

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 Rescission of Qualified Health Plan*

Authority: Insurance Article, [§§31-106 and 31-108], §§31-106(c)(1)(iv) and 31-108(b)(1) and (6), Annotated Code of Maryland

Notice of Proposed Action

[18-303-P]

The Maryland Health Benefit Exchange proposes to repeal existing Regulations .01—.07 and adopt new Regulations .01—.10 under COMAR 14.35.14 *Termination, Cancellation, and Rescission of Qualified Health Plan*.

Statement of Purpose

The purpose of this action is to describe the events that may result in the termination, cancellation, or rescission of the enrollment of an individual enrolled in a QHP through the Individual Exchange.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jessica Grau, Health Policy Analyst, Maryland Health Benefit Exchange, 750 East Pratt Street, Baltimore MD 21202, or call 410-547-6888, or email to mhbe.publiccomments@maryland.gov, or fax to 410-547-7373. Comments will be accepted through December 10, 2018. A public hearing has not been scheduled.

.01 Scope.

This chapter describes the events that may result in the termination, cancellation, or rescission 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) "Cancellation" means an action that ends a qualified individual's enrollment through the Exchange on the date such enrollment became effective resulting in enrollment through the Exchange never having been effective.

(2) "Product" has the meaning stated in Insurance Article, §15-1309(a)(3)(i), Annotated Code of Maryland.

(3) "Reinstatement" means a correction of an erroneous termination or cancellation action that results in restoration of an enrollment with no break in coverage.

(4) "Same QHP policy" means that one enrollee is enrolled under the same QHP contract as another enrollee.

(5) "Termination" means an action taken after a coverage effective date that ends an enrollee's enrollment through the Exchange for a date after the original coverage effective date resulting in a period during which the individual was enrolled in coverage through the Exchange.

.03 Terminations in General.

A. An enrollee who is the contract holder of a QHP who terminates enrollment in a QHP also terminates the enrollment of the other enrollees in the household.

B. Each enrollee, who is not the contract holder, may terminate enrollment in a QHP without affecting the enrollment status of the enrollee's household or each individual member of the enrollee's household other than the enrollee.

C. A carrier shall process a request from the contract holder of a QHP to terminate coverage under Regulation .04 of this chapter for all enrollees promptly and without undue delay.

D. A carrier shall process the Exchange's termination determination under Regulation .06 of this chapter promptly and without undue delay.

E. A carrier shall maintain records of termination of enrollment in a QHP in the format specified by the Exchange in an electronic data interchange format for a period of 10 years.

F. A carrier shall make reasonable accommodations for all individuals with disabilities (as defined by the Americans with Disabilities Act), including head-of-household and non-head-of-household enrollees, before terminating the individual's enrollment.

G. A carrier shall send an electronic transaction to the Exchange documenting, or acknowledging, each termination of coverage carried out under this chapter, promptly and without undue delay.

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

I. A carrier shall confirm the termination of an enrollee's coverage with a notice provided to the contract holder indicating the enrollees affected by the termination and the effective date of the termination.

.04 Enrollee-Initiated Terminations—In General.

A. An enrollee may terminate the enrollee's coverage in a QHP at any time within a month for a termination effective at the end of the month.

B. An enrollee may request a termination of the enrollee's coverage in a QHP by providing notice to the Exchange or the enrollee's QHP carrier as follows:

(1) Enrollees seeking to terminate coverage for an enrollee or enrollees on a QHP shall provide notice to the Exchange; and

(2) Enrollees seeking to terminate coverage for the enrollee's household may notify either the Exchange or the QHP carrier.

C. Date of Terminations. If the enrollee provides notice to the Exchange or the carrier on any day within the month, the date of termination is the end of the month.

D. If an enrollee terminates coverage in one QHP because the enrollee elects enrollment in a different QHP, coverage in the original qualified health plan ends at midnight 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 QHP through the 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 the enrollee's death may be provided to the Exchange or the deceased enrollee's QHP by:

(a) The policyholder under COMAR 31.10.01.02B(7), or subscriber under COMAR 31.12.02.02B(11), of the deceased enrollee's QHP;

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

(c) The authorized representative of an enrollee under COMAR 14.35.11.14.

