

Title 14 INDEPENDENT AGENCIES

Subtitle 35 MARYLAND HEALTH BENEFIT EXCHANGE

14.35.14 [Eligibility Standards for Enrollment in Qualified Health Plans, Advance Payments of the Premium Tax Credit, and Cost-Sharing Reductions] *Termination, Cancellation and Reinstatement of a Qualified Health Plan through the Individual Exchange*

Authority: [Insurance Article, §§31-106 and 31-108, Annotated Code of Maryland] Section 7, Chapter 159, 2013 Laws of Maryland; Insurance Article §§ 31-106(c)(1)(iv);31-108(b)(1); 31-108(b)(6), Annotated Code of Maryland

.01 Scope.

[This chapter sets forth the eligibility standards for enrollment in qualified health plans, advance payments of the premium tax credit, and cost-sharing reductions.] *This chapter describes the events that may result in the termination, cancellation or reinstatement of the enrollment of an individual enrolled in a QHP through the Individual Exchange.*

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) [“Advance payments of the premium tax credit” means payment of the federal tax credits specified in §36B of the Internal Revenue Code (as added by §1401 of the Affordable Care Act) which are provided on an advance basis to an eligible individual enrolled in a qualified health plan through an Exchange in accordance with §1412 of the Affordable Care Act.] *“Cancellation” means an action that ends a qualified individual's enrollment through the Individual Exchange on the date such enrollment became effective resulting in enrollment through the Individual Exchange never having been effective.*

(2) [“Affordable Care Act” means the Patient Protection and Affordable Care Act, Pub. L. 111-148, as amended by the Health Care and Education Reconciliation Act, Pub. L.

111-152.] *“Termination” means an action taken after a coverage effective date that ends an enrollee's enrollment through the Individual Exchange for a date after the original coverage effective date resulting in a period during which the individual was enrolled in coverage through the Individual Exchange.*

(3) [“Catastrophic plan” means a qualified health plan described in §1302(e) of the Affordable Care Act.] *“Reinstatement” means a correction of an erroneous termination or cancellation action that results in restoration of an enrollment with no break in coverage.*

(4) [“Cost-sharing reductions” means reductions in cost sharing, including, but not limited to, reductions in out-of-pocket limits, for an eligible individual enrolled in a silver level plan in the Exchange or for an eligible individual who is an Indian enrolled in a qualified health plan through the Exchange.] *“Same QHP contract” means that one enrollee is enrolled in the same QHP policy as another enrollee, including the policyholder, of that QHP policy.*

[(5) “Indian” has the meaning set forth under 45 CFR. §155.300.] *“Termination” means an action taken after a coverage effective date that ends an enrollee's enrollment through the Individual Exchange for a date after the original coverage effective date resulting in a period during which the individual was enrolled in coverage through the Individual Exchange.*

[(6) “Maryland Health Benefit Exchange” has the meaning set forth in Insurance Article, §31-101(e), Annotated Code of Maryland.

(7) “Qualified Health Plan” has the meaning set forth in Insurance Article, §31-101(r), Annotated Code of Maryland.]

.03 [Eligibility Requirements for Enrollment in a Qualified Health Plan.]

Terminations In General.

[The Maryland Health Benefit Exchange shall determine an applicant's eligibility for enrollment in a qualified health plan based on the criteria set forth under 45 CFR.

§155.305(a).]

A. An enrollee may be terminated from the enrollee's enrollment in a QHP through the Individual Exchange without affecting the enrollment status of the enrollee's household or any individual member of the enrollee's household enrolled in that same QHP contract other than the enrollee.

