

# State Premium Assistance Policy – *DRAFT*

*As of 10/4/21*

## Section 1. State Premium Assistance Program

The 2021 Washington State Legislature enacted Engrossed Second Substitute Senate Bill 5377 which, among other provisions, directed the Exchange to establish a state premium assistance program for Washington residents. The Legislature included in Engrossed Substitute Senate Bill 5092 (Operating Budget)<sup>1</sup>, \$50 Million in state funding for the Exchange to implement the premium assistance program for plan year 2023, for individuals with income up to 250 percent of the federal poverty level.

The Legislature directed the Exchange to establish, consistent with the 2021 Operating Budget<sup>2</sup>:

1. Procedural requirements for eligibility and continued participation in any premium assistance program, including participant documentation requirements that are necessary to administer the program;
2. Procedural requirements for facilitating payments to health issuers;
3. Eligibility criteria, in addition to eligibility requirements established by RCW 43.71.110 and the Operating Budget; and
4. A process for an individual to appeal a premium assistance eligibility determination.

The requirements set forth in this Policy are established pursuant to and consistent with RCW 43.71.110 and the 2021 Operating Budget and govern the Exchange's implementation and administration of the Program.

## Section 2. Policy Effective Dates

This Policy, governing the administration of the State Premium Assistance Program, is effective for plan year 2023.

## Section 3. Definitions

The definitions in this section apply throughout this Policy unless the context clearly requires otherwise.

1. "Cascade Plan" means any standardized qualified health plan (QHP) developed pursuant to RCW 43.71.095, sold on *Washington Healthplanfinder*, and marketed as either a Cascade or Cascade Select plan.
2. "Eligible Enrollee" means any individual that meets all premium assistance eligibility requirements established in section 4 of this policy.

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<sup>1</sup> Engrossed Substitute Senate Bill 5092, Sec. 214(11)

<sup>2</sup> RCW 43.71.110

3. "Eligible Household" means a tax-filing household consisting of one or more individuals, all of whom are eligible enrollees.
4. "Exchange" means the Washington health benefit exchange established in RCW 43.71.020.
5. "Enrollment group" means a group of individuals enrolled in the same qualified health plan within the same insurance policy.
6. "Income" has the same meaning as "household income" as defined in 26 U.S.C. § 36B(d)(2).
7. "Operating Budget" means Engrossed Substitute Senate Bill 5092, passed by the Washington State legislature and signed by the Governor during the 2021 State Legislative Session.
8. "Policy" means the State Premium Assistance Program requirements and guidance set forth in this document.
9. "Premium assistance eligible plan" means a:
  - o Silver or Gold Cascade plan; or
  - o For American Indian and Alaska Natives eligible for a zero-dollar cost-sharing plan under 42 U.S.C. §18071(d)(1), any QHP.
10. "Presiding Officer" means an impartial person who is not involved in original eligibility decisions and who is appointed by the Washington health Benefit Exchange (Exchange) to conduct appeal proceedings for state premium assistance.
11. "State Premium Assistance Program" or "Program" means the premium assistance program established in RCW 43.71.110.
12. "Qualified Health Plan" or "QHP" means a health plan that is certified by an exchange. To be certified in Washington, a health plan must be approved by OIC, satisfy the certification criteria specified in RCW 43.71.065, satisfy the minimum federal requirements of a QHP as outlined in 45 CFR parts §155 and §156, and be certified by the Exchange Board.

#### Section 4. Eligibility

1. *Program Eligibility.* As required by RCW 43.71.110(4), consistent with the Operating Budget, and subject to Section 11(2) of this policy, an individual is an eligible enrollee if the individual:
  - a. Is a resident of Washington State;
  - b. Is QHP eligible;
  - c. Has an income at or below 250% of the Federal Poverty Level;
  - d. Enrolls in a premium assistance eligible plan;
  - e. Applies for and accepts all federal premium tax credits for which the individual's household is eligible, including consenting to the Exchange to verify the individual's household federal tax information upon QHP renewal;

