

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2015**

**Bill Number:** H.487

**Name of Bill:** An act relating to direct enrollment in Exchange plans and to presuit mediation in medical malpractice claims.

**Agency/ Dept:** AHS/DVHA

**Author of Bill Review:** Addie Strumolo & Sean Sheehan

**Date of Bill Review:** 3/30/2015

**Related Bills and Key Players:**

**Status of Bill: (check one):** ☐ Upon Introduction ☒ As passed by 1<sup>st</sup> body ☐ As passed by both

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**Recommended Position:**

☐ Support ☐ Oppose ☐ Remain Neutral ☒ Support with modifications

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**Analysis of Bill**

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**1. Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*

This bill proposes to allow individuals to enroll directly in 2016 a VHC plan if a registered carrier elects to make direct enrollment available. A carrier offering direct enrollment must comply with all open enrollment and special enrollment periods applicable to VHC.

The bill would also:

- extend the use of confidential presuit mediation in medical malpractice claims until 2018,
- require the Blueprint for Health to report on its return on investment and on wellness incentives, and
- direct the Green Mountain Care Board to consider issues pertaining to payment reform for primary care and to differential payments to health care providers.

The following analysis addresses the direct enrollment section of the bill.

**2. Is there a need for this bill?** *Please explain why or why not.*

This bill would create alternative pathway to enrollment in VHC plans for individuals and families to the extent a QHP issuer elects to make it available. It is difficult to predict whether issuers will take advantage of this option -and whether customers will benefit from this flexibility - because of the complexity of its implementation.

Direct enrollment has been strictly defined by HHS such that it is "in a manner considered to be through the Exchange," and issuers would have to comply with those parameters. 45 CFR 156.1230. Requirements include the following:

- The QHP issuer informs all applicants of the availability of other QHP products offered through the Exchange through an HHS-approved universal disclaimer and displays the Web link to and describes how to access the Exchange Web site.
- The QHP issuer's Web site allows applicants to select and attest to an advance payment of the premium tax credit amount, if applicable, in accordance with federal rules.

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In short, the QHP issuer must connect back to the exchange system for eligibility.

The Federally-facilitated Marketplace (FFM) offers this option to its QHP issuers. Its implementation has been technically complicated. Specifically, the FFM makes available an application program interface (API) that allows a QHP issuer to submit enrollment requests to the FFM through a web service invocation. The enrollment requests are processed by the FFM and sent to the QHP issuer. The FFM direct enrollment API provides QHP issuer websites access to FFM eligibility and enrollment business services through a combination of secure transfers of the applicant to and from the FFM website and web services. The secure transfer of the applicant between the FFM and the QHP issuer website is used for submission of the eligibility application (for initial eligibility determinations as well as changes in circumstance).

[https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/ENR\\_OperationsPolicyandGuidance\\_5CR\\_100313.pdf](https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/ENR_OperationsPolicyandGuidance_5CR_100313.pdf)

Anecdotally, the FFM has found the advantage of offering direct enrollment to lie in enabling agents and brokers appointed by QHP issuers to enroll their clients without having to call the FFM call center. This advantage is largely inapplicable in Vermont.

### **3. What are likely to be the fiscal and programmatic implications of this bill for this Department?**

Establishing connectivity between the VHC website/rules engine and QHP issuers will require technical and operational resources at DVHA. The State will have to decide the technical parameters for the direct enrollment option, and will have to coordinate closely with QHP issuers on billing, reconciliation, and federal reporting.

The legislation may also warrant some education for customers and other stakeholders that direct enrollment is not as simple as going to the issuer website to purchase the QHP (or at least that lot of time and effort will be necessary to make it so). It may also be helpful to clarify that, even with the direct enrollment option, VHC remains the only source of individual and small group health insurance in Vermont.

### **4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**

N/A

**What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example, public, municipalities, organizations, business, regulated entities, etc)*

Vermont families may benefit from an alternative enrollment option into VHC coverage.

### **5. Other Stakeholders:**

#### **5.1 Who else is likely to support the proposal and why?**

QHP issuers may support the proposal because, to the extent they choose to make direct enrollment available, it will maintain and/or increase their individual market business. However, the technical challenge in interfacing with the VHC website may counterbalance that advantage.

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## 5.2 Who else is likely to oppose the proposal and why?

### 6. Rationale for recommendation: *Justify recommendation stated above.*

Offering an alternative enrollment option will benefit customers. However, the technical and operational effort to implement this option may dissuade issuers from doing so.

### 7. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

- Clarification that “exchange plans” is synonymous with health benefit plan as defined earlier in 33 VSA 1811.

### 8. Gubernatorial appointments to board or commission?

No.

Secretary/Commissioner has reviewed this document:  Date: 4/7/15\_\_\_\_\_