

Young Adult Subsidy Proposed Regulations

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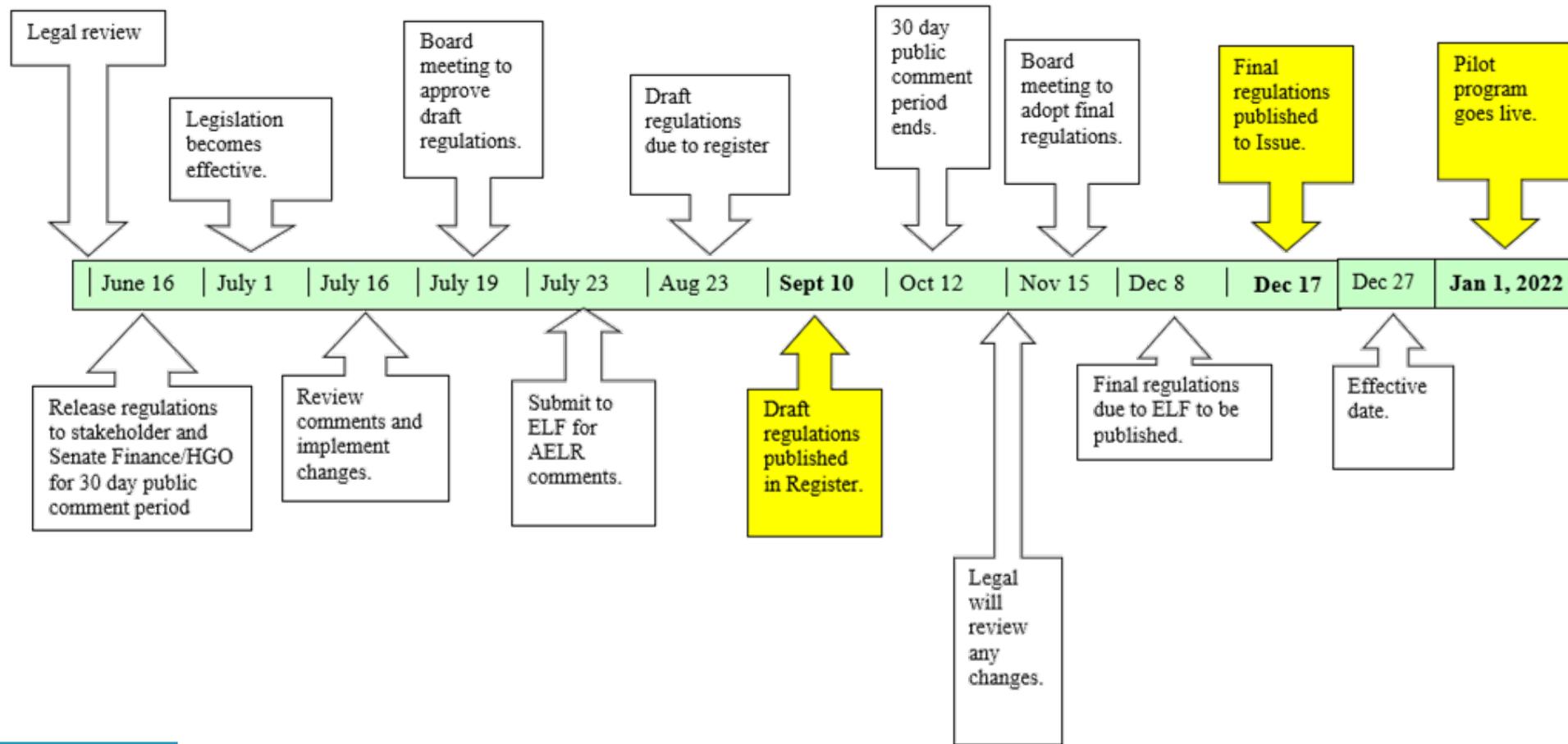
July 19, 2021

Statute Requirements

Insurance Article 31-122(f), Annotated Code of Maryland

“On or before January 1, 2022, the Exchange shall adopt regulations implementing the provisions of this section”

Timeline



Proposed Amendments/New Adoptions

The Maryland Health Benefit Exchange proposes to:

- (1) Amend Regulation .02 under **COMAR 14.35.07 Eligibility Standards for Enrollment in a Qualified Health Plan, Eligibility Standards for APTC and CSR, and Eligibility Standards for Enrollment in a Catastrophic Qualified Health Plan in the Individual Exchange.**
- (2) Amend Regulation .01 under **COMAR 14.35.10 Appeals from Determinations Regarding Producer Authorization or Individual Exchange Navigator Certification.**
- (3) Amend Regulation .01, .02, .09, .12 under **COMAR 14.35.11 Fair Hearings of Individual Exchange Eligibility Determinations.**
- (4) Adopt new Regulations .01—.07 under a new chapter, **COMAR 14.35.19 State Based Young Adult Health Insurance Subsidies Program.**