B. Policy and Cost Sharing Requirements When a Policyholder Requests Termination or Is Terminated by the Exchange.

(1) If a policyholder requests termination of the policyholder's enrollment in a QHP through the Individual Exchange or, except as specified under §B(3) of this regulation, the policyholder is terminated by the Individual Exchange or authorized carrier and other qualified individuals were enrolled in the policyholder's same QHP contract, the authorized carrier shall:

(a) Effective January 1, 2017:

i. Continue the same QHP contract for the remaining enrollees with the same policyholder, regardless of the policyholder's enrollment status;

ii. Allow the original policyholder to assign the policyholder's same QHP contract to another adult enrolled in the original policyholder's QHP contract; or

iii. Terminate the policyholder's QHP contract and initiate a new QHP contract for any qualified individuals who were enrolled in the policyholder's previous QHP contract who

choose to enroll in the same QHP through a special enrollment period under COMAR 14.35.07.12;

(b) Except as specified in §B(2) of this regulation, effective January 1, 2018, either:

i. Continue the same QHP contract for the remaining enrollees with the same policyholder, regardless of the policyholder's enrollment status; or

ii. Allow the original policyholder to assign the policyholder's same QHP contract to another adult enrolled in the original policyholder's QHP contract;

(c) Attribute to the continued or new policy described in §B(1)(a) and (b) of this regulation, all amounts that were incurred under the policyholder's QHP policy's cost-sharing requirements at the time of the policyholder's disenrollment, regardless of which enrollee, including the policyholder, incurred the cost sharing amounts.

(2) An authorized carrier may choose the method of transfer described in §B(1)(a)iii of this regulation on January 1, 2018 or later only:

(a) In cases of divorce;

(b) In cases of death; or

(b) If only children will remain enrolled in the QHP after the policyholder terminates the policyholder's coverage and the authorized carrier requires that the children enroll in a child-only plan.

(3) If a policyholder is terminated due to the reasons specified under Regulations .06B(3), .06B(6), .06B(7), .07A(2) or .07A(3) of this chapter, then §B(1) and (2) of this regulation do not apply to any enrollees in the policyholder's same QHP contract that may remain eligible to enroll in a QHP through the Individual Exchange.

C. An authorized carrier shall maintain records of termination of enrollment in a QHP for a period of ten years.

D. An authorized carrier shall make reasonable accommodations for all individuals with disabilities (as defined by the Americans with Disabilities Act), including enrollees who are policyholders and enrollees who are not policyholders, before terminating the individual's enrollment.

E. An authorized carrier shall send an electronic data transmission to the Individual Exchange documenting each termination of coverage under this chapter, including information about the reason for termination, in a format specified by the Individual Exchange.

F. In cases of retroactive termination dates, the authorized carrier shall accept the Individual Exchange's adjusted calculations of APTC and premium, and changes to the plan variation of the QHP.

.04 [Eligibility for Qualified Health Plan Enrollment Periods.] *Enrollee-Initiated Terminations—In General.*

[The Exchange shall determine an applicant eligible for an enrollment period if he or she meets the criteria for an annual enrollment period, as specified in 45 CFR §155.410, or for a special enrollment period, as specified in 45 CFR §155.420 and the Maryland Health Benefit Exchange's Procedures on Eligibility and Enrollment — Special Enrollment Periods.]

A. An enrollee may terminate the enrollee's coverage in a QHP through the Individual Exchange at any time and may select the date of termination if the enrollee provides notice to the Individual Exchange as specified under §C of this regulation.

B. A policyholder or enrollee may terminate the policyholder's QHP through the Individual Exchange for all enrollees in the policyholder's QHP and may select the date of the termination if the policyholder provides reasonable notice to the Individual Exchange or authorized carrier.

C. Effective Dates.

(1) For purposes of this section:

(a) Reasonable notice is defined as at least fourteen days before the requested effective date of termination; and

(b) Changes in eligibility for APTC and CSR due to terminations shall follow the effective dates specified at 45 CFR §155.330(f).

