MARYLAND REGISTER

Transmittal Sheet

Emergency Action on Regulations

Date Filed with AELR Committee May 19, 2025	**Date Filed with Division of State Documents**
Emergency Status Approved	**Document Number** 25-127-E
Emergency Status Begins On July 11, 2025	**Date of Publication in MD Register**
Emergency Status Ends On January 6, 2026	
Name of AELR Committee Counsel Name	

1. COMAR Codification

Title	Subtitle	Chapter	Regulation
14	35	21	01
14	35	21	02
14	35	21	03
14	35	21	04
14	35	21	05
14	35	21	06
14	35	21	07

2. Promulgating Authority

Maryland Health Benefit Exchange

3. Name of Regulations Coordinator

Becca Lane

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4. Name of Person to Call About this Document

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5. Check applicable items:

X	New Regulations
	Amendments to Existing Regulations
	Repeal of Existing Regulations
	Recodification
	Incorporation by Reference of Documents Requiring DSD Approval

6. Date Requested for Emergency Status to Begin: July 11, 2025

Date Requested for Emergency Status to Expire: January 6, 2026

7. Agency Will Take the Following Action on These Regulations

X Promulgate them in accordance with State Government Article, §§ 10-101—10-126

__ Allow them to expire

8. Is there a Proposed/Reproposed Action in ELF that is identical to this Emergency:

_X_ Yes ___ No

If Yes, Register issue where identical text is published:

- Same issue

52:14	Md. R	undefined	07-11-2025
(vol.):(issue)		(page nos.)	(date)

9. Incorporation by Reference

☐ Incorporation by Reference (IBR) approval form(s) attached and 16 copies of documents proposed for incorporation submitted to DSD. (Submit 16 paper copies of IBR document to DSD and one copy to AELR.)

10. Reason for Request for Emergency Status

MHBE is required by HB1082 to promulgate regulations and implement the new subsidy program by Plan Year 2026. The soonest the regulations would be effective is October 13, 2025, which is during the time Open Enrollment activities are already underway and MHBE is processing reenrollments. The new program should be in effect before Open Enrollment activities begin so that anyone who is reenrolled into a plan knows how much financial assistance they will receive for the upcoming year.

11. Children's Environmental Health and Protection

☐ Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council

12. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Nicole Quigley, Assistant Attorney General, telephone #443-610-1520, on April 7, 2025. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Michele Eberle

Title

Executive Director

Telephone No.

410-547-1270

Date

May 19, 2025

Title 14

INDEPENDENT AGENCIES

Subtitle 35 MARYLAND HEALTH BENEFIT EXCHANGE

14.35.21 State-Based Health Insurance Subsidies Program

Authority: Insurance Article, §31-106(c)(1)(iv), Annotated Code of Maryland

Notice of Emergency Action

[25-127-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to new chapter COMAR 14.35.21 State-Based Health Insurance Subsidies Program.

Emergency status began: July 11, 2025.

Emergency status expires: January 6, 2026.

Estimate of Economic Impact

The emergency action has no economic impact.

Economic Impact on Small Businesses

The emergency action has minimal or no economic impact on small businesses.

MICHELE EBERLE
Executive Director

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: **FY 26**

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

N/A

E. If these regulations have no economic impact under Part A, indicate reason briefly:

N/A

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

N/A

G. Small Business Worksheet:

N/A

Title 14 INDEPENDENT AGENCIES

Subtitle 35 MARYLAND HEALTH BENEFIT EXCHANGE

Chapter 21 State-Based Health Insurance Subsidies Program

Authority: Insurance Article, §31-106(c)(1)(iv), Annotated Code of Maryland

.01 Scope.

A. This chapter sets forth the structure, implementation, and eligibility standards for the State-Based Health Insurance Subsidies Program, as required under Insurance Article, §31-117 Annotated Code of Maryland.

B. If the advance premium tax credits under 26 U.S.C. § 36B(b)(3)(A)(iii) are extended for calendar years 2026 and 2027, the subsidy under this chapter shall be abrogated and of no further force and effect.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Enrollee" means a qualified individual who is enrolled in a qualified health plan through the Individual Exchange.

(2) "Essential health benefit" has the meaning set forth in Insurance Article, §31-116(a), Annotated Code of Maryland, and 42 U.S.C. §18022(b).

(3) "Federal poverty level (FPL)" means the most recently published federal poverty level guidelines, updated periodically in the Federal Register by the Secretary of HHS as set forth in 42 U.S.C. §9902(2), as of the first day of the open enrollment period for QHPs offered through the Individual Exchange for a calendar year.

