

900 KAR 10:111. Definitions for 900 KAR Chapter 10.

RELATES TO: KRS 13B.010, 13B.130, 194A.005(1), 210.370-210.480, 304.1-050(2), 304.1-110(1), 304.9-020(1), (5), 304.9-040, 304.14-030, 304.17A-005, 304.17A-500(9), 304.17C-010(4), 8 U.S.C. 1101(a)(3), 25 U.S.C. 1603(13), 36B, 151, 5000A, 42 U.S.C. 300gg-15, 300gg-91, 301, 9902(2), 18021, 18022, 18031, 18042, 18054, 18082, 26 C.F.R. 1.36B-1(e), 54.4980B-1, 54.9801-2, 42 C.F.R. Parts 430-456, 435.603(e), 457.10, 45 C.F.R. 144.103, 152.2, 155.20, 155.105, 155.205, 155.210, 155.225, 155.300, 155.310(g), 155.330, 155.335, 155.410, 155.420, 155.430, 155.710, 155.715, 155.1065, 156.140(c), 156.155, 156.200-156.295

STATUTORY AUTHORITY: KRS 194A.050(1)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Office of Health Data and Analytics, Division of Health Benefit Exchange has responsibility to administer the Kentucky Health Benefit Exchange. KRS 194A.050(1) requires the secretary of the cabinet to promulgate administrative regulations necessary to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the commonwealth; to operate the programs and fulfill the responsibilities vested in the cabinet; and to implement programs mandated by federal law. This administrative regulation establishes the definitions for 900 KAR Chapter 10.

Section 1. Definitions.

- (1) "Actuarial value" means the percentage of the total allowed costs of benefits paid by a health plan.
- (2) "Advance payments of the premium tax credit" or "APTC" means payment of the tax credits that are:
 - (a) Authorized by 26 U.S.C. 36B and its implementing regulations; and
 - (b) Provided on an advance basis to an eligible individual enrolled in a qualified health plan through an exchange in accordance with 42 U.S.C. 18082.
- (3) "Adverse witness" means a person who gives unfavorable evidence against the party that called him or her as its witness.
- (4) "Agent" is defined by KRS 304.9-020(1).
- (5) "Annual open enrollment period" is defined by 45 C.F.R. 155.410(e).
- (6) "Appeal record" means the official record of hearing as established by KRS 13B.130(1) through (10).
- (7) "Appeal request" means a clear expression, either orally or in writing, by an applicant or enrollee to have an eligibility determination or redetermination contained in a notice issued in accordance with 45 C.F.R. 155.310(g) or 45 C.F.R. 155.330(e)(1)(ii).
- (8) "Appellant" means the applicant or enrollee who is requesting an appeal.
- (9) "Applicant" is defined by 45 C.F.R. 155.20.
- (10) "Application filer" is defined by 45 C.F.R. 155.20.
- (11) "Benefit year" means a calendar year for which a health plan provides coverage for health benefits.
- (12) "Business entity" is defined by KRS 304.9-020(5).
- (13) "Cabinet for Health and Family Services" or "CHFS" is defined by KRS 194A.005(1).
- (14) "Cancellation" is defined by 45 C.F.R. 155.430(e)(2).
- (15) "Catastrophic plan" means a health plan that meets the conditions of 45 C.F.R. 156.155.
- (16) "Certificate of authority" is defined by KRS 304.1-110(1).
- (17) "Certification" means a determination made on the KHBE by the division that a health plan or a stand-alone dental plan has met the requirements in 900 KAR 10:115.

