

Highlights of Patient Protection and Affordable Care Act of 2010 (PPACA)

Subject: Rescissions for Group Health Plans

Summary

According to the Patient Protection and Affordable Care Act of 2010 (also referred to as Health Care Reform), effective for new plans and plan renewals on or after September 23, 2010, the rules for rescissions and retroactive terminations for group health plans and insurance coverage will change.

What is a rescission?

A rescission is when a plan or issuer initiates:

- A cancellation or discontinuance of coverage that has a retroactive effect; or
- A cancellation that voids a policy as of the enrollment date for the individual or group

A cancellation or discontinuance of coverage is not a rescission if:

- The cancellation or discontinuance of coverage has only a prospective effect, that is at some point in time in the future;
- It is attributable to a failure to timely pay required premiums or contributions towards the cost of coverage in which case the cancellation or discontinuance of coverage may be effective retroactively.

Under PPACA, when is a rescission permitted?

A rescission is permissible when the person seeking coverage has:

- Performed an act, practice, or omission that constitutes fraud; or
- Makes an intentional misrepresentation of material fact, as prohibited by the plan or coverage.

When rescinding coverage the plan or issuer must provide written notice to each participant affected by the rescission, at least 30 calendar days in advance.

How does this compare to current NYS insurance law?

In New York state, cancellations for fraud must be prospective with 30-calendar day advance notice.

Which products are included/excluded from HCR rescissions?

Included Products * * Grandfathered or non-grandfathered, insured or self-insured	Excluded Products
<ul style="list-style-type: none"> ➤ Group health plans, including HMOs ➤ Healthy NY – group product ➤ Medicare Complimentary 	<ul style="list-style-type: none"> ➤ HIPAA excepted benefits, such as: <ul style="list-style-type: none"> ✓ Dental only ✓ Vision only ➤ Medicare Advantage ➤ Medicare Supplement Insurance

Frequently Asked Questions Regarding Rescissions

Q1. Who is obligated to provide a 30-day advance cancellation notice to the employee dependent or member of the group, for a permissible rescission?

A1. There are two parts to this answer:

a Fraud:

In the event of a possible fraudulent situation, it must be reported to Excellus BlueCross BlueShield who will investigate the allegation and provide the 30-day notice of cancellation, if appropriate. To report potential fraud, please contact the Excellus BCBS Special Investigations Unit at 1-800-378-8024. Be advised, that under NYS law a cancellation for fraud is effective 30 days in the future after 30 days notice. It is never retroactive.

b Material misrepresentation:

The group must provide the 30-day advance cancellation notice to the employee, dependent or member of the group, before processing the rescission. There are limitations on rescinding coverage when the employee has paid a portion of the premium or has a reasonable expectation of coverage. Please read the regulations and more detailed information published by Health and Human Services (HHS) on this subject.

Q2. How does the Health Care Reform (HCR) rescission provision impact the Excellus BCBS 30-day retroactive termination policy?

A2. There is no impact to the limitation on *most* retroactive terminations. The 30-day retroactive termination policy still applies. See the Excellus BCBS document "[Your Guide to Membership and Billing](#)", for further information.

Q3. What should my group do to cancel coverage for an employee whose employment terminates *today*?

A3. Per the terms of your group certificate, contract or plan documents, inform your employee of his/her cancellation date and provide a COBRA/NYS Continuation notice, as appropriate. The cancellation date is typically the end of the month. Your benefits administrator must inform Excellus BCBS of the termination immediately, to ensure your cancellation request will be considered for the requested date.

Q4: What if an employee gives no advance notice that they are leaving?

A4: The standard terms of a contract, certificate or plan document state that coverage will cancel as of the date to which premium is paid, generally the end of the month.

Q5. If my group plan is "grandfathered" under HCR, do the rescission limitations apply?

A5. Yes, the rescission limitations affect all health coverage, whether grandfathered or not.

Q6. Are there any penalties for being out of compliance with the Rescissions Provision?

A6: Yes. There are potential monetary penalties for non-compliance with the Rescissions Provision for both employers and issuers.

For the latest updates on Health Care Reform, visit excellusbcbs.com/healthreform

The information provided here is not intended to advise you on how to comply with any provisions of the referenced legislation or related legislation or regulations, nor is it otherwise intended to impart any legal advice.

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