(4) "Program" means the State-Based Health Insurance Subsidies Program.

.03 Eligibility Requirements for Subsidies Through the Program.

A. An enrollee is eligible to receive subsidies from the Program during a month if:

(1) The enrollee is a member of a tax filer's tax household and the tax filer has met the eligibility requirements for APTC in accordance with the requirements in COMAR 14.35.07.08A(2), B— C, E, F and H; and

(2) The enrollee experiences an increase in the applicable percentages established under 26 U.S.C. § 36B(B)(3)(A)(iii) for premiums based on household income in calendar years 2026 and 2027, as compared to the applicable percentages in place for calendar year 2025.

B. The subsidy shall be automatically applied to eligible enrollees' premiums.

C. In any calendar year of the program:

(1) The Board may limit the availability of subsidies, regardless of eligibility, if the costs of the program are projected to exceed the budgeted allowance for that calendar year;

(2) The limit described in §C(1) of this regulation may take the form of:

(a) A limit on the number of enrollees eligible for the subsidy;

(b) A limit on increases in subsidies during a plan year for enrollees after enrollment; or

(c) Any other limit or combination of limits as the Board deems appropriate;

(3) Any limit on the availability of subsidies for enrollees in the program shall be applied uniformly to all enrollees after the effective date of the Board's decision; and

(4) The Exchange shall monitor the data outlined in Regulation .05 of this chapter to determine, in consultation with the Maryland Insurance Administration, the recommended limits to the Program.

E. Effective Dates for Changes in Subsidy Eligibility.

(1) Except as otherwise specified under this regulation, changes in eligibility for subsidies determined by the Individual Exchange are effective the first day of the month following the date on which the determination is made.

(2) When an applicant is determined newly eligible for Medicaid or MCHP, the applicant shall be ineligible for subsidies beginning the first of the month after the enrollee is determined newly eligible for Medicaid or MCHP.

(3) When an applicant is eligible for a special enrollment period under COMAR 14.35.07.12 — .19, the applicant or enrollee shall be determined eligible for subsidies as of the applicable effective date specified for each special enrollment period under COMAR 14.35.07.12 — .19.

(4) When an enrollee's enrollment is terminated by the enrollee as set forth in 45 CFR §155.430(b)(1) or terminated by the Exchange under 45 CFR §155.430(b)(2)(i) — (vii) the subsidy shall be terminated in accordance with the applicable effective date of the termination set forth in 45 CFR §155.430(d).

.04 Calculation of Subsidies Under the Program.

A. The subsidy may not exceed the enrollee's premium amount.

B. The subsidy shall be applied to the premium balance remaining after application of the Advance Premium Tax Credit.

C. Basis of Calculation.

(1) For enrollees with a greater than 0 percent premium contribution based on the payment parameters set by the Board, the subsidy shall be calculated based on, and applied only to, the portion of premium allocated to essential health benefits.

(2) For enrollees with a 0 percent premium contribution based on the payment parameters set by the Board, the subsidy shall also be applied to nonessential health benefits so that the enrollee's total premium responsibility is equal to $0.

E. For plan years 2026 and 2027, the Board shall set the payment parameters for each plan year of the Program before December 31 preceding the applicable plan year.

.05 Exchange Data Collection, Reporting, and Maintenance.

A. The Exchange shall track data on the Program including:

(1) On a monthly basis, or more frequently as required to appropriately monitor enrollment and spending under the program, the average number of enrollees receiving subsidies under the Program;

(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 enrollees under the Program; and

(3) The impact the Program has on rates in the individual insurance market.

B. Information tracked in §A(1) and (2) of this regulation shall be posted on the website of the Individual Exchange and included in the Annual Report required under Insurance Article, §31– 119(d), Annotated Code of Maryland.

C. The Individual Exchange shall maintain documents and records relating to the Program, whether paper, electronic, or in other media, for each benefit year for at least 10 years.

D. The Individual Exchange shall ensure that the collection of personally identifiable information is limited to information reasonably necessary for use in the calculation of subsidies. Any use and disclosure of personally identifiable information shall be limited to those purposes for which the personally identifiable information was collected, including for purposes of data validation.

E. The Individual Exchange shall maintain standards that provide administrative, physical, and technical safeguards for the personally identifiable information consistent with applicable State and federal standards.

.06 Disbursement of Subsidies.