(2) In the case of a termination under §§A or B of this regulation, the last day of enrollment in a QHP or catastrophic plan through the Individual Exchange is:

(a) The termination date specified by the enrollee, if the enrollee provides reasonable notice;

(b) Fourteen days after the termination is requested by the enrollee, if the enrollee does not provide reasonable notice; or

(c) A date on or after the termination date requested by the enrollee, subject to the determination of the enrollee's authorized carrier, if:

i. The enrollee's authorized carrier agrees to effectuate termination in fewer than fourteen days, and

ii. The enrollee requests an earlier termination effective date.

(d) The last day of the month in which an enrollee is determined newly eligible for enrollment in Medicaid or MCHP, if the enrollee chooses to terminate the QHP.

(e) The day before the first day of enrollment in the new QHP if an enrollee terminates coverage in a previous QHP through the Individual Exchange and selects a new QHP during an annual open enrollment period under COMAR 14.35.07 or a special enrollment period under COMAR 14.35.07 through the Individual Exchange.

D. If an enrollee voluntarily terminates coverage in one QHP through the Individual Exchange because the enrollee elects to enroll in a different QHP through the Individual Exchange, coverage in the original QHP ends at 11:59 p.m. the day before the effective date of coverage in the enrollee's new QHP.

E. Death.

(1) In the case of a termination due to death, the last day of enrollment in a through the Individual Exchange is the date of death.

(2) Any applicable premium refund, or premium due, shall be processed by the deceased enrollee's QHP in accordance with State law.

(3) Notice of an enrollee's death may be provided to the Individual Exchange or the deceased enrollee's QHP by:

(a) The policyholder of the deceased enrollee's QHP;

(b) An enrollee who is 18 years or older and enrolled in the same QHP contract of the deceased enrollee; or

(c) The authorized representative of an enrollee, as set forth in COMAR 14.35.11.14.

F. If an enrollee's enrollment in a QHP through the Individual Exchange is terminated under this chapter, the authorized carrier shall, promptly and without undue delay, provide the enrollee with a notice of termination that includes:

(1) The termination effective date, and

(2) *The reason for termination.*

,05 [Eligibility Requirements for Advance Payments of the Premium Tax Credit.]

Enrollee-Initiated Terminations—Due to Error, Misconduct or Enrollment Without Knowledge or Consent.

[The Maryland Health Benefit Exchange shall determine a tax filer’s eligibility for advance payments of the premium tax credit based on the criteria set forth under 45. CFR §155.305(f) and 26 CFR §1.36B-2.]

A. An enrollee may retroactively terminate the enrollee’s enrollment in a QHP through the Individual Exchange when:

(1) The enrollee attempted to terminate the enrollee’s enrollment in the QHP and the enrollee experienced a technical error that did not allow the enrollee to terminate the enrollee’s enrollment in the QHP;

(2) The enrollee’s enrollment in the QHP through the Individual Exchange was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of the Individual Exchange, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities; or

(3) The enrollee was enrolled in a QHP without the enrollee’s knowledge or consent by any third party, including third parties that have no connection with the Individual Exchange.

B. Misconduct under §A(2) of this regulation means the failure of an officer, employee, or agent of the Individual Exchange, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities to comply with applicable standards under COMAR 14.35.07 and .14 or other applicable State or federal laws, as determined by the Individual Exchange.

C. Except as specified in §D of this regulation, an enrollee must request termination under §A of this regulation by notifying the Individual Exchange of the request within:

(1) 60 days after the enrollee knew or reasonably should have known about the technical error under §A(1) of this regulation;

(2) 60 days after the enrollee knew or reasonably should have known about the unintentional, inadvertent, or erroneous enrollment under §A(2) of this regulation; or

(3) 60 days after the enrollee knew or reasonably should have known about the enrollment under §A(3) of this regulation.

D. If an enrollee knew or reasonably should have known about an enrollment under §A of this regulation in the calendar year immediately following the calendar year of the enrollment under §A of this regulation, the enrollee must request termination under §A of this regulation by notifying the Individual Exchange of the request by the end of April of the calendar year immediately following the calendar year of the enrollment under §A of this regulation.

