



State of Vermont  
Agency of Human Services  
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# Global Commitment Register

June 27, 2019

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GCR 18-126  
FINAL

## **Health Benefits Eligibility and Enrollment Rules Updates**

### **Policy Summary:**

The Agency of Human Services (AHS) has filed the following adopted rule with the Office of the Secretary of State (SOS), referenced as Health Benefits Eligibility and Enrollment (HBEE) rule:

- GCR 18-126: HBEE Part 8 – State Fair Hearings and Expedited Eligibility Appeals

The rule is effective as of July 1, 2019, and will supersede HBEE Part 8 that went into effect on January 1, 2018.

The HBEE establishes eligibility and enrollment requirements for Medicaid/Dr. Dynasaur, as well as qualified health plan (QHP) insurance coverage. The adopted rule aligns HBEE Part 8 with federal and state law and guidance, provides clarification, corrects information, improves clarity, and make technical corrections. In addition, this part is reformatted to improve the readability of the HBEE rules and to resolve certain document management issues that were in the prior format. Parts 1 – 7 were not amended or included in this rulemaking.

Substantive revisions include a change to Medicaid expedited eligibility appeals. Currently, if an applicant's or enrollee's health might be harmed by waiting on a regular appeal (which can take up to 90 days), the person can have an expedited appeal that is heard by the Department of Vermont Health Access (DVHA). Due to a new federal regulatory requirement, this rule provides that expedited appeals on Medicaid eligibility will follow the Fair Hearing process and be heard by the Human Services Board. This rule also aligns the legal standard for Secretary Reversal with the standard set forth at 3 V.S.A. § 3091(h)(1)(A)(ii), and provides notice of DVHA's informal review process for eligibility appeals.

### **Effective Date:**

July 1, 2019

### **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:**

AHS anticipates a potential impact to the State’s gross annualized budget of \$119,000 to \$134,000 as a result of this change to HBEE Part 8 in the first year, with annualized operating costs going forward of \$43,000 to \$119,000.

**Public Comment Period:**

A public hearing was held on March 12, 2019. The public comment period on this rule closed on March 19, 2019. [Comments received](#) and the [responsiveness summary](#) are available here.

Three changes were made from the proposed rule:

1. HBEE Part 8, Rule 80.05(a)(1)(i)(B)
  - Proposed Rule: The decision or order implicates the validity or applicability of any agency policy or rule.
  - Final Proposed Rule: The decision or order misinterprets or misapplies State or federal policy or rule.
  
2. HBEE Part 8, Rule 80.07(e)(1)(iii)(C)
  - Proposed Rule: Present facts, and
  - Final Proposed Rule: Present oral and written evidence,
  
3. HBEE Part 8, Rule 80.07(c)(5)
  - Proposed Rule: A denial of a request for an expedited eligibility appeal is not a basis for review by the Human Services Board.
  - Final Proposed Rule: A denial of a request for an expedited eligibility appeal is not an independent basis for review by the Human Services Board.

**History of HBEE:**

- HBEE Part 8 (GCR 18-126), final rule, is effective July 1, 2019 and will supersede 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](#).

[HBEE adopted rules](#) are available at this link.