43.02B(23).

(47) “*Maryland Insurance Administration (MIA)*” means the insurance administration for the State established under Insurance Article, §2-101, Annotated Code of Maryland.

[(20)] (48) “Medicaid” has the meaning stated in COMAR 10.09.24.02B(32).

(49) “*Member level report*” means a report of an authorized carrier's enrollment files for each health plan member enrolled in coverage on the Individual Exchange at a specified time, including:

(a) *The QHP or catastrophic plan identification code;*

(b) *The coverage effective date;*

(c) *The coverage termination date, if applicable, and the termination reason, if applicable;*

(d) *The premium amount; and*

(e) *The amount of APTC, if applicable.*

(50) “*Minimum Essential Coverage (MEC)*” has the meaning stated in 26 USC §5000A(f) and the corresponding regulation under 26 CFR §1.5000A-2(c).

[(21)] (51) “Navigator Entity” means Individual Exchange Navigator Entity.

(52) “*Non-Exchange entity*” means any individual or entity in a contractual or agent relationship with the Exchange that because of the contractual or agent relationship:

(a) *Gains access to personally identifiable information submitted to an Exchange; or*

(b) *Collects, uses, or discloses personally identifiable information gathered directly from applicants, qualified individuals, or enrollees while that individual or entity is performing functions agreed to with the Exchange.*

(53) *“Non-exchange entity agreement” means the agreement between the Exchange and a non-Exchange entity that contains privacy and security provisions with which authorized carriers are required to abide by State and federal law.*

[(22)] (54) *“Open Enrollment Period” means the annual period during which a qualified individual may enroll in coverage through the Exchange, including the initial open enrollment period as stated in 45 CFR §155.20.*

(55) *“Plain language” has the meaning stated in §1311(e)(3)(B) of the ACA.*

(56) *“Plan variation” means a zero cost sharing plan variation or a silver plan variation.*

(57) *“Policyholder” means the individual to whom the carrier’s contract is issued.*

(58) *“Product” has the meaning stated in Insurance Article, §15-1309, Annotated Code of Maryland.*

(59) *“Product type” means network type, such as a health maintenance organization, a preferred provider organization, or an exclusive provider organization.*

(60) *“Qualified dental plan (QDP)” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.*

(61) *“Qualified health plan (QHP)” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.*

[(23)] (62) *“Qualified Individual” has the meaning stated in Insurance Article, §31-101(s), Annotated Code of Maryland.*

(63) *“Qualified plan” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.*

(64) *“Silver QHP” is a QHP that has an actuarial value of 70 percent.*

(65) *“Silver plan variation” means any of the cost-sharing reduction plan variations of a silver QHP under 45 CFR §156.420(a).*

(66) *“Single, streamlined application form” means the one eligibility application form that an applicant may use to apply for enrollment in a QHP, Insurance Affordability Program, or catastrophic plan through the Individual Exchange.*

(67) *“Small Business Health Options Program (SHOP) Exchange” has the meaning stated in Insurance Article, 31-101, Annotated Code of Maryland.*

(68) *“Special enrollment period” means the only periods outside of the annual open enrollment period during which a qualified individual or enrollee, or, where applicable, the qualified individual or enrollee’s dependent, who experiences certain qualifying events may enroll in, or change enrollment in, a QHP or catastrophic plan through the Individual Exchange outside of the open enrollment period.*

(69) *“Stand-alone dental plan (SADP)” means a qualified dental plan that meets the requirements under 45 CFR 155.1065(a).*

(70) *“State benchmark plan” has the meaning stated in Insurance Article, §31-101, Annotated Code of Maryland.*

(71) *“System for Electronic Rate and Form Filing (SERFF)” means the online system used by the Exchange, Maryland Insurance Administration and HHS to accept, review and approve product and rate filings submitted by carriers.*

(72) *“SERFF Binder” means the portfolio of information that carriers submit to the Exchange and HHS, as required under state and federal requirements, through SERFF.*

(73) *“Zero cost sharing plan variation” means the cost-sharing reduction plan variation of a QHP under 45 CFR §156.420(b)(1).*