



Global Commitment Register

December 15, 2022

GCR 22-029 to 22-033

FINAL

Health Benefits Eligibility and Enrollment Rules Update

Policy Summary:

The Agency of Human Services (AHS) has filed the following adopted rules with the Office of the Secretary of State (SOS) and the Legislative Committee on Administrative Rules (LCAR), referenced as Health Benefits Eligibility and Enrollment (HBEE) rules: Updates are made regularly including to implement changes in federal and state law and guidance.

- GCR 22-029: HBEE Part 1 – General Provisions and Definitions
- GCR 22-030: HBEE Part 2 – Eligibility Standards
- GCR 22-031: HBEE Part 3 – Nonfinancial Eligibility Requirements
- GCR 22-032: HBEE Part 5 – Financial Methodologies
- GCR 22-033: HBEE Part 7 – Eligibility-and-Enrollment Procedures

The rules are effective as of January 1, 2023 and will supersede HBEE Parts 1, 5, and 7 that went into effect on October 1, 2021, and Parts 2 and 3 that went into effect on January 15, 2019.

The HBEE establishes eligibility and enrollment requirements for Medicaid/Dr. Dynasaur as well as qualified health plan (QHP) insurance coverage. The adopted rules align HBEE, Parts 1, 2, 3, 5, and 7, with federal and state law and guidance, provide clarification, correct information, improve clarity, and make technical corrections. Substantive revisions include:

- codifying the annual open enrollment period for Qualified Health Plans from November 1 – January 15;
- adding a new income-based special enrollment period for Qualified Health Plans that allows ongoing enrollment for those at or below 200% of the Federal Poverty Level (FPL) (see also [GCR 22-026](#));
- extending the Medicaid postpartum period for pregnant women from 60 days to 12 months;
- adding Compacts of Free Association (COFA) migrants as qualified non-citizens eligible for Medicaid and exempt from the 5-year bar;
- adding a reference to a standardized eligibility tool for Katie Beckett Medicaid;

- expanding Medicaid eligibility for former foster care children to include children aging out of foster care in another state; and
- In response to comment, the rule also addresses the Affordable Care Act’s “family glitch” regarding affordability of employer coverage.

Effective Date:

January 1, 2023

Authority/Legal Basis:

Medicaid: C.F.R., Title 42, Chapter IV, Subchapter C, Part 435

Health Benefits Exchange: C.F.R., Title 45, Subtitle A, Subchapter B, Part 155

Adopting and rulemaking: 3 V.S.A. §§ 801(b) (11), 838, 3052, 3053; 33 V.S.A. §§ 105, 1901

Population Affected:

Medicaid and Qualified Health Plan applicants and enrollees.

Fiscal Impact:

The estimated gross annualized budget impact is \$2,052,700 attributable to the Medicaid program expansions included in the adopted rule.

Public Comment Period:

The public comment period on these rules closed on August 24, 2022. Comments were received on HBEE Part 2 and Part 3 during the public comment period. A general comment was also received on a topic outside the scope of the HBEE rule. No comments were received for HBEE Part 1, 5, and 7. [Comments received](#), and the [responsiveness summary](#) are available here.

HBEE Part 2 and Part 3 were amended in response to comments received from Vermont Legal Aid, Inc. (VLA). The [summary of technical changes](#) is available here.

One change was made in HBEE Part 2 from the final proposed rule:

- HBEE 8.05(k)(6)(i)(A) was revised to change the words “this part” to “8.05(k)(6).”

History of HBEE:

- HBEE (GCR 22-029 to 22-033), final rules, are effective January 1, 2023 and will supersede HBEE Part 1, Part 2, Part 3, Part 5, and Part 7 (GCR 20-001, 18-061, 18-062, 20-002, and 20-004)
- HBEE (GCR 20-001 to 20-005), final rules, became effective October 1, 2021 and superseded HBEE Part 1, Part 5, Part 7, and Part 8 (GCR 18-060, 18-063, 18-064, and 18-126)
- HBEE Part 8 (GCR 18-126), final rule, became effective July 1, 2019 and superseded HBEE Part 8 (17-049)
- HBEE (GCR 18-060 to 064), final rules, became effective January 15, 2019 and superseded HBEE (GCR 17-043 to 048; HBEE Part 6 (GCR 16-099) and Part 8 (GCR 17-049) were not superseded)
- HBEE (GCR 17-043 to 049), final rules, became effective January 1, 2018 and superseded HBEE (GCR 16-094 to 98 and 100 to 101; HBEE Part 6, GCR 16-099, was not superseded)

- HBEE (GCR 16-094 to 101), final rules, became effective January 15, 2017 and superseded HBEE (B16-02F)(HBEE was divided into 8 separate rules)
 - Rulemaking announcements previously made by Department for Children and Families bulletins (which can be viewed at <http://dcf.vermont.gov/esd/laws-rules/proposed-adopted> under “Archived Rules”) now made in Global Commitment Register.
- HBEE (B16-02F), a final rule, became effective August 1, 2016 and superseded HBEE (B16-22E)
- HBEE (B16-22E), an emergency rule, became effective January 11, 2016 and superseded HBEE (B15-02F)
- HBEE (B15-02F), a final rule, became effective July 15, 2015 and superseded HBEE (B14-04F)
- HBEE (B14-04F), a final rule, was effective July 30, 2014 and superseded HBEE Amendment # 3 (B14-02E)
- HBEE Amendment # 3 (B14-02E), an emergency rule, was effective March 31, 2014 and superseded HBEE Amendment # 2 (B13-46E)
- HBEE Amendment # 2 (B13-46E), an emergency rule, was effective January 1, 2014 and superseded HBEE Amendment # 1 (B13-36E)
- HBEE Amendment # 1 (B13-36E), an emergency rule, was effective October 1, 2013 and superseded the original HBEE (B13-12F)
- HBEE (B13-12F), the original final rule, was effective October 1, 2013

Additional Information:

To get more information about the [rulemaking process](#), see the website of the Office of the Secretary of State.

The [HBEE adopted rules](#) that are currently in effect are available here.

To be added to the GCR email list, send an email to AHS.MedicaidPolicy@vermont.gov.