

**Background Paper on QHP Recertification, Decertification, Non-Renewal and
Associated Enrollment and Termination Requirements**
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Background

The Patient Protection and Affordable Care Act (ACA) directs the U.S. Department of Human Services (HHS) to issue certification criteria for qualified health plans (QHPs) sold in American Health Benefit Exchanges. In March 2012, HHS issued final rules governing the Exchanges, establishing certification, recertification and decertification requirements for QHPs as well as requirements for carriers related to enrollment in and termination of coverage. Issuers must enroll qualified individuals during designated enrollment periods and provide enrollee information packages that comply with accessibility and readability standards. Issuers must also provide all required termination notices and observe required grace periods prior to cancellation.

According to other state and federal laws, individual and small group plans must be guaranteed renewable. With few exceptions, this allows enrollees or small employers to keep their current plans as long as premiums are paid.

This background paper has two purposes:

- 1) to describe federal Exchange requirements related to QHP recertification, decertification and non-renewal and how they relate to enrollment and termination requirements. The background paper further describes how these processes may interact with existing requirements related to guaranteed issue and implications for consumers accessing premium tax credits and/or cost sharing reductions.
- 2) to describe how federal requirements related to enrollment and termination compare to existing state law related to enrollment, grace periods, and termination from coverage.

Recertification, Decertification, and Non-Renewal of QHPs

Federal regulations require that QHPs be certified as meeting specific criteria in order to be offered on an Exchange. Exchanges also have authority to recertify and decertify QHPs, while carriers have options to not renew a QHP in a subsequent enrollment period. Recertification, non-renewal, and decertification are briefly described below:

- Exchanges must establish a **recertification process** to ensure that QHPs continue to meet certification requirements. Exchanges have the flexibility to determine the

frequency with which recertification must occur and any events that should trigger a recertification process in whole or in part. A recertification process must be complete by September 15 (or earlier as determined by the Exchange) of any applicable year so that consumers have a full range of choices available during open enrollment.

- An issuer electing **not to renew** offering of its QHP(s) must notify the Exchange of its decision prior to the beginning of the recertification process adopted by the Exchange. An issuer which chooses not to renew an existing QHP must fulfill its obligation to provide benefits through the end of the plan year and notify enrollees with a notice of QHP non-renewal.
- **Decertification** means the termination by the Exchange of the certification status and offering of a QHP. An Exchange may decertify a QHP at any time if it finds the QHP no longer meets QHP certification criteria and must provide an appeal process for the QHP issuer. Issuers may not terminate coverage until the exchange has provided notice to enrollees, HHS, and state regulatory entities (the Minnesota Departments of Commerce and Health).ⁱ Enrollee notification should include detail regarding special enrollment periods permitting enrollees in a decertified plan to enroll in a new QHP. Decertification does not affect the offering of the plan outside the exchange.

One key issue that emerges amidst the processes of recertification, decertification and/or non-renewal of a QHP is the choice for individuals receiving premium and/or cost sharing subsidies for coverage in a decertified or non-renewed QHP who may wish to continue their coverage through that plan. Minnesota law requires guaranteed renewal or reissue of plans in the individual and small group market. Individuals may remain in a plan that is no longer offered on the Exchange by purchasing it in the outside market, but would no longer be able to obtain premium or cost-sharing subsidies as those subsidies are only available inside the Exchange. These consumers would also have the option of choosing a different QHP through the Exchange and maintaining premium and cost sharing subsidies for which they are eligible.

Enrollment and Termination Requirements and Existing State Standards

On March, 2012, HHS issued the final rules governing the establishment of Exchanges and Qualified Health Plans. These rules require issuers to enroll qualified individuals during designated periods, observe all standards for the collection and transmission of enrollment information, conduct monthly reconciliation of enrollment files, and provide new enrollees with an enrollment information packages that comply with accessibility and readability standards. These standards require issuers present enrollment materials in plain language and in a manner that is accessible to individuals with disabilities and those with limited English proficiency.^{ii,iii} Finally, issuers and brokers assisting an individual with QHP enrollment must verify that an individual has received an eligibility determination from the Exchange.^{iv}

