

Changes proposed during the 45-day comment period are shown in single underline for additions and single strikethrough for deletions. Proposed changes for this 15-day notice are shown in double-underline for additions and double-strikethrough for deletions.

## **California Code of Regulations**

### **Title 10. Investment**

#### **Chapter 12. California Health Benefit Exchange**

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

##### **§ 6910. Definitions and General Requirements.**

(a) For purposes of this article, the following terms shall have the following meanings:

(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 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 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) and the Individual Shared Responsibility Penalty imposed under Section 61010 of the Revenue and Taxation Code.

(4) “Exemption” means an exemption from the Minimum Essential Coverage Individual Mandate established in Title 24 of the Government Code and the Individual Shared Responsibility 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 through an application submitted to the Exchange.

(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) (December 26, 2013), hereby incorporated by reference.

(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” has the same meaning given the term in Section 61010 of the Revenue and Taxation Code.

(9) "Projected household income" means the household income that the applicant reasonably expects for the calendar year.

(10) "Qualified Individual" means an individual who meets the eligibility standards for exemption through the Exchange, as specified in Section 6914.

(11) "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)).

(12) "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.

(b) 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.

(c) For purposes of this article, information obtained through electronic data sources, 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 applicant's eligibility for the exemption or exemptions for which the applicant applied.

(d) 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; and 45 CFR Section 155.600.

**§ 6912. Exemption Applications.**

(a) The Exchange shall use an exemption application to collect the applicant's information necessary to determine the applicant's eligibility for religious conscience and hardship exemptions.

(b) To apply for a religious conscience or hardship exemption, an applicant or an application filer shall submit all information, documentation, and declarations required on the application, as specified in subdivisions (c), (d), and (e) of this section, and shall sign and date the application.

(c) An applicant or an application filer shall provide the following information on the applicable exemption application:

(1) The applicant's full name (first, middle, if applicable, and last name).

(2) The applicant's home and mailing address, if different from home address, the applicant's county of residence and telephone number(s). For an applicant who does not have a home address, only a mailing address shall be provided.

(3) The applicant's email address, if the applicant chooses to get correspondence via email from the Exchange.

(4) The applicant's preferred written and spoken language.

(5) The applicant's date of birth.

(6) The applicant's Social Security Number or Individual Taxpayer Identification Number, if one has been issued to the applicant.

(7) The applicant's gender.

(8) For each individual included on the applicant's state tax return, including the applicant and the applicant's spouse or domestic partner, the individual's relationship to

the applicant, the individual's full name, date of birth, Social Security Number or Individual Taxpayer Identification Number, if the individual has one, gender, and whether the individual wants an exemption.

(d) For a religious conscience exemption, as specified in Section 6914(b), an applicant or an application filer shall provide the following information on the religious conscience exemption application in addition to the information specified in subdivision (c) of this section:

~~(1) The year for which the applicant or any individual in the applicant's tax household is requesting the exemption.~~ (1) The year for which the applicant or any individual in the applicant's tax household is requesting the exemption.

~~(2)(1)(2)~~ Whether the applicant or any individual in the applicant's tax household is a member of recognized religious sect or division described in section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1)) and adheres to the established tenets or teachings of such sect or division.

~~(3)(2)(3)~~ Whether the applicant or any individual in the applicant's tax household has an approved IRS Form 4029 ("Application for Exemption from Social Security and Medicare Taxes and Waiver of Benefits") with required signatures. If so, a copy of the approved form shall be submitted with the application.

~~(4)(3)(4)~~ Whether the applicant or any individual in the applicant's tax household is a member of a religious sect or division that is not described in Section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1)), relies solely on a religious method of healing, and the acceptance of medical health services would be inconsistent with the religious beliefs of the individual. If so, an attestation signed by the applicant that the

member has not received medical health services during the preceding taxable year shall be submitted with the application.

~~(5)(4)(5)~~ The full name and address of the religious sect or division the applicant or any individual in the applicant's tax household is a member of and the date they became a member.

(e) For a general hardship exemption, as specified in Section 6914(c), an applicant or an application filer shall provide the following information on the general hardship exemption application in addition to the information specified in subdivision (c) of this section:

(1) The type of hardship.

~~(2) The tax year for which the hardship exemption is requested.~~ (2) The tax year for which the hardship exemption is requested.

~~(3)(2)(3)~~ The start and end dates for the hardship.