E. Notification to the Individual Exchange under §§C and D of this regulation shall be satisfied if an enrollee provides notice:

(1) To an Individual Exchange-certified navigator, an Individual Exchange-authorized broker or an Individual Exchange-certified consolidated service center representative; and

(2) Via the modes of communication set forth in COMAR 14.35.07.03B.

F. The effective date of the termination under §A of this regulation shall be:

(1) For a retroactive termination under §A(1) of this regulation, no sooner than 14 days after the date that the enrollee can demonstrate that the enrollee contacted the Individual

Exchange to request termination of the enrollee's enrollment through the Individual Exchange, unless the enrollee's authorized carrier agrees to an earlier effective date under Regulation .04C of this chapter; and

(2) For a retroactive termination under §A(2) or (3) of this regulation:

(a) The original coverage effective date; or

(b) A later date, as determined appropriate by the Individual Exchange, based on the circumstances of the termination.

.06 Termination by the Individual Exchange.

A. An authorized carrier shall terminate an enrollee's enrollment in a QHP through the Individual Exchange upon receiving an electronic data transaction from the Individual Exchange directing that the enrollee's enrollment in a QHP be terminated.

B. The Exchange shall direct the authorized carrier to terminate an enrollee's enrollment in a QHP if:

(1) The enrollee is no longer eligible for coverage in the QHP through the Individual Exchange;

(2) The enrollee requests termination under Regulation .04 of this chapter;

(3) The enrollee's coverage is rescinded as set forth in 45 CFR §147.128;

(4) The QHP terminates or is decertified as set forth in 45 CFR §155.1080 and COMAR 14.35.16;

(5) The Individual Exchange determines that an enrollee:

(a) Was enrolled in a QHP without the enrollee's knowledge or consent by a third party, including by a third party with no connection with the Individual Exchange; and

- (b) Where possible, the Individual Exchange has provided reasonable notice to the enrollee of the Individual Exchange's determination;*
- (6) The enrollee changes from one QHP through the Individual Exchange to another QHP through Individual Exchange during an annual open enrollment period under COMAR 14.35.07 or a special enrollment period under COMAR 14.35.07;*
- (7) The enrollee has performed an act or practice that constitutes fraud or intentional misrepresentation of material fact in connection with the enrollee's coverage as set forth in 45 CFR §147.106(b)(2); or*
- (8) The enrollee moves outside of the service area as set forth in 45 CFR §147.106(b)(5).*
- C. If an enrollee becomes eligible for other minimum essential coverage but does not request termination in accordance with Regulation .04 of this chapter, the enrollee may remain enrolled in the enrollee's QHP or catastrophic plan, but shall no longer be eligible for a QHP with APTC under COMAR 14.35.07.08A(2)(b) or CSR under COMAR 14.35.07.09A(2).*
- D. Upon termination by the Individual Exchange, the last day of an enrollee's coverage in the enrollee's QHP is:*
- (1) The last day of the enrollee's eligibility, if the Individual Exchange determines an enrollee to be no longer eligible for coverage in a QHP through the Individual Exchange;*
- (2) The last day of the coverage month in which coverage is rescinded, if the enrollee's coverage is rescinded as set forth in 45 CFR §147.128;*
- (3) The last day of the coverage month in which the QHP is terminated or decertified, if the QHP terminates or, as set forth in 45 CFR §155.1080, is decertified;*

(4) *The original coverage effective date for a termination under §B(5) of this regulation;*
or

(5) *The date of death, if the enrollee is terminated because of the enrollee's death.*

.07 [Eligibility Requirements for Cost-Sharing Reductions.] Termination by

Authorized Carrier.