New Chapter – COMAR 14.35.19

.01 Scope

.02 Definitions

.03 Eligibility Requirements for Subsidies Through the Program

.04 Calculation of Subsidies Under the Program

.05 Exchange Data Collection, Reporting, and Maintenance

.06 Disbursement of Subsidies

.07 Document Retention and Audits

Stakeholder Comments and Proposed Edits: Substantive Changes (1/2)

#	Source	Comment	MHBE Response	Revised Text
COMAR 14.35.14.07 – Termination by Carrier				
1	MIA, CareFirst	This grace period provision conflicts with statutory law, specifically §15-1005 of the Insurance Article.	Deleted provision establishing grace period specific to young adult subsidy recipients.* Consequently, young adult subsidy recipients will get the grace period they are otherwise eligible for under current law – 90 days if they are receiving APTC, 31 days if they are not.	Deleted proposed amendments to COMAR 14.35.14.07.
2	Kaiser Permanente	Suggests that the 30 day timeframe for payment of claims start on the day after (i) the last day of the grace period, or (ii) the day after the payment of all premium owed, whichever is earlier.	Not accepted. Proposed revisions would still conflict with §15-1005 of the Insurance Article.	See above.

*Note: Revision already incorporated in draft proposed regulation text shared with the Board on 7/14/21.

Stakeholder Comments and Proposed Edits: Substantive Changes (2/2)

#	Source	Comment	MHBE Response	Revised Text
COMAR 14.35.19.03 – Eligibility Requirements for Subsidies Through the Program				
3	Kaiser Permanente	Revise provision (D) to clarify that any imposed limit on the number of enrollees in the program will be applied uniformly to all new applicants.	Accepted. Additional edits made to (D) to provide more flexibility to Board to limit cost growth after cap is enacted.	<p><i>D. In calendar years 2022 and 2023 the Board may limit the number of enrollees availability of subsidies, regardless of eligibility, if the costs of the program are projected to exceed the budgeted allowance for that calendar year.</i></p> <p><i>(1) The Board may limit the number of enrollees.</i></p> <p><i>(a) Any limit on the number of enrollees in the program will be applied uniformly to all new enrollees after the effective date of the Board's decision.</i></p> <p><i>(2) The Board may limit increases in subsidies during a plan year for enrollees after enrollment.</i></p> <p><i>(a) Any limit on increases in subsidies for enrollees in the program will be applied uniformly to all enrollees after the effective date of the Board's decision.</i></p>

Stakeholder Comments and Proposed Edits: Technical Changes (1/5)

#	Source	Comment	MHBE Response	Revised Text
COMAR 14.35.11.12 – Eligibility for Enrollment in a Qualified Health Plan, for Advance Payments of Premium Tax Credit, and for Cost-Sharing Reductions Pending Appeal				
4	MIA	Revise title to reference state-based subsidy for clarity.	Accepted.*	.12 Eligibility for Enrollment in a Qualified Health Plan, for Advance Payments of Premium Tax Credit, [and] for Cost-Sharing Reductions, <i>and for the State-Based Young Adult Health Insurance Subsidies Program</i> Pending Appeal. A. (text unchanged) B. Eligibility for Advance Payments of the Premium Tax Credit, [and/or] Cost-Sharing Reduction, <i>and/or the State-Based Young Adult Health Insurance Subsidies Program.</i>

*Note: Revision already incorporated in draft proposed regulation text shared with the Board on 7/14/21.

Stakeholder Comments and Proposed Edits: Technical Changes (2/5)

#	Source	Comment	MHBE Response	Revised Text
COMAR 14.35.19 State Based Young Adult Health Insurance Subsidies Program.				
5	MHBE Staff	Re-number and re-letter provisions in proposed new chapter as necessary to incorporate proposed edits.	Accepted.	Text throughout 14.35.19 re-number/re-lettered as necessary to incorporate the following revisions
COMAR 14.35.19.02 – Definitions				
6	MHBE Legal	Definitions that duplicate definitions in 14.35.01.02 are unnecessary and could result in future inconsistencies in drafting.	Accepted.	Deleted the following terms and associated definitions: <ul style="list-style-type: none"> • Advanced Premium Tax Credit (APTC) • Board • Carrier • Individual Exchange • Maryland Children's Health Program (MCHIP) • Medicaid • Qualified individual • Qualified health plan (QHP)
7	Kaiser Permanente	Suggests adding definition of “Essential health benefits”.	Not accepted. A definition of essential health benefits is already present. However, state and federal references in the definition were updated for accuracy.	(5) “Essential Health Benefit” has the meaning set forth in 45 CFR 156.100-Insurance Article, §31-116(a), Annotated Code of Maryland and 42 U.S. Code § 18022(b).