- (18) "Certified application counselor" or "CAC" means an individual employed by, or volunteer of, an entity designated by the division to perform the functions described in 45 C.F.R. 155.225.
- (19) "Child-only plan" means an individual health policy that provides coverage to an individual under twenty-one (21) years of age and meets the requirements of 45 C.F.R. 156.200(c)(2).
- (20) "Children's Health Insurance Program" or "CHIP" is defined by 42 C.F.R. 457.10.
- (21) "COBRA" is defined by 26 C.F.R. 54.4980B-1.
- (22) "Consultant" is defined by KRS 304.9-040.
- (23) "Consumer operated and oriented plan" or "CO-OP" means a private, non-profit health insurance issuer that:
- (a) Is established by 42 U.S.C. 18042; and
 - (b) Has a certificate of authority.
- (24) "Cost sharing" is defined by 45 C.F.R. 155.20.
- (25) "Cost sharing reduction" or "CSR" means a reduction in cost sharing for an eligible individual enrolled in a silver level plan in the KHBE or for an individual who is an Indian enrolled in a qualified health plan in the KHBE.
- (26) "DAH" means the Division of Administrative Hearings of the Cabinet for Health and Family Services.
- (27) "Date of notice" means the date on the notice plus five (5) calendar days.
- (28) "Dental insurer" or "stand-alone dental plan issuer" means an insurer as defined by KRS 304.17C-010(4) that offers a limited health service benefit plan for dental services.
- (29) "Department of Health and Human Services" or "HHS" means the U.S. Department of Health and Human Services.
- (30) "Department of Insurance" or "DOI" means the department defined by KRS 304.1-050(2).
- (31) "Dependent" is defined by 26 C.F.R. 54.9801-2.
- (32) "Desk Review" means an administrative review of:
- (a) Information submitted as part of the application process;
 - (b) Any supporting documentation used to determine or redetermine an appellant's eligibility; and
 - (c) Any additional information submitted for consideration as part of the appeal request.
- (33) "Division of Health Benefit Exchange" or "division" means the division created to administer the KHBE.
- (34) "Employee" is defined by 42 U.S.C. 300gg-91(d)(5).
- (35) "Employer" is defined by 42 U.S.C. 300gg-91(d)(6).
- (36) "Enrollee" means an eligible individual enrolled in a qualified health plan or qualified stand-alone dental plan.
- (37) "Essential community provider" means either a:
- (a) Provider determined and approved by HHS as an essential community provider for the Commonwealth of Kentucky; or
 - (b) Regional community services program for mental health or individuals with an intellectual disability established pursuant to KRS 210.370 through KRS 210.480, operating in Kentucky, and licensed pursuant to 902 KAR 20:091.
- (38) "Essential community provider category" means a provider as established in 45 C.F.R. 156.235(a)(2)(ii)(B).
- (39) "Essential health benefits" means benefits as identified by 42 U.S.C. 18022 and approved by the Secretary of HHS for the Commonwealth of Kentucky.
- (40) "Exemption" means an exemption from the shared responsibility payment.
- (41) "Family size" means the number of individuals in a family for whom a taxpayer properly claims a deduction for a personal exemption under 26 U.S.C. 151 for the taxable

year.

(42) "Federal poverty level" or "FPL" means the most recently published federal poverty level, updated periodically in the Federal Register by the Secretary of Health and Human Services under the authority of 42 U.S.C. 9902(2), as of the first day of the annual open enrollment period for coverage in a qualified health plan through the Kentucky Health Benefit Exchange.

(43) "Final order" is defined by KRS 13B.010(6).

(44) "Formal review request" means a clear expression, either orally or in writing, by a small business employer to have any eligibility determination or redetermination contained in a notice issued in accordance with 45 C.F.R. 155.310(g), 45 C.F.R. 155.330(e)(1)(ii), 45 C.F.R. 155.335(h)(1)(ii), or 45 C.F.R. 155.715(e) or (f).

(45) "Full-time employee" is defined by 45 C.F.R. 155.20.

(46) "Group participation rate" means the minimum percentage of all eligible individuals or employees of an employer that is required to be enrolled

(47) "Health plan" is defined by 42 U.S.C. 18021(b)(1).

(48) "Health plan form" or "form" means an application, policy, certificate, contract, rider, endorsement, provider agreement, or risk sharing arrangement filed in accordance with 806 KAR 14:007 and 806 KAR 17:300.

(49) "Health Reimbursement Arrangement" or "HRA" means a plan funded solely by employer contributions that reimburses employees for medical care and other qualified expenses, incurred by the employee, or his spouse, dependents, and any children who, as of the end of the taxable year, have not attained age 27, up to a maximum amount for a coverage period.