(f) For an affordability hardship exemption, as specified in Section 6914(d), an applicant or an application filer shall provide the following information on the affordability hardship exemption application in addition to the information specified in subdivision (c) of this section:

~~(1) The year and months the applicant requests the exemption.~~ (1) The year and months the applicant requests the exemption.

~~(2)(1)(2)~~ Whether the applicant has been offered employer-sponsored health coverage.

~~(3)(2)(3)~~ Documentation of the cost of the premium for the employer-sponsored coverage for the applicant and any covered family members and whether the employer-

sponsored coverage meets the minimum value standards, specified in 45 CFR Section 156.145 (February 27, 2015), hereby incorporated by reference.

~~(4)(3)~~(4) The applicant's projected household income from all sources for the year the applicant has requested the exemption, including tax-exempt foreign earned income and tax-exempt income from interest that the applicant receives or accrues during the taxable year, if any, and proof of such income. If self-employed, the amount of net income. The projected household income does not include income from child support payments, veteran's payments, and Supplemental Security Income/State Supplementary Payment (SSI/SSP).

~~(5)(4)~~(5) The applicant's expected type and amount of the tax deductions that the applicant is allowed to deduct from the applicant's taxable gross income when calculating the applicant's adjusted gross income on the applicant's federal income tax return.

~~(6)(5)~~(6) Whether the applicant intends to file federal and state income tax returns for the year for which the applicant is requesting ~~coverage~~ an exemption, and if so, the applicant's expected tax-filing status.

~~(7)(6)~~(7) Whether the applicant is enrolled in minimum essential coverage through any government sponsored programs, as defined in Section 5000A(f)(1)(A) of the Internal Revenue Code (26 USC § 5000A(f)(1)(A)), or is eligible for full-scope Medi-Cal or free Medicare Part A.

~~(8)(7)~~(8) The applicant's status as a U.S. Citizen or U.S. National, or the following information if the applicant is not a U.S. Citizen or U.S. National and attests to having lawful presence status:

(A) The applicant's immigration status;

(B) The applicant's immigration document type, identification number, country of issuance, expiration date, and the applicant's name as it appears on the document;

(C) Whether the applicant has lived in the U.S. since 1996; and

(D) Whether the applicant, or the applicant's spouse or parent, is a veteran or an active-duty member of the U.S. military.

~~(9)(8)(9)~~ Whether the applicant is pregnant, and if so, the number of babies expected and the expected delivery date.

~~(10)(9)(10)~~ Whether the applicant is 18 to 20 years old and a full-time student.

~~(11)(10)(11)~~ Whether the applicant is 18 to 26 years old and lived in foster care on the applicant's 18th birthday or whether the applicant was in foster care and enrolled in Medicaid in any state.

~~(12)(11)(12)~~ Whether the applicant is 18 years old or younger, and if so, the number of parents living with the applicant.

~~(13)(12)(13)~~ Whether the applicant lives with at least one child under the age of 19 and is the primary person taking care of this child.

~~(14)(13)(14)~~ Whether the applicant is incarcerated.

~~(15)(14)(15)~~ Whether the applicant is a primary tax filer or a tax dependent. If the applicant is a tax dependent, the non-applicant primary tax filer shall provide the information in subdivision (f)(1) through ~~(14)(13)(14)~~ of this section, except for the information in subdivision (f)~~(8)(7)(8)~~.



~~(16)~~~~(15)~~(16) For any other individuals seeking an exemption on the applicant's exemption application, all of the information in subdivision (f)(1) through ~~(15)~~~~(14)~~(15) of this section.

(g) If the applicant designates an authorized representative, the applicant shall provide the authorized representative's name and address, and the applicant's signature authorizing the designated representative to act on the applicant's behalf for the exemption application, eligibility and enrollment, and appeals process, if applicable.

(h) An applicant or an application filer shall declare under penalty of perjury that the applicant or application filer:

(1) Understood all questions on the application and gave true and correct answers to the best of the applicant's or application filer's personal knowledge.

(2) Knows that if the applicant or application filer does not tell the truth on the exemption application, there may be a civil or criminal penalty for perjury pursuant to Penal Code Section 126.

(3) Knows that the information provided on the exemption application shall only be used for the purpose of determining exemption eligibility for the individuals listed on the application who are requesting an exemption, and that the Exchange shall keep such information private in accordance with the applicable federal and State privacy and security laws.

(4) Understands that the Exchange shall not discriminate against the applicant or anyone on the application because of race, color, national origin, religion, age, sex, sexual orientation, gender identity, or disability, and that the applicant may make a

complaint of discrimination through the U.S. Department of Health and Human Services, Office for Civil Rights.