- f. Is ineligible for minimum essential coverage through a federal or state medical assistance program, including Washington Apple Health and health coverage programs for Compact of Free Association (COFA) Islanders;
  - g. Is not enrolled in minimum essential coverage through Medicare.
- 2. *Multiple-Enrollment Eligibility.* For households with individuals in multiple enrollment groups, only those eligible individuals enrolled in a premium assistance eligible plan within the household will be eligible for state premium assistance.
- 3. *Insurance Affordability Programs.* To be eligible for state premium assistance, individuals must receive an eligibility determination for insurance affordability programs, including for:
  - a. Washington Apple Health
  - b. Advanced Premium Tax Credits
  - c. Cost-sharing Reduction Subsidies
- 4. *Conditional Eligibility Verification.* The Exchange will verify data matching inconsistencies with existing Conditional Eligibility Verification processes. An individual may be requested to provide documents that verify application information not able to be confirmed via available electronic sources for:
  - a. Citizenship/lawful presence status
  - b. Incarceration
  - c. Residency
  - d. Eligibility for other MEC through a federal or state medical assistance program (Medicare, Washington Apple Health, health coverage programs for COFA Islanders)
  - e. Income
  - f. Tribal status
- 5. *Duration of Eligibility.* An eligible enrollee will remain eligible for the Program for the remainder of the plan year, until coverage is otherwise terminated, or until an eligible enrollee reports a change that no longer makes the individual eligible for the Program pursuant to the requirements of this section.
- 6. *Change Reporting.* Eligible enrollees are required to report changes in circumstances to their application, in accordance with federal guidelines.
- 7. *Program Disqualification.* Pursuant to RCW 43.71.110(5), an eligible enrollee may be disqualified from the Program by the Exchange if the eligible enrollee:
  - a. No longer meets the eligibility criteria established in subsection 1 of this section.

- b. Fails, without good cause, to comply with procedural or documentation requirements established by the Exchange, including requirements for timely notification of changes impacting eligibility;
  - c. Voluntarily withdraws from the Program; or
  - d. Performs an act, practice, or omission that constitutes fraud, and, as a result, an issuer rescinds the individual's policy for the QHP.
8. *Income.* Income, for purposes of determining eligibility for the Premium Assistance program under subsection 1 of this section, shall be determined at the tax-filing household level.

## Section 5. Premium Assistance Amount

1. *Calculation of premium assistance amounts.* Annual state premium assistance amounts for eligible households will be calculated as follows, subject to alterations pursuant to Section 11(3) of this policy:
  - a. A base fixed-dollar premium assistance amount will be calculated annually based on an actuarial analysis of annual program funding, the projected eligible enrollee population for that plan year, and qualified health plan rates.
  - b. A household premium assistance amount will then be calculated by multiplying the base fixed-dollar assistance amount by the number of eligible enrollees in the eligible household, not to exceed the number of applicants aged 21 or up plus up to three dependents under the age of 21.
  - a. An eligible household's household premium assistance amount calculated pursuant to subsection 1 of this section will be reduced so as not to exceed the lesser of:
    - i. The household's net premiums after first applying all advance premium tax credits for which the household is eligible; or
    - ii. The net premium all eligible enrollees in the household would pay if each eligible enrollee in the household were enrolled in the lowest cost standard silver plan in the household's county of residence.
  - b. If there are multiple enrollment groups within an eligible household, the household's premium assistance amount will be allocated across the enrollment groups.
2. *Coverage for non-EHB premiums.* The household premium assistance amount may cover portions of the household's premiums that are not attributable to essential health benefits.
3. *Application of advance premium tax credits.* If determined eligible for advance premium tax credits (APTCs), any APTCs for which an eligible household is eligible must be applied

to the household's premiums before application of any state premium assistance amounts.

4. *Opt-out.* Eligible enrollees who are awarded state premium assistance pursuant to this section may contact the Exchange call center to disenroll from the state premium assistance program.

## Section 6. Notice and Appeals Rights

1. Individuals apply for state premium assistance with the same application form used to apply for Washington Apple Health, Qualified Health Plan coverage, and Advanced Payments of the Premium Tax Credit (APTC). Only if an applicant is determined eligible for Qualified Health Plan coverage will there be a decision about eligibility for state premium assistance. Applicants may appeal the following state premium assistance eligibility decisions made by the Exchange to a Presiding Officer:
  - a. Not eligible for state premium assistance.
  - b. Eligible for state premium assistance, but the amount is wrong.
2. Appeals of eligibility for state premium assistance shall follow the Procedural Rules for Washington Health Benefit Exchange Appeals.
3. Appellants shall continue to receive state premium assistance during the appeal.