(50) "Hearing" is defined by KRS 13B.010(2).

(51) "Hearing officer" means a hearing officer employed by DAH.

(52) "Household income" is defined by 26 C.F.R. 1.36B-1(e).

(53) "Indian" is defined by 25 U.S.C. 1603(13).

(54) "Individual exchange" means the Kentucky Health Benefit Exchange that serves the individual health insurance market.

(55) "Individual market" is defined by KRS 304.17A-005(28).

(56) "Insurance affordability program" means one (1) of the following:

(a) A state Medicaid program under title XIX of the Social Security Act, 42 U.S.C. 301 et seq.;

(b) A state children's health insurance program (CHIP) under title XXI of the Social Security Act, 42 U.S.C. 301 et seq.;

(c) A program that makes coverage in a qualified health plan through the exchange with advance payments of the premium tax credit available to qualified individuals; or

(d) A program that makes coverage in a qualified health plan through the exchange with CSRs available to qualified individuals.

(57) "Issuer" is defined by 45 C.F.R. 144.103.

(58) "Issuer application assister" means an employee, contractor, or agent of a QHP issuer who is not licensed as an agent, broker, or producer under state law and who assists individuals in the individual market with applying for a determination or redetermination of eligibility for coverage through the KHBE or for insurance affordability programs.

(59) "Judicial review" means a court's review of factual or legal findings of an administrative body.

(60) "Kentucky Children's Health Insurance Program" or "KCHIP" means the separate child health program established by the commonwealth of Kentucky to administer CHIP.

(61) "Kentucky Health Benefit Exchange" or "KHBE" or "Exchange" means the Kentucky state-based exchange approved by HHS pursuant to 45 C.F.R. 155.105 to offer a QHP or SADP that utilizes the state provided information technology infrastructure

known as kynect to provide for eligibility determinations and consumer enrollment in qualified health plans and stand-alone dental plans and that includes:

- (a) An individual exchange; and
 - (b) SHOP.
- (62) "Kentucky online gateway" or "KOG" means the system for identity authentication services used by the division to register a kynector or agent.
- (63) "kynector" means a CAC or navigator.
- (64) "Lawfully present" is defined by 45 C.F.R. 152.2.
- (65) "MAGI-based income" is defined by 42 C.F.R. 435.603(e).
- (66) "Managed care plan" is defined by KRS 304.17A-500(9).
- (67) "Medicaid" means the program established pursuant to 42 C.F.R. parts 430 through 456.
- (68) "Metal level of coverage" means health care coverage provided within the variation established in 45 C.F.R. 156.140(c) of the full actuarial value as follows:
- (a) Bronze level with an actuarial value of sixty (60) percent;
 - (b) Silver level with an actuarial value of seventy (70) percent;
 - (c) Gold level with an actuarial value of eighty (80) percent; and
 - (d) Platinum level with an actuarial value of ninety (90) percent.
- (69) "Minimum essential coverage" or "MEC" is defined by 26 U.S.C. 5000A(f).
- (70) "Multi-state plan" means a health plan that is offered under a contract with the U.S. Office of Personnel Management in accordance with 42 U.S.C. 18054.
- (71) "Navigator" means an entity that is selected by the division and shall comply with the requirements of 42 U.S.C. 18031(i), 45 C.F.R. 155.205(d)-(e), and 45 C.F.R. 155.210.
- (72) "Non-citizen" means "alien" as defined by 8 U.S.C. 1101(a)(3).
- (73) "Organization" means an entity as follows:
- (a) Community health center;
 - (b) Hospital;
 - (c) Health care provider;
 - (d) Indian health service provider;
 - (e) Ryan White HIV/AIDS provider;
 - (f) Behavioral or mental health provider; or
 - (g) An agency with experience providing social services, nutrition assistance, energy assistance, legal services, or tax assistance that is a:
 - 1. Non-federal government entity;
 - 2. 501(c) organization; or
 - 3. Local government agency.
- (74) "Participating agent" means an agent who has been registered with the division on KHBE through KOG.
- (75) "Participation agreement" means an agreement between the division and the issuer to offer a QHP or stand-alone dental plan on the KHBE.
- (76) "Pediatric dental essential health benefit" means the pediatric dental services required by 42 U.S.C. 18022(b)(1)(J) and provided to an individual under the age of twenty-one (21) years.
- (77) "Personal exemption deduction" means an amount that can be deducted from taxable income based on the exemption given to any tax filer who cannot be claimed as a dependent by another tax filer.
- (78) "Personally identifiable information" means any data about an individual that could potentially identify that individual.
- (79) "Plan management data template" means the data collection templates that are:
- (a) Used to facilitate data submission through SERFF for certification of qualified health plan issuers, qualified health plans, qualified stand-alone dental plan issuers, and

