

California Code of Regulations

Title 10. Investment

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

Article 13. Hardship and Religious Conscience Exemptions Process Through the Exchange

§ 6910. Definitions and General Requirements.

(a) The provisions of this article shall be applied only prospectively beginning January 1, 2020.

(b) For purposes of this article, the following terms shall have the following meaning:

- (1) “Applicant” means an individual who is seeking an exemption from the Minimum Essential Coverage Individual Mandate established in Title 24 of the Government Code or from the requirement to maintain minimum essential coverage under Section 5000A of the Internal Revenue Code (26 USC § 5000A) for the purpose of enrollment in a catastrophic plan for himself or herself through an application submitted to the Exchange.
- (2) “Application filer” means an applicant, an individual who is liable for the individual shared responsibility penalty under Part 32 of Division 2 of the Revenue and Taxation Code or the shared responsibility payment under Section 5000A(b) of the Internal Revenue Code (26 USC § 5000A(b)) for an applicant, an authorized representative, or if the applicant is a minor or incapacitated, someone acting responsibly for an applicant.
- (3) “Certificate of exemption” is a certification attesting that the individual is exempt from Minimum Essential Coverage Individual Mandate established in Title 24 of the Government Code or from the requirement to maintain minimum essential coverage under section 5000A of the Internal Revenue Code (26 USC § 5000A) and the penalty imposed under Section 61010 of the Revenue and Taxation Code.
- (4) “Exemption” means an exemption from Minimum Essential Coverage Individual Mandate established in Title 24 of the Government Code and the penalty imposed under Section 61010 of the Revenue and Taxation Code or from the requirement to maintain minimum essential coverage under section 5000A of the Internal Revenue Code (26 USC § 5000A) for the purpose of enrollment in a catastrophic plan.
- (5) “Household income” has the same meaning given the term in Section 5000A(c)(4)(B) of the Internal Revenue Code (26 USC § 5000A(c)(4)(B)) and in 26 CFR Section 1.5000A-1(d)(10).
- (6) “Incarcerated” has the same meaning given the term in Section 6410 of Article 2 of this chapter.

- (7) “Indian tribe” has the same meaning given the term in Section 6410 of Article 2 of this chapter.
 - (8) “Individual Shared Responsibility Penalty” means the penalty imposed under Section 61010 of the Revenue and Taxation Code with respect to a non-exempt individual who does not maintain minimum essential coverage in accordance with the Minimum Essential Coverage Individual Mandate under Section 100705 of the Government Code.
 - (9) “Projected household income” means the household income that the applicant reasonably expects for the calendar year.
 - (10) “Required contribution” has the same meaning given the term in Section 5000A(e)(1)(B) of the Internal Revenue Code (26 USC § 5000A(e)(1)(B)).
 - (11) “Tax filer” has the same meaning given the term in Section 6410 of Article 2 of this chapter. “Tax filer” also includes an individual who is required to make a return to the Franchise Tax Board in accordance with Section 18501 of the Revenue and Taxation Code.
- (c) For purposes of this article, any attestation that an applicant is to provide under this article may be made by the application filer on behalf of the applicant.
 - (d) For purposes of this article, information obtained through electronic data sources, other information provided by the applicant, or other information in the records of the Exchange shall be considered to be reasonably compatible with an applicant’s attestation if the difference or discrepancy does not impact the eligibility of the applicant for the exemption or exemptions for which he or she applied.
 - (e) Information, including notices, forms, and applications, shall be provided to applicants in accordance with the accessibility and readability standards specified in Section 6452.

NOTE: Authority cited: Sections 100504 and 100725, Government Code. Reference: Sections 100502, 100705 and 100715, Government Code; Section 61010, Revenue and Taxation Code; 26 USC Section 5000A; 26 USC Section 5000A; 26 CFR Section 1.5000A-1; 45 CFR Section 155.600; 10 CCR Sections 6410 and 6452.

§ 6912. Eligibility Standards for Exemptions Through the Exchange.

- (a) Except as specified in subdivision (d) of this section, the Exchange shall determine an applicant eligible for and issue a certificate of exemption for any month if the Exchange determines that the applicant meets the requirements for one or more of the categories of exemptions described in this section for at least one day of the month.