Minnesota Statutes 72C.03 through 72C.13 require all insurers in the state provide contract and policy forms written in simple and commonly used language, which are logically and clearly arranged, which are printed in a legible format, and which are generally understandable^{1, v,vi}

The final rules also include QHP termination requirements including enrollee notification and grace periods. QHPs participating in the Exchange may only terminate enrollees for non-payment of premium, enrollee fraud or misrepresentation, enrollee relocation outside of the QHP service area, or transition to another qualified health plan during designated enrollment periods.^{vii} Terminations due to QHP non-renewal or decertification apply only to the plan's status as a Qualified Health Plan offered through the Exchange and does not terminate enrollees from coverage. Issuers terminating coverage in a QHP for any reason must provide enrollees with a notice of termination of coverage at least 30 days prior to the last day of coverage during which the policy remains in effect.

There are additional termination and grace period requirements for enrollees receiving advance payment of the premium tax credit:

- Federal regulations require QHP issuers to provide a grace period of three consecutive months for non-payment of premium where enrollees are receiving the tax credit and have paid at least one month of premium during the year. During this grace period, the issuer must pay all claims for services received during the first month and notify providers of the possibility for denied claims during the second and third month of the grace period.^{viii}
- Individuals exhausting the three month grace period without settling all outstanding premium payments may be terminated retroactively to the first day of the second month of the grace period. The QHP issuer may deny all pending claims and keep the advance payment of the premium tax credit for the first month.
- Individuals will have to repay this credit in the form of additional tax liability.^{ix} Persons terminated for non-payment of premium are not eligible for special enrollment periods provided to those experiencing a loss of essential coverage.^x

Various provisions of Minnesota statutes provide a grace period after the premium due date during which policies must remain in force. For individual HMO contracts, the grace period is 31 days.^{xi} For all other commercial health plans in the individual and small group markets, the grace period is 7 days for premiums paid weekly, 10 days for those paid monthly, and 31 days

¹ Minnesota's standards are based on the Flesch Reading Ease Score which is an objective measure of readability based on a formula incorporating word counts, syllables, and sentence lengths. Lower Flesch scores suggest a more difficult reading level while higher scores reflect easier reading. Most state standards including Minnesota's require insurance contracts and policy forms to have a minimum Flesch readability score of 40. For context, the Harvard Law Review has a Flesch score in the low 30s, and the Readers Digest has a Flesch score in the mid 60s.

for all other payment installment periods.^{xii} Plan issuers in the individual market must provide enrollees with 30 days s written notice prior to cancellation due to non-payment of premium.^{xiii}

Discussion Questions:

- At what interval should recertification be required for all QHPs?
- What types and scope of changes to a QHP (e.g. provider networks or cost sharing) or other circumstances should trigger a recertification for a specific QHP?
- What strategies should be employed to help consumers understand their choices when a QHP is not renewed or is decertified related to guaranteed renewal and availability of premium tax credits and/or cost sharing subsidies?
- Are there other provisions of federal enrollment and termination requirements that merit special consideration in the context of how they relate to other provisions of federal and state law?

ⁱ 42 CFR § 155.1080

ⁱⁱ 42 CFR § 155.205(c)

ⁱⁱⁱ For specific requirements on summary benefits and coverage requirements see published rules in the Federal Register Vol. 77, No. 30. Available at <https://webapps.dol.gov/federalregister/PdfDisplay.aspx?DocId=25818>

^{iv} 42 CFR § 156.260; § 156.265

^v National Association of Insurance Commissioners (NAIC), 2010b, *NAIC Holds Public Hearings on Readability Standards*, Press Release March 28, http://www.naic.org/Releases/2010_docs/readability_standards.htm.

^{vi} MN Statute§ 72C.10

^{vii} 42 CFR § 156.430

^{viii} 42 CFR § 156.430

^{ix} United States Department of Health and Human Services, “Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans”, p.450, March 12, 2012.

^x 42 CFR § 156.420

^{xi} MN Statute § 62D.07

^{xii} MN Statute § 62A.04

^{xiii} MN Statute 72A.20