

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Independent Agencies**
(DLS Control No. 16-161)

Overview and Legal and Fiscal Impact

The regulations set forth the eligibility standards for enrollment in a qualified health plan and a qualified health plan with advance payments of the premium tax credit and cost-sharing reductions in the Individual Exchange.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Independent Agencies:

Maryland Health Benefit Exchange: General Provisions:
COMAR 14.35.01.01 through .02

Eligibility Standards for Enrollment in a Qualified Health Plan and a Qualified Health Plan with APTC and CSR in the Individual Exchange:
COMAR 14.35.07.01 through .21

Legal Analysis

Background

The federal Patient Protection and Affordable Care Act required states to have a health insurance exchange, either state-based or federal, in place as of January 1, 2014. Maryland was 1 of 14 states that opted to develop a state-based exchange, known as Maryland Health Connection. The exchanges are intended to provide a marketplace for individuals (Individual Exchange) and small businesses (Small Business Health Options Program Exchange) to purchase affordable health coverage by certifying and making available qualified health plans and qualified dental plans to individuals and businesses and serving as a gateway to an expanded Medicaid program. The Maryland Health Benefit Exchange is a public corporation and independent unit of State government with a nine-member Board of Trustees and is responsible for the administration of Maryland Health Connection.

Through Maryland Health Connection, Maryland residents can determine if they qualify for federal tax subsidies or cost-sharing reductions to help pay for health insurance or if they, or members of their family, are eligible for Medicaid or another program such as the

Maryland Children's Health Program. Small businesses can utilize authorized brokers to find plans that meet the needs of employees and qualify for tax credits. Maryland Health Connection works with health insurance carriers, insurance producers, assisters, and advocates and is supported by a statewide consolidated call center. In-person assistance is available statewide by individuals known as navigators.

Summary of Regulations

The regulations set forth the eligibility standards for enrollment in a qualified health plan and a qualified health plan with advance payments of the premium tax credit and cost-sharing reductions in the Individual Exchange. The regulations include (1) requirements for applying for coverage; (2) requirements for notifying applicants and, under certain circumstances, employers of applicants, regarding eligibility determination; (3) eligibility requirements, including citizenship and residency requirements, for enrollment in a qualified health plan; (4) eligibility requirements for advance payments of the premium tax credit and for cost-sharing reductions; (5) requirements for enrollment in a qualified health plan or insurance affordability program (*i.e.*, Medicaid, the Maryland Children's Health Program, or a qualified health plan with advance payments of the premium tax credit and cost-sharing reductions) during open enrollment or a special enrollment period; (6) exemption determinations; and (7) designation of an authorized representative. Generally, the regulations closely track federal regulatory requirements.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The Maryland Health Benefit Exchange cites §§ 31-106(c)(1)(iv) and 31-108(b)(1), (10), and (17) of the Insurance Article as statutory authority for the regulations. Section 31-106(c)(1)(iv) authorizes the Board of Trustees of the exchange to adopt regulations to carry out the provisions of law within the board's jurisdiction. At least 30 days before submitting any proposed regulation to the Maryland Register, the board must submit the proposed regulation to the Senate Finance Committee and the House Health and Government Operations Committee. Section 31-108(b)(1), (10), and (17) require the exchange to make qualified plans available to qualified individuals and qualified employers; provide information and make determinations regarding eligibility for Medicaid, the Maryland Children's Health Program, and any applicable State or local public health insurance program; and conduct processes required by the Secretary of the U. S. Department of Health and Human Services and the Secretary of the U.S. Department of the Treasury to determine eligibility for premium tax credits, reduced cost-sharing, and individual responsibility requirement exemptions. This statutory authority is correct and complete.

As required by law, the exchange submitted the proposed regulations to the Senate Finance Committee and the House Health and Government Operations Committee. The Senate Finance Committee had no comments on the regulations. The House Health and Government Operations Committee had several questions about the regulations, all of which were answered. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The Maryland Health Benefit Exchange advises that, as the regulations generally track federal regulatory requirements under the Patient Protection and Affordable Care Act and apply only to health insurance carriers doing business with the Maryland Health Benefit Exchange, there is no impact on State or local governments. The Department of Legislative Service concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The Maryland Health Benefit Exchange advises that, as the regulations impact health insurance carriers that are not small businesses, there is no economic impact on small businesses in the State. The Department of Legislative Service concurs.

Contact Information

Legal Analysis: Linda L. Stahr – (410) 946/(301) 970-5350

Fiscal Analysis: Jennifer B. Chasse – (410) 946/(301) 970-5510