(b) The Exchange shall proceed in accordance with the following process for a religious conscience exemption:

- (1) The Exchange shall determine an applicant eligible for the religious conscience exemption for any month if the applicant for that month is either of the following:
 - (A) A member of a recognized religious sect or division described in section 1402(g)(1) of the Internal Revenue Code of 1986, and is an adherent of established tenets or teachings of such sect or division.
 - (B) A member of a religious sect or division thereof that is not described in Section 1402(g)(1) of the Internal Revenue Code of 1986, who relies solely on a religious method of healing, for whom the acceptance of medical health services would be inconsistent with the religious beliefs of the individual, and who includes an attestation that the individual has not received medical health services during the preceding taxable year. For purposes of this paragraph, the term “medical health services” does not include routine dental, vision, and hearing services, midwifery services, vaccinations, necessary medical services provided to children, services required by law or by a third party, and other services as the Secretary of United States Department of Health and Human Services may provide in implementing Section 1311(d)(4)(H) of the federal Patient Protection and Affordable Care Act. An individual who claims this exemption, but received medical health services during the coverage year, shall lose eligibility for the religious conscience exemption.
 - (2) The Exchange shall grant a certificate of exemption to an applicant who meets the standards provided in subdivision (b)(1) of this section for a month on a continuing basis, until the month after the month of the individual's 21st birthday, or until such time that an individual reports that he or she no longer meets the standards provided in subdivision (b)(1) of this section.
 - (3) If the Exchange granted a certificate of exemption for religious conscience to an applicant prior to his or her reaching the age of 21, the Exchange shall send the applicant a notice upon reaching the age of 21 informing the applicant that he or she must submit a new exemption application to maintain the certificate of exemption.
 - (4) The Exchange shall make an exemption in this category available prospectively or retrospectively.
- (c) The Exchange shall grant an exemption for general hardship to an applicant eligible for an exemption for at least the month before, the month or months during which, and the month after a specific event or circumstance, if the Exchange determines that:
- (1) The applicant experienced financial or domestic circumstances, including an unexpected natural or human-caused event, such that he or she had a significant,

unexpected increase in essential expenses that prevented him or her from obtaining coverage under a QHP;

- (2) The expense of purchasing a QHP would have caused him or her to experience serious deprivation of food, shelter, clothing or other necessities; or
 - (3) He or she has experienced other circumstances that prevented him or her from obtaining coverage under a QHP. Such circumstances shall be determined by the Exchange on a case-by-case basis.
 - (4) General hardship includes, but is not limited to, the following circumstances where the applicant:
 - (A) Became homeless;
 - (B) Evicted in the past six months, or facing eviction or foreclosure;
 - (C) Received a shut-off notice from a utility company;
 - (D) Recently experienced domestic violence;
 - (E) Recently experienced the death of a close family member;
 - (F) Recently experienced a fire, flood, or other natural or human-caused disaster that resulted in substantial damage to the individual's property;
 - (G) Filed for bankruptcy in the last six months;
 - (H) Incurred unreimbursed medical expenses in the last 24 months that resulted in substantial debt;
 - (I) Experienced unexpected increases in essential expenses due to caring for an ill, disabled, or aging family member;
 - (J) Is a child who has been determined ineligible for Medi-Cal and CHIP, and for whom a party other than the party who expects to claim him or her as a tax dependent is required by court order to provide medical support. This exemption shall only be provided for the months during which the medical support order is in effect; or
 - (K) As a result of an eligibility appeals decision, is determined eligible for enrollment in a QHP through the Exchange, APTC, or CSR for a period of time during which he or she was not enrolled in a QHP through the Exchange. This exemption shall only be provided for the period of time affected by the appeals decision.
- (d) The Exchange shall determine an applicant eligible for a hardship exemption for a month or months during which he or she, or another individual the applicant attests will be included in the applicant's tax household, is unable to afford coverage through the Exchange or an employer.
- (1) Eligibility for this exemption shall be based on the applicant's projected annual household income for the taxable year.
 - (2) An individual cannot afford coverage in a month if the individual's required contribution, determined on an annual basis, for coverage for the month exceeds 8.3 percent of his or her projected household income for the taxable year. An individual's