A. [The Maryland Health Benefit Exchange shall determine an applicant's eligibility for cost-sharing reductions based on the criteria set forth under 45 CFR §155.305(g).] *An authorized carrier may terminate an individual's enrollment in a QHP before receiving an instruction from the Individual Exchange to terminate the individual's enrollment in a QHP:*

(1) If the enrollee or policyholder requests voluntarily termination of the policyholder's entire QHP contract directly from the authorized carrier, and the authorized carrier follows the termination procedures in Regulation .04 of this chapter;

(2) If the enrollee's coverage is rescinded as set forth in 45 CFR §147.128;

(3) If the enrollee has performed an act or practice that constitutes fraud or intentional misrepresentation of material fact in connection with the enrollee's QHP as set forth in 45 CFR §147.106(b)(2); or

(4) For non-payment of premiums as specified in §B of this regulation.

B. [Where an applicant is an Indian, the Maryland Health Benefit Exchange shall determine the applicant's eligibility for any cost-sharing reductions based on the criteria set forth under 45 CFR §155.350.] *Termination for non-payment of premium.*

(1) An authorized carrier may terminate an enrollee's coverage in a QHP through the Individual Exchange for non-payment of premium if the enrollee has not made applicable premium payments and, at the time the enrollee first fails to pay premiums, the enrollee:

(a) Is receiving APTC and the three-month grace period under Insurance Article, §31-1315(c) through (e), Annotated Code of Maryland, has been exhausted; or

(b) Is not receiving APTC and the 31-day grace period under Insurance Article §15-209, Annotated Code of Maryland (for insurers), COMAR 31.10.25.04C (for nonprofit health services plans), or COMAR 31.12.07.05D (for HMOs), has been exhausted.

(2) The last day of coverage when an enrollee is terminated for non-payment of premium is:

(a) The last day of the first month of the three-month grace period for individuals terminated under §B(1)(a) of this regulation; or

(b) The 31st day after the day the missed premium payment was due for individuals terminated under §B(1)(b) of this regulation.

D. Upon termination by an authorized carrier under §A of this regulation, the last day an enrollee's coverage in the enrollee's QHP or catastrophic plan is:

(1) The last day of the coverage month in which the enrollee's coverage is rescinded, if the enrollee's coverage is rescinded as set forth in 45 CFR §147.128 and under §A(2) of this regulation; or

(2) The date agreed upon between Individual Exchange and the authorized carrier under §A(3) of this regulation.

.08 [Eligibility Requirements for Enrollment in a Catastrophic Plan.] Cancellation.

[The Maryland Health Benefit Exchange shall determine an applicant's eligibility for enrollment in a catastrophic plan based on the criteria set forth under 45 CFR §155.305(h).]

A. An individual's enrollment in a QHP through the Individual Exchange may be cancelled if:

- (1) The enrollee requests voluntary cancellation of the enrollee's enrollment from the Individual Exchange or the authorized carrier under §§B or C of this regulation;*
- (2) The enrollee is determined by the Individual Exchange to be no longer eligible for coverage in a QHP through the Individual Exchange;*
- (3) The enrollee's coverage is rescinded as set forth in 45 CFR §147.128;*
- (4) The authorized carrier is decertified by the Individual Exchange as set forth in Insurance Article, §31-115(k), Annotated Code of Maryland;*
- (5) The authorized carrier ceases to offer the QHP that an enrollee is enrolled in through the Individual Exchange as set forth in 45 CFR §147.106(b)(4) and the carrier follows the requirements as set forth in 45 CFR §147.106(c);*
- (6) The authorized carrier ceases to offer any QHPs through the Individual Exchange as set forth in 45 CFR §147.106(b)(4) and the carrier follows the requirements set forth in 45 CFR §147.106(d).*
- (7) The enrollee has performed an act or practice that constitutes fraud or intentional misrepresentation of material fact in connection with the coverage as set forth in 45 CFR §147.106(b)(2); or*
- (8) The enrollee does not pay the first month's premium required to effectuate an enrollment by the applicable due date set forth at COMAR 14.35.07.11E.*

B. Except as specified under §C of this regulation, to request cancellation of:

(1) A QHP contract under §A(1) of this regulation for all qualified individuals who requested enrollment in the contract, the qualified individual shall notify the Individual Exchange or the authorized carrier of the request by the last day of the month prior to the date the coverage begins; and

(2) a single qualified individual's enrollment in a QHP under §A(1) of this regulation, the qualified individual shall notify the Individual Exchange of the request to cancel by the 15th day of the month prior to the date the coverage begins.

