

# PROPOSED AGENT REGULATIONS & AGREEMENT

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# THE BIG PICTURE: AGENT REGULATIONS

- Implement the process to certify agents to help consumers enroll through Covered California
- Includes Acceptance of the CalHEERS Terms and Conditions
- Includes certification, training standards and policies to assure consumers receive unbiased assistance.
- Incorporates by reference the Standard Agent Agreement
- Incorporates by reference the Brand Style Guide

# THE BIG PICTURE: STANDARD AGENT AGREEMENT

- Describes the scope of work for agents related to both Individual and SHOP sales, including the obligation to fairly represent all QHPs in a fair and balanced manner.
- Defines terms of payment, including the requirement that for SHOP payments, agents must maintain CDI licensure and Exchange certification.
- Provides standard contract terms such as indemnification, and dispute resolution.

# THE BIG PICTURE: BRAND STYLE GUIDE

- Terms and conditions for using the Covered California Certified Insurance Agent logo



- Terms and conditions for using the Covered California Logo
- Guidelines for using the Covered California logo along side another logo.

# CERTIFIED INSURANCE AGENTS OVERVIEW

- Timeline
- Regulations
- Agent Agreement
- Commission Schedule

# TIMELINE

Activity	Proposed Timeline
SHOP Advisory Group Meeting	August 14
Stakeholders Review of Agent Regulations	August 15-16
August Board Meeting Stakeholder Input	August 22
Stakeholder Meeting	August 28
Agent Webinar	September 4
Final Stakeholder Review	September 12
Board Meeting (Approval of Proposed Regulations)	September 19
Agent Regulations and Agreement Final Approval	October 1

# PROPOSED AGENT REGULATIONS

Article and Sections of the Draft Proposed Agent Regulations:

Article 9. Certified Insurance Agents	
Sections:	Table of Contents:
§ 6800	Definitions
§ 6802	Eligible Individuals
§ 6804	Agent Certification Application
§ 6806	Training Standards

# CERTIFIED INSURANCE AGENT REGULATIONS

## Summary of § 6802 Eligible Individuals

- All individuals who are licensed and in good standing as a life licensee under Insurance Code Section 1626 by the California Department of Insurance to transact in accident and health insurance are eligible to apply to become a Certified Insurance Agent.
- The Exchange may require proof of a current or valid license by the California Department of Insurance as a condition of eligibility.



# CERTIFIED INSURANCE AGENT REGULATIONS

## Summary of § 6804 Agent Certification Application

- To become a Certified Insurance Agent, an individual shall create an Agent Profile in CalHEERS.
- Individuals who complete the training requirements shall submit payment, a signed Agent Agreement, and provide proof of errors and omissions insurance.
- Upon successful completion the above, the individual shall be designated as Certified Insurance Agent by the Exchange.

# CERTIFIED INSURANCE AGENT REGULATIONS

## Summary of § 6806 Training Standards

- Individuals shall complete training prior to becoming certified
- Agent shall pass an exam administered by the Exchange
- A passing score shall be at least 80%
- Complete 4 Hours of Covered CA Continuing Education Credits annually
- Note: The training was approved by the California Department of Insurance, and we continue to work with CDI to review and improve the curriculum.

# CERTIFIED INSURANCE AGENT REGULATIONS STAKEHOLDER FEEDBACK & CHANGES MADE

## § 6804. Agent Certification Application.

- Stakeholder comments: certain questions create heightened expectations of Agents.
- Change made: all references to optional questions removed from the regulations.

## § 6806. Training Standards.

- Stakeholder comments: annual exams for recertification is a burden for agents.
- Change made: reduced to 4 hours of Continuing Education Courses per year instead of annual exams.

# AGENT AGREEMENT

## STAKEHOLDER FEEDBACK & CHANGES MADE

- **Contingency Clauses**

- Stakeholder comments: Commissions should not be contingent upon the Exchange's funding sources.
- Change made: Contingency clauses removed entirely.

- **Errors and omissions insurance**

- Stakeholder comments: Requiring \$3,000,000 annually in the aggregate is a barrier for many Agents.
- Change made: Requirement reduced to \$1,000,000 annually in the aggregate.

- **Termination upon death of an agent**

- Stakeholder comments: Need a process to allow heirs to receive benefits of an agent's book of business.
- Change made: Changed to allow for commission assignment rights in the SHOP within 180 days.

# AGENT AGREEMENT

## STAKEHOLDER FEEDBACK & CHANGES MADE

- **Written Rescission**

- Stakeholder comments: There is no process for an employer to rescind a mistaken change of Agent of Record request.
- Change made: Added ability to rescind the employer's request by a written rescission signed by the Employer's authorized representative within five (5) business days

- **Privacy and Security Policy**

- Stakeholder comments: References to federal regulations and Exchange privacy policies are vague and undefined.
- Change made: Added and clarified policies in the Business Associates Agreement

- **Termination Clause**

- Stakeholder comments: There seems to be no way to dispute a termination for cause.
- Change made: Clarified that an agent may dispute a Termination for Cause through the dispute resolution process described in the agreement.

# AGENT AGREEMENT

## STAKEHOLDER FEEDBACK & CHANGES MADE

- **Website Disclosures**

- Stakeholder comments: requested that the website disclosure be limited as it creates a significant workload for them.
- Change made: Modified to require clear disclosures needed for consumer fraud protection while reducing the specificity and burden on agents.

- **Acceptance of Payments**

- Stakeholder comments: 5 calendar days to submit payments is too short because of weekends and holidays.
- Change made: Changed to 5 business days.

- **Marketing Guidelines**

- Stakeholder comments: Marketing guidelines were undefined and logo usage was unclear.
- Change made: Added clarity and provided the Brand Style Guide.

# AGENT AGREEMENT

## STAKEHOLDER FEEDBACK: ISSUES CONSIDERED

- **Indemnification** – Stakeholders requested mutual indemnification and less broad terms. Upon legal review, this is standard state language that can not be altered.
- **Commission Schedule** – Stakeholders requested removing the provision that drops commission rates for a particular group to 1.0% when annualized premium for that group reaches \$500,001 or more in a contract year. This provision is in keeping with industry standards but will be revisited in coming years to ensure that it follows the market.

# AGENT AGREEMENT STAKEHOLDER FEEDBACK: CLARIFICATIONS ADDED

Provided Clarity and Incorporated Changes in the Following Exhibits:

- Scope of work
- Budget Details & Schedule of Commissions
- General Terms and Conditions
- Marketing and Branding Guidelines
- Security and Privacy



# PROPOSED SHOP AGENT COMMISSION SCHEDULE

## SHOP Agent Commission Schedule:

The following is the vested Agent Commission Schedule for new SHOP business effective January 1, 2014 and later. SHOP commissions are paid by Covered CA. Also, if the commission schedule were to change in the future, it would only apply to new business written on or after the effective date of the change.

Policy Life	Commission Rate
Year 1	6.5%
Year 2	6.2%
Year 3	5.9%
Year 4	5.6%
Year 5	5.3%
Year 6 (& thereafter)	5.0%

Note:

When annualized premium for a particular case (group) reaches \$500,001 or more in a contract year, the commission rate is dropped to 1.0% for that case (group) only for the amount above \$500,001.

# FOR FUTURE CONSIDERATION

## Payment for Medi-Cal Enrollment:

- Exchange is working with Department of Health Care Services on paying Agents for enrolling consumers in Medi-Cal
- Payment structure same as Certified Enrollment Counselors
- Will be bringing this back for approval at the October 24th Board meeting