

Virginia Implements Guidance for Excepted Benefits Policies

The Virginia Bureau of Insurance (the “Bureau”) recently released guidance, Wellness Benefits in Excepted Benefits Policies Guidance (the “guidance”), relating to excepted benefits policies written in Virginia. The new guidance clarifies previous regulations issued by the Bureau, which prohibit certain wellness benefits from being attached to coverage not included in the traditional health care plan.

Effective July 1, 2025, carriers must cease issuing any insurance policies previously approved that are not compliant with the new guidance.

■ Background

Prior to this newly issued guidance, the Bureau allowed a wide variety of benefits (including wellness benefits), to be included in certain accident and sickness policies, including excepted benefits policies. After analyzing the 2023 regulations, the Bureau concluded that the inclusion of wellness benefits that do not meet the definition of, or standards for, the various types of excepted benefits policies takes the policy outside of the scope of an excepted benefits policy. Consequently, the Bureau will no longer be approving such policies.

■ Excepted Benefits Rules

Excepted benefits policies issued in Virginia must meet specific requirements to be considered “excepted” from state and federal laws that apply to health benefit plans. Including certain benefits in the policy that take the policy outside of the scope of these specific requirements will disqualify excepted benefits policies from being “excepted” and will not be approved upon filing.

The guidance outlines the only acceptable combinations of accident and sickness excepted benefits that will be approved. No other combinations of excepted benefits may be filed under a single policy unless approved in advance by the Bureau. Further, wellness benefits that are compliant with the guidance may be embedded in the body of a policy or included via a rider. The guidance outlines specific rules for the types of excepted benefits as follows:

- **Accident:** Wellness benefits cannot be included in Accident Only policies. Benefits added must conform to Accident Only coverage requirements.
- **Specified Disease:** Any wellness benefit included in a Specified Disease policy must be related to the disease for which coverage is being provided. For example, in a cancer-only policy, a wellness benefit that has nothing to do with cancer would be impermissible.
- **Hospital or other Fixed Indemnity:** Wellness benefits are not allowable in group hospital or fixed indemnity policies.
- **Disability Income:** Wellness benefits are not allowed in a disability income policy.
- **Limited Scope:** Routine dental, hearing, or vision exams that are specifically covered in limited scope dental, hearing, or vision policies are allowable.

■ Scope of Guidance

Compliance with the guidance is a requirement for all carriers who market, sell, issue, or renew forms on or after July 1, 2025. A policy or certificate is exempt from this guidance to the extent it is issued prior to the effective date of the guidance, and the policy or certificate prohibits unilateral benefit revisions by the carrier. Further, all policy forms and rates currently under review or submitted for review will not be approved unless they comply with all requirements of the guidance. Rates associated with these policy forms may require revision to ensure that premiums remain reasonable in relation to the benefits provided.

Carriers are encouraged to review policies and rates for new business and renew policies and certificates well in advance of the deadline, as they may be subject to knowing and willful violations of the Virginia Code if not in compliance.

■ Employer Action

Employers offering affected coverage may hear from their insurers about required changes to their coverage. The employer and/or the insurer should communicate any policy changes to participants.