

Virginia Health Benefit Exchange
Unauthorized Enrollments and Plan Switches Policy
Effective May 15, 2024

1 Unauthorized Enrollments

Policy Statement

It is the policy of the Virginia Health Benefit Exchange (Exchange) to allow for retroactive rescission of a Qualified Health Plan (QHP) enrollment when the enrollment is determined to have been unauthorized. An enrollment will be determined to be unauthorized if all of the following conditions are met:

- i) Within 60 days of the discovery of an unauthorized enrollment, the Exchange receives an attestation from the affected consumer that the consumer (a) did not take any action to enroll in the QHP, did not authorize anyone else to enroll them in the QHP, and did not want health insurance coverage through Virginia's Insurance Marketplace;
- ii) The Exchange determines that no claims have been filed under the QHP policy;
- iii) The Exchange determines that no premium payments have been made; and
- iv) The Exchange determines that the QHP policy issuer has not been contacted by the consumer, except to report the unauthorized enrollment.

The rescission of an unauthorized enrollment will be retroactively effective to the date of issuance of coverage under the QHP policy.

Background

Virginia's Insurance Marketplace (Marketplace) may receive calls from individuals reporting that they are enrolled in QHPs they did not know about or authorize. In many cases, the individuals only learned they were enrolled in a QHP when they received a communication from the Marketplace, an issuer, or the Internal Revenue Service (IRS), which requires that advance payments of the premium tax credit (APTC) be reconciled with annual Federal income taxes before refunds can be processed. In some cases, the individuals may indicate that they already have other health insurance and do not need or want a Marketplace QHP.

The Exchange allows for the cancellation of QHP policies through its rescission process¹. A rescission is the retroactive cancellation of a health insurance policy, in which an issuer will retroactively cancel the entire health insurance policy back to its effective date. If the Exchange, in coordination with issuers, verifies that the enrollment was most likely unauthorized, the rescission process is used to resolve the complaint. This includes rescission of already-terminated enrollments.

- *For example, a consumer finds that they have a QHP policy they did not want or authorize and initiates a termination process with the carrier. If they are not aware of, or do not complete the*

¹ Rescission is illegal except in cases of fraud or intentional misrepresentation, such as in unauthorized enrollment.

recission process, they may still be responsible for the QHP policy during the months the coverage was active.

Authority

Federal regulations specify² that an Exchange issuer may cancel a policy if: *“The enrollee demonstrates to the Exchange that he or she was enrolled in a QHP without their knowledge or consent by any third party, including third parties who have no connection with the Exchange, and requests cancellation within 60 days of discovering of the enrollment.”*

Process and Other Considerations

Once the enrollment is determined to be unauthorized, the Exchange will initiate the recission process with the issuer, and the effective date of the termination will be the original coverage effective date.

The Exchange takes each complaint seriously and works closely with the SCC’s Bureau of Insurance Agent Regulation Unit to review and respond to these complaints through two distinct processes:

- **Individual Complaints Alleging Unauthorized Enrollments** deals with complaints from individuals who call the Marketplace Call Center to report alleged fraud or misconduct by an individual other than the enrollee, resulting in unauthorized enrollments.
- **Issuer Complaints Alleging Unauthorized Enrollments** focuses on information submitted to the Exchange by issuers whose internal analyses or investigations revealed possible enrollment fraud or the intentional misrepresentation of material facts during the application and enrollment process.

These processes are described in the document, *Operational Processes for Recission of Unauthorized Enrollments*.

Unauthorized enrollments are a violation of Va. Code [38.2-512](#) and the Virginia Health Benefit Exchange Agent Agreement. VAHBE reserves the right to suspend any agent’s certification for suspected unauthorized enrollments.

When a suspected unauthorized enrollment has occurred and an agent is associated with the enrollment, the Exchange may report the unauthorized enrollment to the Bureau of Insurance Agent Regulation Unit. The Exchange also retains the right to terminate an agent’s certification for confirmed unauthorized enrollments. It is against state and federal law to intentionally provide false information on an Exchange insurance application.³ The Exchange will conduct an investigation of all reports of unauthorized enrollments, and take appropriate action as indicated under state and federal law.