- projected household income shall include any amount of the required contribution made through a salary reduction arrangement that is excluded from gross income.
- (3) The required contribution for an employee who is eligible to purchase coverage under an eligible employer-sponsored plan sponsored by the employee's employer is the portion of the annual premium that the employee would pay (whether through salary reduction or otherwise) for the lowest cost self-only coverage.
 - (4) The required contribution for an individual who is eligible for coverage under an eligible employer-sponsored plan by reason of a relationship to an employee, is the portion of the annual premium that the employee would pay (whether through salary reduction or otherwise) for the lowest cost family coverage that would cover the employee and all other individuals who are included in the employee's family who have not otherwise been granted an exemption through the Exchange.
 - (5) The required contribution for an individual who is only eligible to purchase minimum essential coverage in the individual market is the annual premium for the lowest cost bronze plan available in the individual market through the Exchange serving the rating area in which the individual resides (without regard to whether the individual purchased a QHP through the Exchange), reduced by the maximum amount of any premium assistance for the taxable year determined as if the individual was covered for the entire taxable year by a QHP offered through the Exchange. All members of the individual's tax household who have not otherwise been granted an exemption through the Exchange and who are not treated as eligible to purchase coverage under an eligible employer-sponsored plan shall be included to determine the required contribution.
 - (6) In the case of plan years beginning in any calendar year after 2019, this subdivision shall be applied by substituting for "8.3 percent" an amount equal to 8 percent increased by the amount the United States Secretary of Health and Human Services determines reflects the excess of the rate of premium growth between the preceding calendar year and 2013 over the rate of income growth for that period. If the United States Secretary of Health and Human Services fails to determine this percentage for a calendar year, the Exchange shall determine the percentage.
 - (7) The applicant shall apply for this exemption prior to the last date on which he or she could enroll in a QHP through the Exchange for the month or months of a calendar year for which the exemption is requested.
 - (8) The Exchange shall make this exemption available prospectively, and provide it for all remaining months in a coverage year, notwithstanding any change in an individual's circumstances.

Note: Authority cited: Sections 100504 and 100725, Government Code. Reference: Sections 100502 and 100715, Government Code; 26 USC Section 1402; 42 USC Section 13031; 45 CFR Section 155.605.

§ 6914. Eligibility Process for Exemptions.

- (a) The Exchange shall establish an exemption application to collect information necessary for determining eligibility for and granting certificates of exemption as described in Section 6912.
- (b) If an individual submits the application specified in Section 6470 of Article 5 of this chapter and then requests an exemption, the Exchange shall use the information collected for purposes of the eligibility determination for enrollment in a QHP and for insurance affordability programs in making the exemption eligibility determination, and shall not request duplicate information or conduct repeat verifications to the extent that the Exchange finds that such information is still applicable, where the standards for such verifications adhere to the standards specified in this article.
- (c) The Exchange shall accept the exemption application specified in subdivision (a) of this section from an application filer, and shall provide the tools for the application filer to file the application through any of the following channels:
 - (1) The Exchange's Internet Web site;
 - (2) Facsimile; or
 - (3) Mail.
- (d) The Exchange shall require an applicant who has a Social Security number to provide such number to the Exchange. The Exchange shall not require an individual who is not seeking an exemption for himself or herself to provide a Social Security number, except as specified in subdivision (e) of this section.
- (e) The Exchange shall require an application filer to provide the Social Security number of a tax filer who is not an applicant only if an applicant attests that the tax filer has a Social Security number and filed a tax return for the year for which tax data would be utilized for verification of household income and family size for the hardship exemption specified in Section 6912(d) that requires such verification.
- (f) The Exchange shall determine an applicant's eligibility for an exemption in accordance with the standards specified in Section 6912, and grant a certificate of exemption to any applicant determined eligible.
- (g) The Exchange shall determine an applicant's eligibility for exemption within 30 calendar days from the date the Exchange receives the applicant's complete exemption application.
- (h) The Exchange shall only accept an application for general hardship exemption described in Section 6912(c) during one of the three calendar years after the month or months during which the applicant attests that the hardship occurred.
- (i) The Exchange shall provide a written notice to an applicant of any eligibility determination made in accordance with this article within five business days from the date of the eligibility

determination. In the case of a determination that an applicant is eligible for an exemption, this notification shall also include the exemption certificate number for the purposes of tax administration. This notice shall comply with the general standards for Exchange notices specified in Section 6454 of Article 4 of this chapter.

