



Global Commitment Register

October 25, 2023

GCR 23-082 to 23-088
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, 4, 5, 7 and 8 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 23-082: HBEE Part 1 – General Provisions and Definitions
- GCR 23-083: HBEE Part 2 – Eligibility Standards
- GCR 23-084: HBEE Part 3 – Nonfinancial Eligibility Requirements
- GCR 23-085: HBEE Part 4 – Special Rules for Medicaid Coverage of Long-Term Care Services and Supports – Eligibility and Post-Eligibility
- GCR 23-086: HBEE Part 5 – Financial Methodologies
- GCR 23-087: HBEE Part 7 – Eligibility-and-Enrollment Procedures
- GCR 23-088: HBEE Part 8 – State Fair Hearings and Expedited Eligibility Appeals

These amendments are necessary to align HBEE, Parts 1, 2, 3, 4, 5, 7, and 8, with federal and state law and guidance, provide clarification, correct information, improve clarity, and make technical corrections. Substantive revisions include:

- Implementing 12 months of Medicaid continuous eligibility for children;
- Codifying ineligibility for Qualified Health Plan subsidy if failure to reconcile tax credits for two consecutive years;
- Allowing self-attestation of income for Qualified Health Plan subsidies if no tax information is available through data sources; and
- Codifying two new income and resource exclusions for purposes of Medicaid eligibility for the Aged, Blind, and Disabled (MABD).

Effective Date:

The rules will go into effect on January 1, 2024, 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:

Adopting and rulemaking: 3 V.S.A. §§ 801(b)(11); 33 V.S.A. §§ 1810, 1901(a)(1)

Population Affected:

Medicaid and Qualified Health Plan applicants and enrollees.

Fiscal Impact:

The estimated gross annualized budget impact is \$2,800,000 attributable to the implementation of 12 months of Medicaid continuous eligibility for children included in the final proposed rule.

Public Comment Period:

The public comment period on these rules closed on October 13, 2023. No comments were received.

The following technical changes were made to HBEE Part 2 since the proposed filing:

- Section 7.03(a)(3) was revised to more closely align with the language in federal law, and, in light of recent guidance from the Centers for Medicare and Medicaid Services (CMS), to clarify that the continuous eligibility for children requirement does not apply to children who are eligible for Medicaid through a medically needy coverage group and those that get their eligibility on the basis of Transitional Medical Assistance.
- Section 8.03(d) was revised to clarify that the continuous eligibility for children requirement applies to children who are eligible for Medicaid on the basis of disability or blindness.

Changes are indicated in red and highlighted in grey in the annotated copy of the final proposed rule for HBEE Part 2. No changes were made from the proposed rule in HBEE Part 1, Part 3, Part 4, Part 5, Part 7, and Part 8.

Additional Information:

The [HBEE final proposed rules are available here](#), including annotated and non-annotated versions of HBEE Parts 1, 2, 3, 4, 5, 7, and 8.

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

- HBEE Part 1 – Number 23P024
- HBEE Part 2 – Number 23P025
- HBEE Part 3 – Number 23P026
- HBEE Part 4 – Number 23P027
- HBEE Part 5 – Number 23P028
- HBEE Part 7 – Number 23P029
- HBEE Part 8 – Number 23P030

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.

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