Note: Authority cited: Sections 100504 and 100725, Government Code. Reference: Sections 100502 and 100715, Government Code; 26 USC Section 5000A; 45 CFR Sections 155.605, 155.610, and 156.145.

**§ 6914. Eligibility Standards for Exemptions Through the Exchange.**

(a) Except as specified in subdivisions (c) and (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 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, for that month, the applicant 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 (26 USC § 1402(g)(1)) and adheres to the established tenets or teachings of such sect or division.

(B) A member of a religious sect or division that is not described in Section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1)), relies solely on a religious method of healing, 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 (42 USC § 18031(d)(4)(H)). 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 standard provided in subdivision (b)(1) of this section for a month on a continuing basis, until the last day of the month after the month of the individual's 21st birthday, or until such time that an individual reports that the individual no longer meets the standard provided in subdivision (b)(1) of this section, whichever comes first.

(3) If the Exchange granted a certificate of exemption for religious conscience to an applicant before reaching the age of 21, the Exchange shall send the applicant a notice upon reaching the age of 21 informing the applicant that the applicant 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) Except as specified in subparagraph (D) of paragraph (1) of this subdivision, 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, and the month after a specific event or circumstance, if the Exchange determines that the applicant meets at least one of the requirements specified in paragraph (1) of this subdivision.

(1) To qualify for a hardship exemption, the applicant or qualified individual shall meet at least one of the following criteria:

(A) The applicant experienced financial or domestic circumstances, including an unexpected natural or human-caused event, such that the applicant had a significant, unexpected increase in essential expenses that prevented the applicant from obtaining coverage under a QHP.

(B) The expense of purchasing a QHP would have caused the applicant to experience serious deprivation of food, shelter, clothing, or other necessities.

(C) The applicant has experienced other circumstances that prevented the applicant from obtaining coverage under a QHP. Such circumstances shall be determined by the Exchange on a case-by-case basis.

(D) The qualified individual is an Indian eligible for services through an Indian health care provider, as defined in 42 CFR Section 447.51 (January 1, 2014), hereby incorporated by reference, and not otherwise eligible for an exemption under subdivision (c)(5) of Section 100705 of the Government Code, or an individual eligible for services through the Indian Health Service (IHS), in accordance with 25 USC Section 1680c(a), (b), or (d)(3). A qualified individual who meets the standards specified in this subparagraph shall be:

1. Deemed eligible for a hardship exemption without submitting an exemption application and obtaining a certificate of exemption through the Exchange; and
2. Exempt for a month on a continuing basis, until such time that the qualified individual no longer meets such standards.

(2) General hardship includes, but is not limited to, the following circumstances where the applicant:

- (A) Experienced homelessness;
- (B) Was evicted ~~in the past six months~~, or is facing eviction or foreclosure;
- (C) Received a shut-off notice from a utility company due to inability to pay the utility bills;
- (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;
- (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) Recently experienced an unexpected increase in essential expenses or decrease in household income due to divorce or separation, unexpected or sudden disability, or 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 the child 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 or financial assistance through the Exchange for a period of time during which the applicant 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.

(3) The Exchange shall make an exemption in this category available prospectively or retrospectively, subject to the limitation described in Section 6916(h).

(d) The Exchange shall determine an applicant eligible for a hardship exemption for a month or months during which the applicant, 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 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 the individual's 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. An eligible employer-sponsored plan is only considered under subdivision (d)(3) of this section if it meets the minimum value standard described in 45 CFR Section 156.145.

(3) For an individual who is eligible to purchase coverage under an eligible employer-sponsored plan, the required contribution for coverage shall be determined as follows:

(A) 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.

(B) 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.

(C) Nondiscriminatory wellness program incentives, within the meaning of 26 CFR Section 54.9802-1(f) (February 24, 2014), hereby incorporated by reference, offered by an eligible employer-sponsored plan that affect premiums are treated as earned in determining an employee's required contribution for purposes of affordability of an eligible employer-sponsored plan to the extent the incentives relate exclusively to tobacco use. Wellness program incentives that do not relate to tobacco use or that include a component unrelated to tobacco use are treated as not earned for this purpose. For purposes of this paragraph, the term "wellness program incentive" has the same meaning as the term "reward" in 26 CFR Section 54.9802-1(f)(1)(i).

(4) 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.

(5) In the case of plan years beginning in any calendar year after 2019, this subdivision shall be applied by substituting "8.3 percent" specified in subdivision (d)(2) of this section with 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.