(j) The Exchange shall notify an individual to retain the records that demonstrate receipt of the certificate of exemption and qualification for the underlying exemption. In the case of any factor of eligibility that is verified through use of the exception described in Section 6916(d)(3), the records that demonstrate qualification for the underlying exemption are the information submitted to the Exchange regarding the circumstances that warranted the use of the exception, as well as records of the Exchange decision to allow such exception.

(k) If an applicant submits an incomplete exemption application that does not include sufficient information for the Exchange to conduct a determination for eligibility of an exemption the Exchange shall:

(1) Provide notice to the applicant indicating that information necessary to complete an eligibility determination is missing, specifying the missing information, and providing instructions on how to provide the missing information; and

(2) Provide the applicant with a period of 30 calendar days from the date on which the notice described in paragraph (1) of this subdivision is sent to the applicant to provide the information needed to complete the application to the Exchange. The Exchange may extend this period for an applicant if the Exchange determines on a case-by-case basis that the applicant has demonstrated that he or she has made a good-faith effort to obtain the required information during the period; and

(3) Not proceed with the applicant's eligibility determination during the period described in paragraph (2) of this subdivision.

(4) Notify the applicant in writing that the Exchange cannot process the exemption application and provide appeal rights to the applicant if the Exchange does not receive the requested information within the 30-day period specified in paragraph (2) of this subdivision.

Note: Authority cited: Sections 100504 and 100725, Government Code. Reference: Section 100503, Government Code; 10 CCR Sections 6454 and 6470; 45 CFR Section 155.610.

§ 6916. Verification Process Related to Eligibility for Exemptions Through the Exchange.

(a) The Exchange shall verify or obtain information as provided in this section in order to determine that an applicant is eligible for an exemption.

(b) For any applicant who requests an exemption based on religious conscience, the Exchange shall verify that the applicant meets the standards specified in Section 6912(b) in accordance with the following process:

(1) Except as specified in paragraphs (2) and (3) of this subdivision, the Exchange shall accept a form that reflects that the applicant is exempt from Social Security and Medicare taxes under Section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1));

(2) Except as specified in paragraphs (3), (4) and (5) of this subdivision, the Exchange shall accept the applicant's attestation of membership in a religious sect or division, and shall verify that the religious sect or division to which the applicant attests membership is recognized by the Social Security Administration as an approved religious sect or division under Section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1));

(3) Except as specified in paragraphs (4) of this subdivision, the Exchange shall accept the applicant's attestation that he or she is a member of a religious sect or division described in Section 6912(b)(1)(B) and that he or she has not received medical health services, as specified in Section 6912(b)(1)(B), during the preceding taxable year.

(4) If information provided by an applicant regarding his or her membership in a religious sect or division is not reasonably compatible with other information provided by the individual or in the records of the Exchange, the Exchange shall follow the inconsistency procedures specified in subdivision (d) of this section.

(5) Except as specified in paragraph (3) of this subdivision, if an applicant attests to membership in a religious sect or division that is not recognized by the Social Security Administration as an approved religious sect or division under Section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1)), the Exchange shall provide the applicant with information regarding how his or her religious sect or division can pursue recognition under Section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1)), and shall determine the applicant ineligible for this exemption until such time as the Exchange obtains information indicating that the religious sect or division has been approved.

(c) For any applicant who requests a hardship exemption based on lack of affordable coverage, the Exchange shall verify whether the applicant has experienced the hardship to which he or she is attesting in accordance with the following process:

(1) The Exchange shall verify the unavailability of affordable coverage through the procedures used to determine eligibility for APTC, including the procedures described in Section 6478(c)(1) of Article 5 of this chapter, and the procedures used to verify eligibility for qualifying coverage in an eligible employer-sponsored plan, as specified in Section 6490 of Article 5 of this chapter.

(2) The Exchange shall accept an application filer's attestation for an applicant regarding eligibility for minimum essential coverage other than through an eligible employer-sponsored plan, instead of following the procedures specified in Section 6480 of Article 5 of this chapter.

(3) To the extent that the Exchange is unable to verify any of the information needed to determine an applicant's eligibility for an exemption based on hardship, the Exchange shall follow the procedures specified in subdivision (d) of this section.