Resources

² [45 CFR 155.430\(b\)\(1\)\(iv\)\(B\) and \(C\)](#)

³ Affordable Care Act Section 1411(h); 45 CFR 155.285(a); and Va. Code section 38.2-512

- Chapter 12.1-12.3 of the 2023 Enrollment Manual
https://regtap.cms.gov/reg_librarye.php?i=4573
- Healthcare.gov Resource for Consumers: How to reconcile your premium tax credit:
<https://www.healthcare.gov/taxes-reconciling/>
- [Overview of Unauthorized Enrollments & UPS \(cms.gov\)](#)

2 Unauthorized Plan Switches

Policy Statement

It is the policy of the Virginia Health Benefit Exchange (Exchange) to allow for reinstatement of a desired Qualified Health Plan (QHP) enrollment when an undesired enrollment is determined to have been the result of an unauthorized plan switch.

Background

Issuers sometimes receive complaints from enrollees alleging that they enrolled with the issuer but were switched to a plan with a different issuer without their authorization by an agent or broker or other third party. This results in the consumer's desired policy being cancelled or terminated. Many consumers are unaware of the switch until they attempt to use the desired policy to see a doctor or fill a prescription and are denied.

These cases are distinct from unauthorized enrollments because the enrollee did intend to enroll in Exchange coverage and wants to remain enrolled. In such cases, issuers must direct enrollees to call the Marketplace Consumer Assistance Center (CAC) and request reinstatement of the desired plan. The Marketplace will assign the complaint to a Work Group that will work with the issuers for resolution.

Process and Other Considerations

Once the enrollment is determined to be the result of an unauthorized plan switch, the Exchange will initiate the reinstatement of the desired policy and the rescission process with the appropriate issuers. The effective date of the desired plan will be the original effective date and the termination date of the unauthorized plan will be the original coverage effective date.

The Exchange takes each complaint seriously and works closely with the SCC's Bureau of Insurance Agent Regulation Unit to review and respond to these complaints.

The Virginia Health Benefit Exchange process for resolving unauthorized plan switches is described in further detail in the document, *Operational Processes for Rescission of Unauthorized Enrollments*.

Authority

Federal regulations specify⁴ that an Exchange issuer may cancel a policy if: *“The enrollee demonstrates to the Exchange that he or she was enrolled in a QHP without their knowledge or consent by any third party, including third parties who have no connection with the Exchange, and requests cancellation within 60 days of discovering of the enrollment.”*

Unauthorized plan switches are a violation of Va. Code [38.2-512](#) and the Virginia Health Benefit Exchange Agent Agreement. VAHBE reserves the right to suspend any agent’s certification for suspected unauthorized plan switches.

When a suspected unauthorized plan switch has occurred and an agent is associated with the enrollment, the Exchange may report the unauthorized plan switch to the Bureau of Insurance Agent Regulation Unit. The Exchange also retains the right to terminate an agent’s certification for confirmed unauthorized plan switches.

It is against state and federal law to intentionally provide false information on an Exchange insurance application.⁵ The Exchange will conduct an investigation of all reports of unauthorized plan switches and take appropriate action as applicable under state and federal law.

Resources

- Chapter 12.1-12.3 of the 2023 Enrollment Manual https://regtap.cms.gov/reg_librarye.php?i=4573
- Healthcare.gov Resource for Consumers: How to reconcile your premium tax credit: <https://www.healthcare.gov/taxes-reconciling/>
- [Overview of Unauthorized Enrollments & UPS \(cms.gov\)](#)
- 2024 Unauthorized Plan Switch Update: https://regtap.cms.gov/reg_librarye.php?i=5233

⁴ [45 CFR 155.430\(b\)\(1\)\(iv\)\(B\) and \(C\)](#)

⁵ Affordable Care Act Section 1411(h); 45 CFR 155.285(a); and Va. Code section 38.2-512