A. The Individual Exchange shall transmit subsidies directly to the carrier with whom the recipient is enrolled, to be applied to the recipient's premium.

B. A carrier that receives notice from the Individual Exchange that an individual enrolled in the carrier's QHP is eligible for subsidies shall:

(1) Reduce the portion of the premium charged to or for the individual for the applicable month or months by the amount of the subsidy;

(2) Notify the Exchange of the reduction in the portion of the premium charged to the individual in accordance with 45 CFR §156.265(g); and

(3) Include with each billing statement, as applicable, to or for the individual the amount of the subsidy for the applicable month or months, and the remaining premium owed.

C. Failure to timely report effectuations.

(1) The Individual Exchange requires carriers to send 834 effectuation files to the Individual Exchange in a timely manner, and not more than 90 days after receiving an 834 enrollment file for a recipient.

(2) Notwithstanding section A of this regulation, if a carrier sends an 834 effectuation file to the Individual Exchange more than 90 days after the coverage start date on the 834 enrollment file sent by the Individual Exchange to the carrier, the Individual Exchange will transmit subsidies to a carrier for a maximum of three months retroactively, including the month in which the effectuation file is transmitted to the Individual Exchange as one of the three retroactive months.

(3) An individual enrolled in a carrier's QHP shall be held harmless for any portion of premium not transmitted to the carrier under subsection C(2) of this regulation.

D. Refunds.

(1) If a carrier discovers that it did not reduce the portion of the premium charged to or for an enrollee for the applicable month or months by the amount of the subsidy in accordance with §B(1) of this regulation, the carrier shall notify the enrollee of the improper reduction within 45 calendar days of the carrier's discovery of the improper reduction and refund any excess premium paid by or for the enrollee.

(2) Unless a refund is requested by or for the enrollee, the carrier shall, within 45 calendar days of discovery of the error, either apply the excess premium paid by or for the enrollee to the enrollee's portion of the premium or refund the amount directly.

(3) If any excess premium remains after application of premium as described in §C(2) of this regulation:

(a) The carrier shall apply the excess premium to the enrollee's portion of the premium for each subsequent month for the remainder of the period of enrollment or benefit year until the excess is fully applied or refund the remaining amount directly; and

(b) At the end of the period of enrollment or benefit year, the carrier shall refund any excess premium within 45 calendar days of the end of the period of enrollment or benefit year, whichever comes first.

(4) If a refund is requested by or for the enrollee, the refund shall be provided within 45 calendar days of the date of the request.

E. A carrier may not refuse to commence coverage under a policy or terminate coverage on account of any delay of advance payment of a subsidy on behalf of an enrollee if the carrier has been notified by the Exchange that the carrier will receive such advance payment.

F. Carriers shall participate in the payment and reconciliation process established by the Individual Exchange to ensure that appropriate payments are received by the carriers and that excess payments are returned by the carriers to the Individual Exchange.

.07 Document Retention and Audits.

A. Carriers shall maintain documents and records, whether paper, electronic, or in other media, sufficient to substantiate the disbursement of subsidies made pursuant to Regulations .03 and .06 of this chapter for a period of at least 10 years and shall timely make those documents and records available upon request by the Board or its designee to any such entity for purposes of verification, investigation, audit, or other review of subsidy disbursement.

B. Audits.

(1) The Individual Exchange may require a carrier offering subsidies through the program to participate in an audit to assess its compliance with the requirements of this chapter. For any audit under this section, the Individual Exchange shall determine whether the audit shall be conducted by:

(a) The Individual Exchange,

(b) A designee of the Individual Exchange; or

(c) An independent, third-party auditor compensated by the carrier.

(2) Timeliness of audit reports.

(a) If the audit is conducted by an independent, third-party auditor as specified in section B(1)(c) of this regulation, the carrier must obtain the results no later than six months after an audit is requested by the Individual Exchange.

(b) If the audit is conducted by an independent, third-party auditor as specified in section B(1)(c) of this regulation, the carrier shall send the audit report to the Individual Exchange within 15 days of receipt of the audit report by the carrier.

(3) The carrier shall ensure that its relevant contractors, subcontractors, or agents cooperate with any audit under this section. If an audit results in a finding of material weakness or significant deficiency with respect to compliance with any requirement of these regulations, the carrier shall complete all of the following:

(a) Within 30 calendar days of the issuance of the final audit report, provide a written corrective action plan to the Individual Exchange for approval;

(b) Implement the corrective action plan; and

(c) Provide to the Individual Exchange written documentation of the corrective actions once taken.