(d) Except as otherwise specified in this article, for an applicant for whom the Exchange cannot verify information required to determine eligibility for an exemption, including but not limited to when electronic data is required in accordance with this subpart but data for individuals relevant to the eligibility determination for an exemption are not included in such data sources or when electronic data is required but it is not reasonably expected that data sources will be available within one day of the initial request to the data source, the Exchange shall follow the inconsistency process specified in Section 6492 of Article 5 of this chapter, except as specified in paragraphs (1) through (3) of this subdivision.

(1) During the 95-day period described in Section 6492(a)(2)(B) of Article 5 of this chapter, the Exchange shall not grant a certificate of exemption based on the information subject to this subdivision.

(2) If, after the period described in paragraph (1) of this subdivision, the Exchange remains unable to verify the attestation, the Exchange shall:

- (A) Determine the applicant's eligibility for an exemption based on any information available from the data sources used in accordance with this article, if applicable, unless such applicant qualifies for the exception provided under paragraph (3) of this subdivision; and
- (B) Notify the applicant of such determination in accordance with the notice requirements specified in Section 6914(i), including notice that the Exchange is unable to verify the attestation.

(3) For an applicant who does not have documentation with which to resolve the inconsistency through the process described in this subdivision because such documentation does not exist or is not reasonably available and for whom the Exchange is unable to otherwise resolve the inconsistency, the Exchange shall provide an exception, on a case-by-case basis, to accept an applicant's attestation as to the information which cannot otherwise be verified along with an explanation of circumstances as to why the applicant does not have documentation.

(e) The Exchange shall not require an applicant to provide information beyond the minimum necessary to support the eligibility process for exemptions as described in this article.

(f) The Exchange shall validate the applicant's Social Security number in accordance with the following process:

- (1) For any individual who provides his or her Social Security number to the Exchange, the Exchange shall transmit the Social Security number and other identifying information to HHS, which will submit it to the Social Security Administration.

- (2) To the extent that the Exchange is unable to validate an individual's Social Security number through the Social Security Administration, or the Social Security Administration indicates that the individual is deceased, the Exchange shall follow the inconsistency procedures specified in subdivision (d) of this section.

Note: Authority cited: Sections 100504 and 100725, Government Code. Reference: Section 100503, Government Code; 26 USC Section 1402; 10 CCR Sections 6478, 6480, 6490 and 6492; 45 CFR Section 155.615.

§ 6918. Eligibility Redeterminations for Exemptions During a Calendar Year.

(a) The Exchange shall redetermine the eligibility of an individual with an exemption granted by the Exchange if it receives and verifies new information reported by such an individual, except for the exemption described in Section 6912(d).

(b) An individual who has a certificate of exemption from the Exchange shall report any change with respect to the eligibility standards for the exemption as specified in §155.605, except for the exemption described in Section 6912(d), to the Exchange within 30 days of such change through the channels available for the submission of an exemption application, as specified in Section 6914(c).

(c) The Exchange shall verify any information reported by an individual with a certificate of exemption in accordance with the processes specified in Section 6916 prior to using such information in an eligibility redetermination, and shall:

- (1) Notify an individual in accordance with Section 6914(i) after redetermining his or her eligibility based on a reported change; and
 - (2) Provide periodic electronic notifications regarding the requirements for reporting changes and an individual's opportunity to report any changes, to an individual who has a certificate of exemption for which changes must be reported in accordance with subdivision (b) of this section and who has elected to receive electronic notifications, unless he or she has declined to receive such notifications.
- (d) The Exchange shall implement a change resulting from a redetermination under this section for the month or months after the month in which the redetermination occurs, such that a certificate that was provided for the month in which the redetermination occurs, and for prior months remains effective.

Note: Authority cited: Sections 100504 and 100725, Government Code. Reference: Section 100503, Government Code; 45 CFR Section 155.620.

§ 6920. Right to Appeal.

The Exchange shall include the notice of the right to appeal and instructions regarding how to file an appeal in accordance with Article 7 of this chapter in any eligibility determination and

redetermination notice issued to the applicant in accordance with Sections 6914(i), 6914(k)(4), 6916(d)(2)(B) and 6918(c)(1).

Note: Authority cited: Sections 100504, 100506 and 100725, Government Code. Reference: Sections 100503, 100506.1 and 100506.2, Government Code; 45 CFR Section 155.635.