### *Procedural Requirements.*

4. The Exchange provides written notice of an applicant's right to appeal after an eligibility determination is made. Generally, an applicant must request an appeal within 90 days of the date on the notice of eligibility determination.
5. The Exchange is committed to supporting applicants through the appeals process. In furtherance of this goal, the Exchange shall:
  - a. *Assistance provided.* Upon applicant request, assist the applicant in making the appeal request.
  - b. *Informal resolution.* Provide the appellant with an opportunity to resolve the appeal through an informal resolution process to determine whether the appellant's request can be granted without proceeding to a hearing.
  - c. *Expedited appeal.* Provide an expedited appeal process when the appellant can show an immediate need for health services because the regular appeal process could jeopardize the appellant's life or health, or ability to attain, maintain, or regain maximum function.
  - d. *Upon receiving an appeal request.* Provide the appellant with the following:
    - i. Written notice the appeal has been received.

- ii. A schedule for the appeals process, including notice of the date and time of the prehearing conference and the hearing, if a hearing is necessary.
- iii. Information about requesting written translations and an interpreter, identifying the appellant's primary language, and how to request disability accommodations.
  - 1. An opportunity to review the appeal record, including all documents and records to be used by the Exchange at the hearing, at a reasonable time before the hearing, and at the hearing.
- e. *Invalid appeal.* Upon receiving an invalid appeal request because it fails to meet requirements of the Procedural Rules, send written notice to the appellant that the appeal request has not been accepted; and treat as valid an amended appeal request that meets the requirements of the Procedural Rules.
- f. *Scheduling hearing.* When a hearing is scheduled, send written notice to the appellant no later than 15 calendar days prior to the hearing date. The written notice shall include the date, time, and manner of conducting the hearing, the results of an appellant failing to attend or participate in a hearing, and that if an appellant or witness is limited English proficient or hearing impaired, a qualified interpreter will be appointed at no cost to the appellant or witness. The notice must include a form for a party to indicate the need for an interpreter and to identify the primary language.
- g. *Appeal decision.* The Presiding Officer must issue a written appeal decision to the appellant within 90 days of the date the Exchange received the appeal request, except in the case of an expedited appeal, which must be issued no later than 14 days after the Exchange receives the request for expedited appeal.
  - i. If an appellant disagrees with the appeal decision of the Presiding Officer, they may request a second-level appeal of the state premium assistance decision to the Exchange.

## Section 7. Exchange Responsibility As Administrator of State Premium Assistance Program

1. *Data Transmission.* The Exchange will transmit state premium assistance amounts to issuers through the Health Insurance Exchange (HIX) 820 format on a monthly basis for the duration of the premium assistance program.
2. *Payments.* The Exchange will make monthly payments to issuers on behalf of the state, for state premium assistance amounts awarded to eligible households enrolled in QHP coverage with that issuer.

- a. Monthly payments will be made in the aggregate for all premium assistance amounts awarded to all eligible households receiving state premium assistance enrolled in QHP coverage with that issuer.
- b. Monthly payments will include amounts owed to the issuer for the previous month net of any recoupments or discrepancies resulting from over- or under-payments from prior months of the plan year.

## Section 8. Issuer Responsibility - Premium Assistance Payments

1. *Data Transmission.* Pursuant to RCW 48.43.795, issuers offering QHPs on the Exchange must accept and process enrollment and payment data transferred by the Exchange as part of the Program.
2. *Payments.* Pursuant to RCW 48.43.795, issuers offering QHPs on the Exchange must accept payments for enrollee premiums as a condition of certification as a QHP offered on the Exchange.
3. *Plan Confirmation and Effectuation.* Issuers offering QHPs on the Exchange must comply with all requirements in the *2023 Guidance for Participation of Health Plans in the Washington Health Benefit Exchange* for confirming enrollments and effectuating coverage for eligible enrollees, including in the circumstance of an eligible enrollee or household with a zero-dollar monthly enrollee responsibility.
4. *Compliance with Exchange Premium Sponsorship Program Policy.* The Exchange is administering state premium assistance on behalf of Washington State. Issuers shall comply with all issuer requirements and responsibilities included in the *WAHBE Premium Sponsorship Program Policy*, including requirements related to premium refunds and Medical Loss Ratio (MLR) rebates. For purposes of issuers distributing MLR rebates on behalf of enrollees receiving state premium assistance, the pro rata portion of the MLR rebate based on the state premium assistance paid towards the enrollee's premium, shall be distributed directly to the Exchange, on behalf of Washington State.