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

A. An enrollee may retroactively terminate the enrollee's coverage when:

(1) The enrollee attempted to terminate the enrollee's coverage and the enrollee experienced a technical error that did not allow the enrollee to terminate the enrollee's coverage;

(2) The enrollee's enrollment in a QHP through the Exchange was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of the 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 who have no connection with the Exchange.

B. Misconduct under §A(2) of this regulation means the failure of an officer, employee, or agent of the Exchange, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities to comply with applicable standards under COMAR 14.35.14 or other applicable State or federal laws as determined by the Exchange.

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

(1) Within 60 days of discovering the technical error under §A(1) of this regulation;

(2) Within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment under §A(2) of this regulation; or

(3) Within 60 days of discovering the enrollment under §A(3) of this regulation.

D. If the enrollee discovers an enrollment under §A of this regulation in the previous calendar year, the enrollee shall request termination under §A of this regulation by notifying the Exchange of the request by the end of March of the calendar year immediately following the calendar year with the enrollment under §A of this regulation.

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

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

(2) Using any of the methods of communication listed under 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 later than the end of the month when the enrollee contacted the Exchange to request termination of the enrollee's enrollment through the Exchange; 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 Exchange, based on the circumstances of the termination.

.06 Termination by the Exchange.

A. A carrier shall terminate an enrollee's coverage in a qualified health plan upon receiving an electronic data transaction from the Exchange directing that the enrollee's coverage be terminated.

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

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

(2) The enrollee requests termination under Regulations .04 and .05 of this chapter;

(3) The enrollee's coverage is rescinded under 45 CFR §147.128;

(4) The QHP terminates or is decertified under 45 CFR §155.1080;

(5) The Exchange determines that:

(a) An enrollee 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 Exchange; and

(b) Where possible, the Exchange has provided reasonable notice to the enrollee of the Exchange's determination;

(6) The enrollee changes from one QHP to another QHP during an annual open enrollment period under COMAR 14.35.07.11A(1) or a special enrollment period under COMAR 14.35.07.12—.19; and

(7) The enrollee moves outside of the service area under 45 CFR §155.430(b)(2)(vii) in reference to 45 CFR 147.106(b)(5).

C. If the enrollee becomes eligible for other minimum essential coverage but does not request termination in accordance with Regulation .04 of this chapter at the time of plan renewal, the enrollee may choose to remain enrolled in a QHP without the provision of financial assistance through APTC or CSR payments.

D. If the enrollee does not choose to remain enrolled in the QHP through the Exchange when the enrollee becomes eligible for other minimum essential health coverage under §C of this regulation, the Exchange shall initiate termination of the enrollee's coverage upon completion of the redetermination process specified in 45 CFR §155.330.

E. Upon termination by the Exchange, the last day of coverage by a QHP is:

(1) The last day of the enrollee's eligibility, if the 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 in accordance with 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 described in 45 CFR §155.1080, is decertified;

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

(5) The day before the first day of enrollment in the new QHP if an enrollee terminates coverage in a previous QHP and selects a new QHP during an annual open enrollment period under COMAR 14.35.07.11A(1) or a special enrollment period under COMAR 14.35.07.12—19;

(6) The original coverage effective date for a cancellation under §B(5) of this regulation;

(7) The date of death, if the enrollee is terminated because of the enrollee's death; or

(8) The day before the change in the enrollee's circumstance if the enrollee is terminated because of a circumstance where the enrollee could not have prevented the disruption of the QHP enrollment.

.07 Termination by Carrier.

A. A carrier may only terminate an individual's coverage in a QHP before receiving an instruction from the Exchange to terminate coverage:

(1) If the enrollee requests termination of the enrollee's enrollment to the carrier, and the termination follows the procedures in Regulation .04 of this chapter;

(2) If the enrollee's coverage is rescinded under 45 CFR §147.128;

(3) If the carrier is decertified by the Exchange under COMAR 14.35.16.11;

(4) If the carrier ceases to offer the QHP that an enrollee is enrolled in through the Exchange under 45 CFR §147.106(b)(4) and the carrier follows the requirements under 45 CFR §147.106(c);

(5) If the carrier ceases to offer any QHPs through the Exchange under 45 CFR §147.106(b)(4) and the carrier follows the requirements under 45 CFR §147.106(d);

(6) If the enrollee has performed an act or practice that constitutes fraud or intentional misrepresentation of material fact in connection with the coverage under 45 CFR §147.106(b)(2); or

(7) For nonpayment of premiums as specified in §B of this regulation.