qualified stand-alone dental plans as established in CMS Form Number CMS-10433, as amended; and

(b) Located at <https://www.qhpcertification.cms.gov/s/QHP>.

(80) "Plan year" means a consecutive twelve (12) month period during which a health plan provides coverage for health benefits.

(81) "Premium" is defined by KRS 304.14-030.

(82) "Provider network" is defined by KRS 304.17A-005(38).

(83) "Qualified employer" means an employer that elects to make, at a minimum, all full-time employees of the employer eligible for one (1) or more QHPs or SADPs in the small group market offered through the SHOP.

(84) "Qualified health plan" or "QHP" means a health plan that meets the standards established in 45 C.F.R. 156 Subpart C, 156.200-156.295, and that has in effect a certification issued by the division on the KHBE.

(85) "Qualified individual" means an individual who has been determined eligible to enroll through the KHBE in a QHP or SADP in the individual market.

(86) "Qualified small employer health reimbursement arrangement" or "QSEHRA" means an HRA for use by small employers.

(87) "Qualifying coverage in an eligible employer-sponsored plan" means coverage in an eligible employer-sponsored plan that meets the affordability and minimum value standards established by 26 U.S.C. 36B(c)(2)(C).

(88) "Qualifying event" means an event that triggers a SEP for an individual to enroll in health insurance coverage.

(89) "Recommended order" is defined by KRS 13B.010(5).

(90) "Service area" means a geographical area in which an issuer may offer a QHP.

(91) "Shared responsibility payment" means a penalty imposed for failing to meet the requirement to maintain minimum essential coverage in accordance with 26 U.S.C. 5000A.

(92) "SHOP" means a Small Business Health Options Program operated by the Kentucky Health Benefit Exchange through which small employers that meet the standards established in 45 C.F.R. 155.710 may obtain an eligibility determination from KHBE that allows the small employer to purchase one (1) or more QHPs or SADPs that have been certified by KHBE through either:

(a) A participating agent; or

(b) An issuer offering QHPs or SADPs on the KHBE.

(93) "Silver level" is defined by 42 U.S.C. 18022(d)(1)(B).

(94) "Small employer" is defined by KRS 304.17A-005(44).

(95) "Small group" is defined by KRS 304.17A-005(45).

(96) "Special enrollment period" or "SEP" means a period, as described in 45 C.F.R. 155.420, during which a qualified individual or enrollee who experiences certain qualifying events may enroll in, or change enrollment in, a QHP through the KHBE outside the annual open enrollment period.

(97) "Stand-alone dental plan" or "SADP" means a dental plan as established by 45 C.F.R. 155.1065 that has been certified by the division on the KHBE to provide dental benefits, including a pediatric dental essential health benefit.

(98) "Summary of Benefits and Coverage" or "SBC" means a standard format, created in accordance with 42 U.S.C. 300gg-15, for providing information to consumers about a health plan's coverage and benefits.

(99) "System for Electronic Rate and Form Filing" or "SERFF" means an online system established and maintained by the National Association of Insurance Commissioners (NAIC) that enables an issuer to send and a state to receive, comment on, and approve or reject rate and form filings.

(100) "Tax filer" is defined by 45 C.F.R. 155.300.

- (101) "Termination" is defined by 45 C.F.R. 155.430(e)(1).
 - (102) "Training" means the training established by the division for agents and kynectors.
 - (103) "Vacate" means to set aside a previous action.
- (47 Ky.R. 2194; eff. 7-21-2021.)