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### MEMORANDUM

**To:** Sen. Mark A. MacDonald, Chair, Legislative Committee on Administrative Rules  
Jim Condos, Secretary of State, Vermont Secretary of State Office  
Anthea Dexter-Cooper, Legislative Counsel, Office of Legislative Counsel, Vermont General Assembly

**From:** Adaline Strumolo, Deputy Commissioner, Department of Vermont Health Access

**Cc:** Todd Daloz, Deputy Secretary, Agency of Human Services  
Charlene Dindo, Committee Assistant, Legislative Committee on Administrative Rules  
Louise Corliss, APA Coordinator, Secretary of State's Office

**Date:** November 14, 2022

**Re:** Agency of Human Services Final Proposed Rule Filing – Summary of Proposed Changes to Health Benefits Eligibility and Enrollment Rule

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The proposed changes to the Health Benefits Eligibility and Enrollment (HBEE) Rule at Parts 1, 2, 3, 5, and 7 are described below.

#### **22P014 HBEE Part One – General Provisions and Definitions**

- 3.00 – revises the definition of pregnant woman to address the 4/1/2023 effective date of the post partum period expansion (from 60 days to 12 months) as reflected in Part 2 at 7.03(a)(2)

#### **22P015 HBEE Part Two – Eligibility Standards**

- 7.03(a)(2) – revises the description of the pregnant woman coverage group to address the post partum period expansion from 60 days to 12 months
- 8.05(d) – revises footnotes under the Medicaid for Working People with Disabilities (MWPDP) coverage group to cross-reference to corresponding state statute
- 8.05(h)(1)(ii) – improves clarity on Medicaid eligibility requirements for individuals eligible under the Pickle amendment
- 8.05(k)(6) – improves clarity on Medicaid eligibility requirements for individuals eligible under the Disabled Child Home Care (DCHC; also called Katie Becket) coverage group and adds a reference to a standardized tool for determining institutional level of care eligibility

- 9.03(e) – consistent with federal changes, expands Medicaid eligibility for individuals eligible under the former foster care child coverage group to include children aging out of foster care in another state on or after 1/1/23

### **22P016 HBEE Part Three – Nonfinancial Eligibility Requirements**

- 17.01(d)(8) – improves clarity in referencing a federal statute
- 17.01(g)(9) – deletes redundant text
- 17.01(d)(10) and 17.03(b)(11) – consistent with federal changes, adds Compacts of Free Association (COFA) migrants as qualified non-citizens eligible for Medicaid and exempt from the 5-year bar
- 21.04(a) – to align with federal regulation, adds foster homes to the definition of institution for purposes of state placements
- 21.04(b) – corrects auto-numbering error
- 21.07 – corrects typographical error
- 23.02 – in response to comment, and to align with IRS regulations, adds text to address the Affordable Care Act’s (ACA) “family glitch” regarding affordability of employer coverage

### **22P017 HBEE Part Five – Financial Methodologies**

- 29.08(c)(3) – improves clarity by adding “if already paid”
- 29.08(d)(1)(ii) – corrects error by changing text from “(A) and (E)” to “(A) through (E)”
- 29.08(i)(9)(xxiv) – to align with federal requirements, adds Achieving a Better Life Experience (ABLE) accounts to list of excluded resources under federal law for Medicaid eligibility purposes
- 29.08(i)(13) – to improve clarity and align with federal regulation, adds fully-paid burial spaces to list of excluded resources for Medicaid eligibility purposes

### **22P018 HBEE Part Seven – Eligibility and Enrollment Procedures**

- 55.02(d) – consistent with federal changes, adds flexibility around Qualified Health Plan (QHP) eligibility requirements for verification of access to affordable employer sponsored coverage (option to use sampling program)
- 67.01(b) – deletes redundant text
- 70.01(b)(1)(ii) – improves clarity by adding “as evidenced by the receipt of Medicaid services, at any time during the retroactive period, of a type covered under the state’s Medicaid State plan”

- 71.01(e) – adds flexibility around notifying employers of employee eligibility for Advance payment of the premium tax credit (APTC)
- 71.02(e), (f) – consistent with federal changes, codifies the annual open enrollment period for Qualified Health Plans (QHP) from November 1 - January 15 (open enrollment previously ended 12/15)
- 71.03 (d)(17) – consistent with federal changes, adds a new income-based special enrollment period for Qualified Health Plans (QHP) that allows ongoing enrollment for those at or below 200% of the Federal Poverty Level (FPL)