B. Termination for Nonpayment.

(1) A carrier may terminate coverage for nonpayment of premium if the enrollee has not made applicable premium payments and at the time the enrollee first fails to pay premiums:

(a) The enrollee is receiving APTC, and the 3-month grace period under Insurance Article, §15-1315(c)—(e), Annotated Code of Maryland, has been exhausted; or

(b) The enrollee is not receiving APTC and all other applicable grace periods under State law have been exhausted.

(2) A carrier may not terminate coverage for failure to make a premium payment if:

(a) Through a renewal of the plan under 45 CFR §155.335, the enrollee maintains coverage in the same QHP or same product that is a uniform modification of coverage under Insurance Article, §15-1309(a)(4), Annotated Code of Maryland; and

(b) The applicable grace period has not been exhausted under:

(i) Insurance Article, §15-1315(c)—(e), Annotated Code of Maryland; or

(ii) Another applicable grace period under State law if the enrollee is not receiving APTC.

(3) The last day of coverage is:

(a) The last day of the first month of the 3-month grace period when terminating an individual after exhaustion of the 3-month grace period for individuals receiving APTC; and

(b) 31 days after the missed premium payment was due when terminating an individual after the exhaustion of any other applicable grace period.

.08 Cancellation.

A. An individual's enrollment in a QHP may be canceled only if:

(1) The enrollee requests voluntary cancellation of the enrollee's enrollment to the Exchange or the carrier under §C of this regulation;

(2) The enrollee's coverage is rescinded under 45 CFR §147.128; or

(3) The enrollee does not provide the first month's premium required to effectuate an enrollment by the due dates set forth at COMAR 14.35.07.11F.

B. To request cancellation of the individual's enrollment under §A of this regulation, the individual shall notify the Exchange or the carrier of the request to cancel before or on the last day of the month prior to the date the coverage begins.

C. An enrollee may retroactively cancel the enrollee's coverage if:

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

(2) The enrollee's enrollment in a QHP through the Exchange was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of the 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 who have no connection with the Exchange.

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

activities to comply with applicable standards under COMAR 14.35.14 or other applicable State or federal laws as determined by the Exchange.

E. Except as specified in §F of this regulation, the enrollee shall request cancellation under §C of this regulation by notifying the Exchange of the request:

(1) Within 60 days after the enrollee discovered the technical error under §C(1) of this regulation;

(2) Within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment under §C(2) of this regulation; or

(3) Within 60 days of discovering of the enrollment under §C(2) of this regulation.

F. If the enrollee discovers an enrollment under §C of this regulation in the previous calendar year, the enrollee shall request termination under §C of this regulation by notifying the Exchange of the request by the end of March in the calendar year immediately following the calendar year with the enrollment under §C of this regulation.

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

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

(2) Using any of the methods of communication listed 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 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:

(1) If applicable, under QHP provisions required by COMAR 31.10.25.04;

(2) If the Exchange determines an error was made by the Exchange that led to an improper termination or cancellation;

(3) If the carrier determines an error was made by the carrier that led to an improper termination or cancellation; or

(4) If the Exchange is ordered to reinstate the enrollee by the Maryland Insurance Administration, Office of Administrative Hearings, or a State or federal court.

B. If the carrier erroneously terminates or cancels an enrollee's coverage, including if the coverage was terminated or canceled for non-payment of premiums, a carrier shall process a reinstatement transaction from the Exchange.

.10 Sanctions.

A carrier that fails to follow the requirements of this chapter may:

A. Be denied certification as an authorized carrier;

B. Be denied certification for a QHP offered for sale by the carrier on the Individual Exchange;

C. Have the carrier's certification suspended or revoked;

D. Have the certification for a QHP offered for sale by the carrier on the Exchange suspended or revoked; or

E. Be subject to other penalties under Insurance Article, §31-115(k), Annotated Code of Maryland, and COMAR 14.35.16.11.

MICHELE S. EBERLE
Executive Director