C. An enrollee may retroactively cancel the enrollee's coverage under §A(1) of this regulation when:

(1) The enrollee attempted to cancel the enrollee's enrollment in a QHP and the enrollee experienced a technical error that did not allow the enrollee to cancel the enrollee's enrollment in a QHP;

(2) The enrollee's enrollment in a QHP through the Individual Exchange was unintentional, inadvertent, or erroneous and was the result of an error or misconduct of an officer, employee, or agent of the Individual Exchange, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities; or

(3) The enrollee was enrolled in the QHP without the enrollee's knowledge or consent by any third party, including third parties that have no connection with the Individual Exchange.

D. Misconduct under §C(2) of this regulation means the failure of an officer, employee, or agent of the Individual Exchange, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities to comply with

applicable standards under this chapter or as set forth in COMAR 14.35.07 or other applicable State or federal laws, as determined by the Individual Exchange.

E. Except as specified in §F of this regulation, an enrollee requesting cancellation under §C of this regulation shall notify the Individual Exchange of the request within:

(1) 60 days after the enrollee knew or reasonably should have known about the technical error under §C(1) of this regulation;

(2) 60 days after the enrollee knew or reasonably should have known about the unintentional, inadvertent, or erroneous enrollment under §C(2) of this regulation; or

(3) 60 days after the enrollee knew or reasonably should have known about the enrollment under §C(3) of this regulation.

F. If the enrollee knew or reasonably should have known about an enrollment under §C of this regulation in the calendar year immediately following the calendar year of the enrollment, the enrollee must request termination of the enrollee's enrollment by notifying the Individual Exchange of the request by the end of April of the calendar year immediately following the calendar year of the enrollment.

G. Notification to the Individual Exchange under §§E and F of this regulation shall be satisfied if the enrollee provides notice:

(1) To an Individual Exchange-certified navigator, an Individual Exchange-authorized broker or an Individual Exchange-certified consolidated service center representative;

and

(2) Via the modes of communication under COMAR 14.35.07.03B.

H. The effective date of the cancellation under §C of this regulation shall be:

(1) For a retroactive cancellation under §C(1) or (2) of this regulation:

- (a) The day before the original coverage effective date; or*
- (b) A later date, as determined appropriate by the Individual Exchange, based on the circumstances of the cancellation; and*
- (2) For a retroactive cancellation under §C(3) of this regulation, the day before the original coverage effective date.*

.09 Reinstatement.

A. An individual's enrollment shall be reinstated if:

- (1) The Individual Exchange determines an error was made by an officer, employee, or agent of the Exchange, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities that led to an improper termination or cancellation;*
- (2) An authorized carrier determines an error was made by the authorized carrier that led to an improper termination or cancellation; or*
- (3) The Individual Exchange is ordered to reinstate the enrollee by the Maryland Insurance Administration, Office of Administrative Hearings, or a State or federal court.*

B. If an authorized carrier erroneously terminates or cancels an enrollee's coverage, including if the coverage was terminated or cancelled for non-payment of premiums, the authorized carrier shall:

- (1) If the authorized carrier has already terminated the enrollee's coverage, process a reinstatement without requiring action by the Individual Exchange and send a transaction to the Individual Exchange to update the Individual Exchange's records with the change in enrollment; or*

(2) If the authorized carrier has not already terminated the enrollee's coverage, promptly notify the Individual Exchange to process a reinstatement for the enrollee.

C. A policyholder shall pay all outstanding premium amounts due by the applicable due date under COMAR 14.35.07.11E for a qualified individual's coverage to be reinstated.