Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

### § 155.430 Termination of Exchange enrollment or coverage.

(a) *General requirements.* The Exchange must determine the form and manner in which enrollment in a QHP through the Exchange may be terminated.

(b) *Termination events*—(1) *Enrollee-initiated terminations.* (i) The Exchange must permit an enrollee to terminate his or her coverage or enrollment in a QHP through the Exchange, including as a result of the enrollee obtaining other minimum essential coverage. To the extent the enrollee has the right to terminate the coverage under applicable State laws, including ''free look'' cancellation laws, the enrollee may do so, in accordance with such laws.

(ii) The Exchange must provide an opportunity at the time of plan selection for an enrollee to choose to remain enrolled in a QHP if he or she becomes eligible for other minimum essential coverage and the enrollee does not request termination in accordance with paragraph (b)(1)(i) of this section. If an enrollee does not choose to remain enrolled in a QHP in such situation, the Exchange must initiate termination of his or her enrollment in the QHP upon completion of the process specified in § 155.330(e)(2).

(iii) The Exchange must establish a process to permit individuals, including enrollees' authorized representatives, to report the death of an enrollee for purposes of initiating termination of the enrollee's Exchange enrollment. The Exchange may require the reporting party to submit documentation of the death. Any applicable premium refund, or premium due, must be processed by the deceased enrollee's QHP in accordance with State law.

(iv) The Exchange must permit an enrollee to retroactively terminate or cancel his or her coverage or enrollment in a QHP in the following circumstances:

(A) The enrollee demonstrates to the Exchange that he or she attempted to terminate his or her coverage or enrollment in a QHP and experienced a technical error that did not allow the enrollee to terminate his or her coverage or enrollment through the Exchange, and requests retroactive termination within 60 days after he or she discovered the technical error.

(B) The enrollee demonstrates to the Exchange that his or her 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 or HHS, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities. Such enrollee must request cancellation within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment. For purposes of this paragraph (b)(1)(iv)(B), misconduct includes the failure to comply with applicable standards under this part, part 156 of this subchapter, or other applicable Federal or State requirements as determined by the Exchange.

(C) The enrollee demonstrates to the Exchange that he or she was enrolled in a QHP without his or her 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.

(2) *Exchange-initiated terminations.* The Exchange may initiate termination of an enrollee's enrollment in a QHP through the Exchange, and must permit a QHP issuer to terminate such coverage or enrollment, in the following circumstances:

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

(ii) Non-payment of premiums for coverage of the enrollee, and

(A) The exhaustion of the 3-month grace period, as described in § 156.270(d) and (g) of this subchapter, required for enrollees, who when first failing to timely pay premiums, are receiving advance payments of the premium tax credit.

(B) Any other grace period not described in paragraph (b)(2)(ii)(A) of this section has been exhausted;

(iii) The enrollee's coverage is rescinded in accordance with § 147.128 of this subchapter, after a QHP issuer demonstrates, to the reasonable satisfaction of the Exchange, if required by

the Exchange, that the rescission is appropriate;

(iv) The QHP terminates or is decertified as described in §155.1080; or

(v) The enrollee changes from one QHP to another during an annual open enrollment period or special enrollment period in accordance with §155.410 or §155.420.

(vi) The enrollee was enrolled in a QHP without his or her knowledge or consent by a third party, including by a third party with no connection with the Exchange.

(vii) Any other reason for termination of coverage described in §147.106 of this subchapter.

(3) *Prohibition of issuer-initiated terminations due to aging-off.* Exchanges on the Federal platform must, and State Exchanges using their own platform may, prohibit QHP issuers from terminating dependent coverage of a child before the end of the plan year in which the child attains age 26 (or, if higher, the maximum age a QHP issuer is required to make available dependent coverage of children under applicable State law or the issuer's business rules), on the basis of the child's age, unless otherwise permitted.

(c) *Termination of coverage or enrollment tracking and approval.* The Exchange must—

(1) Establish mandatory procedures for QHP issuers to maintain records of termination of enrollment in a QHP through the Exchange;

(2) Send termination information to the QHP issuer and HHS, promptly and without undue delay in accordance with §155.400(b).

(3) Require QHP issuers to make reasonable accommodations for all individuals with disabilities (as defined by the Americans with Disabilities Act) before terminating enrollment of such individuals through the Exchange; and

(4) Retain records in order to facilitate audit functions.

(d) *Effective dates for termination of coverage or enrollment.* (1) For purposes of this section—

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

(ii) Changes in eligibility for advance payments of the premium tax credit and cost sharing reductions, including terminations, must adhere to the effective dates specified in §155.330(f).

