

**DISTRICT OF COLUMBIA  
HEALTH BENEFIT EXCHANGE AUTHORITY**

**NOTICE OF EMERGENCY RULEMAKING**

The Executive Board of the District of Columbia Health Benefit Exchange Authority (“Authority”), pursuant to the authority set forth in §18 of the Health Benefit Exchange Authority Establishment Act of 2011, effective March 4, 2012 (D.C. Law 19-94; D.C. Official Code §31-3171.01 *et seq.*) (“Act”), hereby gives notice of the adoption, on an emergency basis, of the following rule, which will establish a new Subtitle D (Health Benefit Exchange) of Title 26 (Insurance, Securities, and Banking) of the District of Columbia Municipal Regulations (DCMR).

This emergency rule was adopted by the Executive Board on June 11, 2014 and establishes a process by which an assessed entity may contest an assessment levied pursuant to Health Benefit Exchange Authority Financial Sustainability Emergency Amendment Act of 2014.

Emergency action is necessary to ensure there is due process available to assessed entities to contest the assessment levied pursuant to §31-3171.03(f). The Authority must assess health carriers in the summer of 2014 to support the FY 2015 Authority budget. As the Health Benefit Exchange Authority Financial Sustainability Emergency Amendment Act of 2014 became effective on May 22, 2014, the issuance of regulations through full notice and comment would result in delays in the application of the assessment which would compromise the operations of the Authority, making emergency rulemaking necessary for the public health and welfare.

The emergency rulemaking became effective on the date of adoption, June 11, 2014, by the Executive Board. The emergency rule shall remain in effect for one hundred and twenty (120) days; expiring on October 9, 2014, unless superseded or withdrawn.

**A new Subtitle D, Health Benefit Exchange, is added to Title 26, District of Columbia Municipal Regulations, as follows:**

**A new Chapter 1, titled “Health Carrier Assessment,” is added to read as follows:**

**110 Health Carrier Assessment Administrative Appeal**

110.1 An entity assessed pursuant to D.C. Official Code § 31-3171.03(f) may file a request for reconsideration under this section to contest the assessment in the Notice of Assessment. An entity is limited to contesting its classification under §31-3171.01(6), a processing error, the incorrect application of relevant methodology, or mathematical error with respect to the assessment.

- 110.2 An entity may file a request for reconsideration under section 110.1 of the amount assessed only if the amount in dispute is equal to or exceeds one percent of the applicable assessment.
- 110.3 An entity must file a request for reconsideration within 30 calendar days after the date of the Notice of Assessment.
- 110.4 A contesting entity must specify the basis for the reconsideration in the request, as specified in section 110.1. Such entity may provide, only at the time the reconsideration is requested, additional documentation supporting the request for reconsideration by the Authority. An entity may not submit documentation or data that was previously submitted to the Department of Insurance Securities and Banking, but may provide evidence of timely submission.
- 110.5 The Executive Director of the Authority or his or her designee will review evidence and findings upon which the assessment was based and any additional documentation provided by the contesting entity. The Executive Director or designee may review any additional information believed to be relevant to the request for reconsideration. The Executive Director or designee will provide any additional information used in the review to the contesting entity and provide such entity with a reasonable time to review and rebut the additional information. The contesting entity must prove its case by a preponderance of the evidence with respect to the issues of fact.
- 110.6 The Executive Director or designee will inform the contesting entity of their decision in writing within 30 calendar days of receipt of the request for reconsideration. The Executive Director's or designee's decision on the request for reconsideration is final and binding.

**A new Chapter 99, "Definitions", is added to read as follows:**

**9900 DEFINITIONS**

9900.1 When used in this chapter, the following terms shall have the meanings ascribed:

**"Authority"** means the District of Columbia Health Benefit Exchange Authority established pursuant to D.C. Official Code § 31-3171.02.

**"Health carrier"** has the same meaning as provided in D.C. Official Code § 31-3171.01(6).