credit and cost-sharing reductions for QHPs must comply with the terms of an agreement between the agent or broker and the Exchange under which the agent or broker at least:

(1) Registers with the Exchange in advance of assisting qualified individuals enrolling in QHPs through the Exchange;

(2) Receives training in the range of QHP options and insurance affordability programs; and

(3) Complies with the Exchange’s privacy and security standards adopted consistent with §155.260.

(e) Compliance with State law. An agent or broker that enrolls qualified individuals in a QHP in a manner that constitutes enrollment through the Exchange or assists individuals in applying for advance payments of the premium tax credit and cost-sharing reductions for QHPs must comply with applicable State law related to agents and brokers, including applicable State law related to confidentiality and conflicts of interest.

§155.230 General standards for Exchange notices.

(a) General requirement. Any notice required to be sent by an Exchange to applicants, qualified individuals, qualified employers, and enrollees must include:

(1) Contact information for available customer service resources;

(2) An explanation of appeal rights, if applicable; and

(3) A citation to or identification of the specific regulation supporting the action, including the reason for the intended action.

(b) Accessibility and readability requirements. All applications, forms, and notices, including the single, streamlined application described in §155.405 and notice of annual redetermination described in §155.335(c), must conform to the standards outlined in §155.205(c).

(c) Re-evaluation of appropriateness and usability. The Exchange must re-evaluate the appropriateness and usability of applications, forms, and notices.

§155.240 Payment of premiums.

(a) Payment by individuals. The Exchange must allow a qualified individual to pay any applicable premium owed by such individual directly to the QHP issuer.

(b) Payment by tribes, tribal organizations, and urban Indian organizations. The Exchange may permit Indian tribes, tribal organizations and urban Indian organizations to pay aggregated QHP premiums on behalf of qualified individuals, including aggregated payment, subject to terms and conditions determined by the Exchange.

(d) Required standards. In conducting an electronic transaction with a QHP issuer that involves the payment of premiums or an electronic funds transfer, the Exchange must comply with the privacy and security standards adopted in accordance with §155.260.

§155.260 Privacy and security of personally identifiable information.

(a) Creation, collection, use and disclosure. (1) Where the Exchange creates or collects personally identifiable information for the purposes of determining eligibility for enrollment in a qualified health plan; determining eligibility for other insurance affordability programs, as defined in 155.20; or determining eligibility for exemptions from the individual responsibility provisions in section 5000A of the Code, the Exchange may only use or disclose such information to the extent such information is necessary to carry out the functions described in §155.200 of this subpart.

(2) The Exchange may not create, collect, use, or disclose personally identifiable information while the Exchange is fulfilling its responsibilities in accordance with §155.200 of this subpart unless the creation, collection, use, or disclosure is consistent with this section.
(3) The Exchange must establish and implement privacy and security standards that are consistent with the following principles:

(i) Individual access. Individuals should be provided with a simple and timely means to access and obtain their personally identifiable information in a readable form and format;

(ii) Correction. Individuals should be provided with a timely means to dispute the accuracy or integrity of their personally identifiable information and to have erroneous information corrected or to have a dispute documented if their requests are denied;

(iii) Openness and transparency. There should be openness and transparency about policies, procedures, and technologies that directly affect individuals and/or their personally identifiable information;

(iv) Individual choice. Individuals should be provided a reasonable opportunity and capability to make informed decisions about the collection, use, and disclosure of their personally identifiable information;

(v) Collection, use, and disclosure limitations. Personally identifiable information should be created, collected, used, and/or disclosed only to the extent necessary to accomplish a specified purpose(s) and never to discriminate inappropriately;

(vi) Data quality and integrity. Persons and entities should take reasonable steps to ensure that personally identifiable information is complete, accurate, and up-to-date to the extent necessary for the person’s or entity’s intended purposes and has not been altered or destroyed in an unauthorized manner;

(vii) Safeguards. Personally identifiable information should be protected with reasonable operational, administrative, technical, and physical safeguards to ensure its confidentiality, integrity, and availability and to prevent unauthorized or inappropriate access, use, or disclosure; and,

(viii) Accountability. These principles should be implemented, and adherence assured, through appropriate monitoring and other means and methods should be in place to report and mitigate non-adherence and breaches.

(4) For the purposes of implementing the principle described in paragraph (a)(3)(vii) of this section, the Exchange must establish and implement operational, technical, administrative and physical safeguards that are consistent with any applicable laws (including this section) to ensure—

(i) The confidentiality, integrity, and availability of personally identifiable information created, collected, used, and/or disclosed by the Exchange;

(ii) Personally identifiable information is only used by or disclosed to those authorized to receive or view it;

(iii) Return information, as such term is defined by section 6103(b)(2) of the Code, is kept confidential under section 6103 of the Code;

(iv) Personally identifiable information is protected against any reasonably anticipated threats or hazards to the confidentiality, integrity, and availability of such information;

(v) Personally identifiable information is protected against any reasonably anticipated uses or disclosures of such information that are not permitted or required by law; and

(vi) Personally identifiable information is securely destroyed or disposed of in an appropriate and reasonable manner and in accordance with retention schedules;

(5) The Exchange must monitor, periodically assess, and update the security controls and related system risks to ensure the continued effectiveness of those controls.

(6) The Exchange must develop and utilize secure electronic interfaces when sharing personally identifiable information electronically.

(b) Application to non-Exchange entities. Except for tax return information, which is governed by section 6103 of the Code, when collection, use or disclosure is not otherwise required by law, an Exchange must require the same or more stringent privacy and security standards (as §155.280(a)) as a condition of contract or agreement with individuals or entities, such as Navigators, agents, and brokers, that:

(1) Gain access to personally identifiable information submitted to an Exchange; or
§ 155.270 Use of standards and protocols for electronic transactions.

(a) HIPAA administrative simplification. To the extent that the Exchange performs electronic transactions with a covered entity, the Exchange must use standards, implementation specifications, operating rules, and code sets adopted by the Secretary in 45 CFR parts 160 and 162.

(b) HIT enrollment standards and protocols. The Exchange must incorporate interoperable and secure standards and protocols developed by the Secretary in accordance with section 3021 of the PHS Act. Such standards and protocols must be incorporated within Exchange information technology systems.

§ 155.300 Definitions and general standards for eligibility determinations.

(a) Definitions. In addition to those definitions in §155.20, for purposes of this subpart, the following terms have the following meaning:

Adoption taxpayer identification number has the same meaning as it does in 26 CFR 301.6109–3(a).

Applicable Medicaid modified adjusted gross income (MAGI)-based income standard means the applicable income standard as defined at 42 CFR 457.310(b)(1), as applied under the State plan adopted in accordance with title XIX of the Act, or waiver of such plan and as certified by the State Medicaid Agency in accordance with 42 CFR 457.348(d), for determining eligibility for child health assistance and enrollment in a separate child health program.

Applicable Children's Health Insurance Program (CHIP) MAGI-based income standard means the applicable income standard as defined at 42 CFR 457.310(b)(1), as applied under the State plan adopted in accordance with title XXI of the Act, or waiver of such plan and as certified by the State CHIP Agency in accordance with 42 CFR 457.348(d), for determining eligibility for child health assistance and enrollment in a separate child health program.