



Global Commitment Register

October 19, 2022

GCR 22-029 to 22-033
FINAL PROPOSED

Health Benefits Eligibility and Enrollment Rules Update

Policy Summary:

The Agency of Human Services (AHS) has filed final proposed rules with the Office of the Secretary of State (SOS) and the Legislative Committee on Administrative Rules (LCAR), to amend Parts 1, 2, 3, 5 and 7 of the Health Benefits Eligibility and Enrollment (HBEE) rules. The HBEE establishes eligibility and enrollment requirements for Medicaid/Dr. Dynasaur as well as Qualified Health Plan (QHP) insurance coverage. Updates are made regularly including to implement changes in federal and state law and guidance. The parts being amended in these final proposed rules are:

- 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

These amendments are necessary to 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:

The rules will go into effect on January 1, 2023, after receiving approval from the Legislative Committee on Administrative Rules (LCAR) and upon submitting the adopted rules with the Office of the Secretary of State.

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 final proposed 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.

Additional Information:

The [HBEE final proposed rules are available here](#), including annotated and non-annotated versions of HBEE Parts 1, 2, 3, 5, and 7. The revisions made since the proposed rule are indicated in red and highlighted in grey in the annotated copy of the final proposed rule for HBEE Part 2 and Part 3.

The Office of the Secretary of State references the proposed rules on its website as follows:

- HBEE Part 1 – Number 22P014
- HBEE Part 2 – Number 22P015
- HBEE Part 3 – Number 22P016
- HBEE Part 5 – Number 22P017
- HBEE Part 7 – Number 22P018

The final proposed rule postings can be viewed electronically on the [Secretary of State’s proposed rules website](#).

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.