

**STATE OF VERMONT
DEPARTMENT OF FINANCIAL REGULATION**

In re: Vermont Health Connect)	
Transition)	DOCKET NO. 13-043-I
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**ORDER REGARDING VERMONT HEALTH CONNECT
TRANSITION AND IMPLEMENTATION**

STATEMENT OF LAW

General

1. Pursuant to the authority granted by law, including but not limited to that contained in 8 V.S.A. §§ 10-12, 15, 3661, 4061, 4080a, 4080b, and 4087, the Commissioner of the Department of Financial Regulation of the State of Vermont (the “Commissioner”) administers and enforces the insurance laws and regulations of the State of Vermont.
2. Pursuant to Title 8, including but not limited to 8 V.S.A. § 15, the Commissioner of the Department of Financial Regulation (the “DFR”) may “issue orders as shall be authorized by or necessary to the administration of [Title 8] . . . and to carry out the purposes of [Title 8].”
3. Pursuant to Title 8, including but not limited to 8 V.S.A. § 4080a, the jurisdiction of the DFR includes the administration of law pertaining to small group health benefit plans.
4. Pursuant to Title 8, including but not limited to 8 V.S.A. § 4080b, the jurisdiction of the DFR includes the administration of law pertaining to nongroup health benefit plans.
5. Act 48 of 2011 (“Act 48”) and Act 171 of 2012 (“Act 171”) were enacted by the General Assembly to achieve health care reform in the State of Vermont.

6. Act 48 and Act 171 emphasize that the Vermont Health Connect¹ (the “VHC”) is responsible for enrollment of individuals in qualified health plans. Section 4 of Act 48 states: “The [VHC] shall have the following duties and responsibilities consistent with the Affordable Care Act: . . . enrolling qualified individuals in qualified health benefit plans . . . , and ensuring that individuals may transfer coverage between qualified health benefit plans and other sources of coverage as seamlessly as possible; . . . [and] [c]reating and maintaining . . . a website through which enrollees and prospective enrollees of qualified health benefit plans may obtain standardized comparative information on such plans . . . and interactive online communication tools.”
7. Section 41(i) of Act 171 repeals 8 V.S.A. §§ 4080a and 4080b effective January 1, 2014, “except that plans issued or renewed in 2013 shall remain in effect until their anniversary date in calendar year 2014.”
8. Section 41a of Act 171 pertains to transitional provisions for the implementation of health care reform.

Individuals

9. Notwithstanding Section 41(i) of Act 171, which repeals 8 V.S.A. §§ 4080a and 4080b, Section 41a(c) of Act 171 stipulates that if the “[VHC] is not operational by January 1, 2014 and the department of Vermont health access or a health insurer is unable to facilitate enrollment in health benefit plans through another mechanism, including paper enrollment,” then “the statutes and rules in effect prior to the date of repeal” may remain in effect and the DFR “may allow individuals and small employers to extend coverage under an existing health insurance plan.”
10. The DFR, pursuant to the authority set forth in Section 41a of Act 171 and the jurisdictional and supervisory authority set forth in 8 V.S.A. §§ 10-12, may determine if the VHC is “operational.”
11. To determine whether the VHC is “operational” under Section 41a(c), the same Section stipulates that the DFR “shall maintain [its] authority . . . until the [VHC] is able to enroll all qualified individuals and small employers who apply for coverage through the [VHC].” Since the DFR’s authority under Section 41a(c) of Act 171 ceases in the event that “the [VHC] is able to enroll all qualified individuals and small employers who apply

¹ The Vermont Health Connect (the “VHC”) is the health benefit exchange established in 33 V.S.A. chapter 18 and is under the authority of the Department of Vermont Health Access.

for coverage through the [VHC],” then that function is the principal test of operability. “Until” the VHC is “able to enroll all qualified individuals and small employers,” it is not “operational.”

12. Pursuant to Section 41a(e) of Act 171, “a health insurer shall not be required to guarantee acceptance of any individual, employee, or dependent on or after January 1, 2014 for a small group plan offered pursuant to 8 V.S.A. § 4080a or a nongroup plan offered pursuant to 8 V.S.A. § 4080b except as required by the [DFR] . . . pursuant to [Section 41a(c)].”

Small Employers

13. Pursuant to Section 41a(a)(2) of Act 171, the Commissioner of the DFR “may, in [her] discretion, allow for the extension of a small group . . . plan beyond the plan’s renewal date in order to ensure a smooth and orderly transition from health plans offered in the small group . . . markets in 2013 to health plans offered in the small group market through the [VHC] in 2014.”
14. Notwithstanding Section 41(i) of Act 171, which repeals 8 V.S.A. §§ 4080a and 4080b, Section 41a(c) of Act 171 stipulates that if the “[VHC] is not operational by January 1, 2014 and the department of Vermont health access or a health insurer is unable to facilitate enrollment in health benefit plans through another mechanism, including paper enrollment,” then “the statutes and rules in effect prior to the date of repeal” may remain in effect and the DFR “may allow individuals and small employers to extend coverage under an existing health insurance plan.”
15. The DFR, pursuant to the authority set forth in Section 41a of Act 171 and the jurisdictional and supervisory authority set forth in 8 V.S.A. §§ 10-12, may determine if the VHC is “operational.”
16. To determine whether the VHC is “operational” under Section 41a(c), the same Section stipulates that the DFR “shall maintain [its] authority . . . until the [VHC] is able to enroll all qualified individuals and small employers who apply for coverage through the [VHC].” Since the DFR’s authority under Section 41a(c) of Act 171 ceases in the event that “the [VHC] is able to enroll all qualified individuals and small employers who apply for coverage through the [VHC],” then that function is the principal test of operability. “Until” the VHC is “able to enroll all qualified individuals and small employers,” it is not “operational.”