## Section 9. Special Enrollment Period – Newly Eligible/Ineligible for State Premium Assistance

1. *Special Enrollment Period.* Pursuant to the Exchange's Exception Circumstances Special Enrollment Period (SEP) Policy and federal regulations (45 CFR § 155.420(d)(9)), an individual who becomes newly eligible or ineligible for state premium assistance will be granted an exceptional circumstances SEP.
  - a. To be granted a SEP under this section, an individual must be a Washington state resident, meet all QHP eligibility requirements, have an income at or below 250% of the federal poverty level, and have experienced a change in circumstances

within the last 60 days making them newly eligible or ineligible for state premium assistance pursuant to section 4 of this policy.

- b. An individual granted a SEP under this section may switch issuers.
2. *Newly Eligible.* The Exchange will open a SEP for an individual who becomes newly eligible for state premium assistance due to a change in circumstances or for being selected to receive premium assistance from the waitlist established pursuant to section 11 of this policy.
    - a. An individual granted a SEP under this subsection who is not currently enrolled in QHP coverage may newly enroll in QHP coverage, so long as the individual meets all eligibility requirements to become an eligible enrollee.
    - b. An individual granted a SEP under this subsection who is currently enrolled in QHP coverage may switch their health plan, so long as the individual enrolls in a Cascade or Cascade Select Silver or Gold plan.
  3. *Newly Ineligible.* The Exchange will open a SEP for an individual who is currently receiving state premium assistance and becomes newly ineligible for state premium assistance due to a change in circumstances.
    - a. An individual granted a SEP under this subsection who is currently enrolled in QHP coverage may switch their health plan.
  4. *Effective date.* For a QHP selection by an individual under a special enrollment period under this section, the Exchange will ensure a coverage effective date of the first day of the following month.

## Section 10. Premium Assistance Audit

1. The Exchange will annually contract with an independent CPA firm selected through a competitive procurement process to audit the financial statements of the Program.
2. The Exchange will distribute findings of the Program audit to the Exchange's Audit and Compliance Committee, the Exchange Board, organizations to whom the Exchange is required to submit a copy, and the legislature.

## Section 11. Contingency for Low Funds

1. *Tracking Available Fund.* Beginning in January of 2023 and monthly thereafter, the Exchange will track total expected State Premium Assistance Program cost based on updated Program enrollment and projected premium assistance distribution for the remainder of the year. If, based on these projections, the Exchange determines that the Program enrollment level and projected premium assistance distribution would exceed the total amount of funds appropriated for the Program in the Operating Budget, newly

eligible households not already receiving state premium assistance will not receive state premium assistance.

2. *Impact to Premium Assistance Eligibility.* Individuals and households who would otherwise be eligible for state premium assistance pursuant to Section 4 of this policy but for low available Program funds may be determined ineligible for state premium assistance by the Exchange in the event of low program funds if necessary for the Exchange to ensure the viability of the State Premium Assistance Program within the availability of amounts appropriated for the Program during that plan year.
  - a. The Exchange may only adjust eligibility determinations under Section 4 pursuant to this subsection if enrollments in the Program jeopardize the ability of the Exchange to operate the program within the available state funding appropriated for the Program.
  
3. *Impact to Premium Assistance Recipients.* If it is determined at any time, based on projected premium assistance distribution through the Program, that premium assistance distribution would be below the total amount of funds appropriated for the Program, the monthly amount of premium assistance any eligible household or eligible enrollee is currently receiving through the Program may be adjusted to increase recipients' state premium assistance amounts to best utilize existing appropriations.
  - a. If any premium assistance redeterminations are made mid-year, the Exchange will redetermine state premium assistance amounts uniformly for all premium assistance recipients.

## **APPENDIX:**

- Copy of SB 5377 – *will include in .pdf version*
- Copy of Operating Budget Proviso – *will include in .pdf version*