Stakeholder Comments and Proposed Edits: Technical Changes (3/5)

#	Source	Comment	MHBE Response	Revised Text
COMAR 14.35.19.03 – Eligibility Requirements for Subsidies Through the Program				
8	Kaiser Permanente	Suggest using “Qualified Individual” or “Enrollee” rather than “applicant” in this section for clarity.	Accepted.	All instances of “applicant” or “applicant’s” in 14.35.19.03 were replaced with “enrollee” or “enrollee’s”.
9	CareFirst	In provision (A)(1), replace “determined eligible for APTC” with “has met the eligibility requirements for APTC” to clarify that an individual eligible for APTC but receiving \$0 in APTC is eligible for the state subsidy.	Accepted.*	<i>(1) The enrollee is a member of a tax filer’s tax household and the tax filer is determined eligible has met the eligibility requirements for APTC in accordance with the requirements in COMAR 14.35.07.08(A)-(C), (E), and (G);</i>
10	Kaiser Permanente	Revise provision (C) to reflect current MHBE system functionality that determines eligibility based on the effective date of coverage, not the date of the eligibility determination.	Accepted.	<i>C. The enrollee’s age as of the date of the Exchange’s eligibility determination for the applicant effective date of coverage date of the Exchange’s eligibility shall be used in determining the enrollee’s eligibility to receive subsidies from the Program.</i>

*Note: Revision already incorporated in draft proposed regulation text shared with the Board on 7/14/21.

Stakeholder Comments and Proposed Edits: Technical Changes (4/5)

#	Source	Comment	MHBE Response	Revised Text
COMAR 14.35.19.04 – Calculation of Subsidies Under the Program				
11	Kaiser Permanente	Suggest additional language to clarify how the subsidy will apply in a mixed-age household.	Accepted.	<i>B. The subsidy shall be calculated for eligible enrollees in a tax household and applied to the premium for each eligible enrollee.</i>
12	CareFirst	Suggest requiring the Board to set payment parameters by February rather than December.	Not accepted. The language as drafted provides the Board with flexibility to accommodate unforeseen events, but MHBE will work with the MIA, carriers, and Board to ensure that payment parameters are set earlier in the year, as we do with the reinsurance program, to appropriately align with the rate filing cycle	No revisions made.
13	Kaiser Permanente	Notes that September is likely the latest possible date for adopting parameters to ensure that issuers have time to prepare for Open Enrollment.	Noted. See comment above.	No revisions made.

Stakeholder Comments and Proposed Edits: Technical Changes (5/5)

#	Source	Comment	MHBE Response	Revised Text
COMAR 14.35.19.05 – Exchange Data Collection, Reporting, and Maintenance				
14	MIA	Data need to be tracked more frequently than monthly, especially during the annual open enrollment period.	Accepted.*	<p><i>A. The Exchange shall track data on the Program including:</i></p> <p><i>(1) On a monthly basis, or more frequently as required to appropriately monitor enrollment and spending under the program, the average number of young adults receiving subsidies under the Program;</i></p> <p><i>(2) On a monthly basis, or more frequently as required to appropriately monitor enrollment and spending under the program, the average subsidy amount received by young adults under the Program; and</i></p> <p><i>B. Information tracked in Regulation A of this section shall be posted monthly on the website of the Individual Exchange and included in the Annual Report required under Insurance Article §31–119(d), Annotated Code of Maryland.</i></p>
15	CareFirst	In provision (A)(3), recommend that the term “rates” be replaced with the word “premiums” as impact to rates is a complex actuarial analysis and impact to premiums is a precise data point that can be determined based on enrollment data	Not accepted. The language of provision (A)(3) is taken directly from the young adult subsidy statute at §31-122 of the Insurance Article.	No revisions made.
16	MIA	Recommends MHBE quantify how much the average PMPM state subsidy through might change throughout the year to inform the Board’s decision on when to implement a cap. (Operational recommendation rather than suggested edit.)	Noted. Revised text at 14.35.19.03(D) will give Board ability to limit subsidy changes during the year.	See revisions to 14.35.19.03(D).

*Note: Revision already incorporated in draft proposed regulation text shared with the Board on 7/14/21.

Board Action Requested

MHBE staff request that the Board vote to approve the State Based Young Adult Health Insurance Subsidies Program Proposed Regulations as shared with the Board, with edits as presented, for publication in the Maryland Register.