17. Pursuant to Section 41a(e) of Act 171, “a health insurer shall not be required to guarantee acceptance of any individual, employee, or dependent on or after January 1, 2014 for a small group plan offered pursuant to 8 V.S.A. § 4080a or a nongroup plan offered pursuant to 8 V.S.A. § 4080b except as required by the [DFR] . . . pursuant to [Section 41a(c)].”

Associations

18. Pursuant to Section 41a(a)(2) of Act 171, the Commissioner of the DFR “may, in [her] discretion, allow for the extension of a[n] . . . association plan beyond the plan’s renewal date in order to ensure a smooth and orderly transition from health plans offered in the small group and association markets in 2013 to health plans offered in the small group market through the [VHC] in 2014.”
19. Pursuant to Section 41a(e) of Act 171, “a health insurer shall not be required to guarantee acceptance of any individual, employee, or dependent on or after January 1, 2014 for a small group plan offered pursuant to 8 V.S.A. § 4080a or a nongroup plan offered pursuant to 8 V.S.A. § 4080b except as required by the [DFR] . . . pursuant to [Section 41a(c)].”

FINDINGS

1. Under Section 41a of Act 171, the DFR has the authority to ensure that individuals and small employers avoid an unwanted gap in coverage for health insurance or health benefit plans during the transition to a fully operational VHC and the DFR finds the exercise of that authority is appropriate and necessary.
2. The dental insurance market will operate in compliance with federal and state law both on the VHC and independent of the VHC on and after January 1, 2014, making it unnecessary for the DFR to act to ensure that individuals and small employers avoid an unwanted gap during the transition to a fully operational VHC.

ORDER

Pursuant to authority granted by Section 41a of Act 171, as well as pursuant to authority granted by Title 8, including but not limited to that contained in 8 V.S.A. §§ 10-12, 15, 3661, 4061, 4080a, 4080b, and 4087, the following ORDER is to the extent described below, effective as of the date of execution:

Based upon the findings, **IT IS THEREFORE ORDERED** that persons, including individuals, small employers, and associations, may extend coverage under a health insurance plan existing as of December 31, 2013 for a small group plan offered pursuant to 8 V.S.A. § 4080a or for a nongroup plan offered pursuant to 8 V.S.A. § 4080b. Persons may not extend coverage if they successfully enroll in a health insurance plan through the VHC. Coverage under a health insurance plan may be extended under this Order until no later than March 31, 2014. A person's extended coverage will terminate when that person successfully enrolls in a health insurance plan through the VHC. Coverage under a health insurance plan extended under this Order prohibits any unwanted gap in health insurance coverage and does not allow for any changes to rates and forms. The annual deductible of a plan whose coverage is extended under this Order resets on the anniversary date of the plan. If a person enrolls in a health insurance plan in 2014 through the VHC offered by the same insurer that extends that person's coverage under a health insurance plan existing as of December 31, 2013, amounts applied to the annual deductible and, as applicable, amounts applied to the out of pocket maximum shall be credited by the insurer. Under this Order, persons may not extend coverage under a stand-alone dental insurance plan.

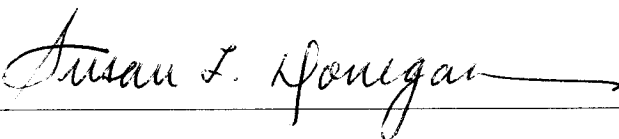
Based upon the findings, **IT IS THEREFORE ORDERED** that all health insurers, including but not limited to carriers, shall guarantee acceptance of any person, including an individual, employee, or dependent, enrolled in an existing health insurance plan as of December 31, 2013 who extends coverage under that health insurance plan. Persons may not extend coverage if they successfully enroll in a health insurance plan through the VHC. Coverage under a health insurance plan may be extended under this Order until no later than March 31, 2014. A person's extended coverage will terminate when that person successfully enrolls in a health insurance plan through the VHC. Coverage under a health insurance plan extended under this Order prohibits any unwanted gap in health insurance coverage and does not allow for any changes to rates and forms. The annual deductible of a plan whose coverage is extended under this Order resets on the anniversary date of the plan. If a person enrolls in a health insurance plan in 2014

through the VHC offered by the same insurer that extends that person's coverage under a health insurance plan existing as of December 31, 2013, amounts applied to the annual deductible and, as applicable, amounts applied to the out of pocket maximum shall be credited by the insurer. Under this Order, persons may not extend coverage under a stand-alone dental insurance plan.

Based upon the findings, **IT IS THEREFORE ORDERED** that all health insurers that communicated to individuals, small employers, or associations information regarding the cessation or cancellation of existing insurance plans prior to the effective date of this Order must rescind such communications to the extent applicable and consistent with this Order.

Based upon the findings, **IT IS THEREFORE ORDERED** that all health insurers that provide coverage under a health insurance plan to small employers that are members of small groups or associations and whose coverage terminates between December 31, 2013 and March 31, 2014 enroll those small employers in the health insurance plan through the VHC that most closely resembles their existing plan so as to avoid any gap in coverage. The health insurer shall enroll all such appropriate small employers unless a small employer affirmatively selects a different qualified health plan or elects to extend its existing coverage under this Order.

Dated at Montpelier, Vermont this 7th day of November, 2013.

By: 

Susan L. Donegan, Commissioner
Department of Financial Regulation