(6) The applicant shall apply for this exemption prior to the last date on which the applicant may enroll in a QHP through the Exchange for the month or months of a calendar year for which the exemption is requested.

(7) 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, 100705, 100715, and 100800, Government Code; 26 USC Sections 1402 and 5000A; 42 USC Section 13031; 26 CFR Sections 1.5000A-3 and 54.9802-1; 42 CFR Section 447.51; and 45 CFR Sections 155.605 and 156.145.

#### **§ 6916. Eligibility Process for Exemptions.**

(a) The Exchange shall use the exemption applications described in Section 6912 to collect information necessary for determining eligibility for and granting certificates of exemption as described in Section 6914.



(b) If an individual submits the application specified in Section 6470 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. The Exchange shall not request duplicate information or conduct repeat verifications to the extent that the Exchange finds that such information is still applicable and the standards for such verifications adhere to the standards specified in this article.

(c) The Exchange shall accept the exemption applications specified in Section 6912 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 oneself 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 as specified in Section 6914(d).

(f) The Exchange shall determine an applicant's eligibility for an exemption in accordance with the standards specified in Section 6914 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 6914(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 purpose of tax administration. This notice shall comply with the general standards for Exchange notices specified in Section 6454.

(j) An individual shall 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 6918(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;

(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 a good-faith effort to obtain the required information during the period;

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

(4) Deny the exemption application, 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: Sections 100503 and 100715, Government Code; and 45 CFR Section 155.610.

**§ 6918. 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 6914(b) in accordance with the following process:

(1) The Exchange shall accept a copy of an approved IRS Form 4029 (“Application for Exemption from Social Security and Medicare Taxes and Waiver of Benefits”) with required signatures 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)) without further verification.

(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 if the Exchange obtains the information necessary to 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 paragraph (4) of this subdivision:

(A) The Exchange shall accept the applicant's attestation that the applicant is a member of a religious sect or division described in Section 6914(b)(1)(B) and that the individual has not received medical health services, as specified in Section 6914(b)(1)(B), during the preceding taxable year; and

(B) The applicant shall provide documentation to the Exchange to demonstrate that such religious sect or division relies solely on a religious method of healing and that

the acceptance of medical health services would be inconsistent with the religious beliefs of the applicant.

(4) If information provided by an applicant regarding the applicant's religious sect or division described in Section 6914(b)(1)(B) or the applicant's membership in such religious sect or division is not reasonably compatible with other information provided by the individual or in the Exchange's records, or if the Exchange is unable to verify the applicant's religious sect or division as specified in paragraph (2) of this subdivision, the Exchange shall follow the inconsistency procedures specified in subdivision (d) of this section.

(5) Except as specified in paragraphs (1) and (3) of this subdivision, if an applicant attests to membership in a religious sect or division that cannot be verified by the Exchange 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 the applicant's religious sect or division can pursue recognition under Section 1402(g)(1) of the Internal Revenue Code (26 USC § 1402(g)(1)). The Exchange shall determine the applicant ineligible for this exemption until the Exchange obtains information indicating that the religious sect or division has been approved.

(c) For any applicant who requests an exemption based on a general hardship as specified in subdivision (c)(2) of Section 6914, except for the circumstances described in subdivisions (c)(2)(A) and (c)(2)(D) of Section 6914, the applicant shall provide documentation to the Exchange to demonstrate that the applicant has experienced the hardship to which the applicant is attesting. For any applicant who requests a hardship

exemption based on lack of affordable coverage, the Exchange shall verify the hardship to which the applicant 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, and the procedures used to verify eligibility for qualifying coverage in an eligible employer-sponsored plan, as specified in Section 6490.

(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.

(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 article 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, except as specified in paragraphs (1) through (3) of this subdivision.

(1) During the 95-day period described in Section 6492(a)(2)(B), 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 6916(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 a Social Security Number to the Exchange, the Exchange shall transmit the individual's 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: Sections 100503 and 100715, Government Code; 26 USC Section 1402; and 45 CFR Section 155.615.

#### **§ 6920. 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 6914(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 Section 6914, except for the exemption described in Section 6914(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 6916(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 6918 prior to using such information in an eligibility redetermination, and shall:

(1) Notify an individual in accordance with Section 6916(i) after redetermining the individual's 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 the individual 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: Sections 100503 and 100715, Government Code; and 45 CFR Section 155.620.

### **§ 6922. 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 6916(i), 6916(k)(4), 6918(d)(2)(B) and 6920(c)(1).

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