(2) In the case of a termination in accordance with paragraph (b)(1) of this section, the last day of enrollment through the Exchange is—

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

(ii) If the enrollee does not provide reasonable notice, fourteen days after the termination is requested by the enrollee; or

(iii) At the option of the Exchange, on the date on which the termination is requested by the enrollee, or on another prospective date selected by the enrollee; or

(iv) If an Exchange does not require an earlier termination date in accordance with paragraph (d)(2)(iii) of this section, at the option of the QHP issuer, on a date on or after the termination is requested by the enrollee that is less than 14 days after the termination is requested by the enrollee, if the enrollee requests an earlier termination date; or

(v) At the option of the Exchange, for an individual who is newly determined eligible for Medicaid, CHIP, or the Basic Health Program, if a Basic Health Program is operating in the service area of the Exchange, the day before the enrollee's date of eligibility for Medicaid, CHIP, or the Basic Health Program.

(vi) The retroactive termination date requested by the enrollee, if specified by applicable State laws.

(3) In the case of a termination in accordance with paragraph (b)(2)(i) of this section, the last day of enrollment in a QHP through the Exchange is the last day of eligibility, as described in §155.330(f), unless the individual requests an earlier termination effective date per paragraph (b)(1) of this section.

(4) In the case of a termination in accordance with paragraph (b)(2)(ii)(A) of this section, the last day of enrollment in a QHP through the Exchange will be the last day of the first month of the 3-month grace period.

(5) In the case of a termination in accordance with paragraph (b)(2)(ii)(B) of this section, the last day of enrollment

in a QHP through the Exchange should be consistent with existing State laws regarding grace periods.

(6) In the case of a termination in accordance with paragraph (b)(2)(v) of this section, the last day of coverage in an enrollee's prior QHP is the day before the effective date of coverage in his or her new QHP, including any retroactive enrollments effectuated under §155.420(b)(2)(iii).

(7) 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.

(8) In cases of retroactive termination dates, the Exchange will ensure that appropriate actions are taken to make necessary adjustments to advance payments of the premium tax credit, cost-sharing reductions, premiums, claims, and user fees.

(9) In case of a retroactive termination in accordance with paragraph (b)(1)(iv)(A) of this section, the termination date will be no sooner than the date that would have applied under paragraph (d)(2) of this section, based on the date that the enrollee can demonstrate he or she contacted the Exchange to terminate his or her coverage or enrollment through the Exchange, had the technical error not occurred.

(10) In case of a retroactive cancellation or termination in accordance with paragraph (b)(1)(iv)(B) or (C) of this section, the cancellation date or termination date will be the original coverage effective date or a later date, as determined appropriate by the Exchange, based on the circumstances of the cancellation or termination.

(11) In the case of cancellation in accordance with paragraph (b)(2)(vi) of this section, the Exchange may cancel the enrollee's enrollment upon its determination that the enrollment was performed without the enrollee's knowledge or consent and following reasonable notice to the enrollee (where possible). The termination date will be the original coverage effective date.

(12) In the case of retroactive cancellations or terminations in accordance with paragraphs (b)(1)(iv)(A), (B) and (C) of this section, such terminations or cancellations for the preceding coverage year must be initiated within a timeframe established by the Exchange based on a balance of operational needs and consumer protection. This timeframe will not apply to cases adjudicated through the appeals process.

(e) *Termination, cancellation, and reinstatement.* The Exchange may establish operational instructions as to the form, manner, and method for addressing each of the following:

(1) *Termination.* A termination is 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.

(2) *Cancellation.* A cancellation is specific type of termination 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.

(3) *Reinstatement.* A reinstatement is a correction of an erroneous termination or cancellation action and results in restoration of an enrollment with no break in coverage.

[77 FR 18444, Mar. 27, 2012, as amended at 77 FR 31515, May 29, 2012; 78 FR 42322, July 15, 2013; 79 FR 30348, May 27, 2014; 80 FR 10867, Feb. 27, 2015; 81 FR 12343, Mar. 8, 2016; 81 FR 94179, Dec. 22, 2016; 83 FR 17063, Apr. 17, 2018; 85 FR 29260, May 14, 2020; 88 FR 25920, Apr. 27, 2023]

## Subpart F—Appeals of Eligibility Determinations for Exchange Participation and Insurance Affordability Programs

SOURCE: 78 FR 54136, Aug. 30, 2013, unless otherwise noted.

### § 155.500 Definitions.

In addition to those definitions in §§155.20 and 155.300, for purposes of this subpart and §155.740 of subpart H, the following terms have the following meanings:

*Appeal record* means the appeal decision, all papers and requests filed in the proceeding, and, if a hearing was held, the transcript or recording of hearing testimony or an official report