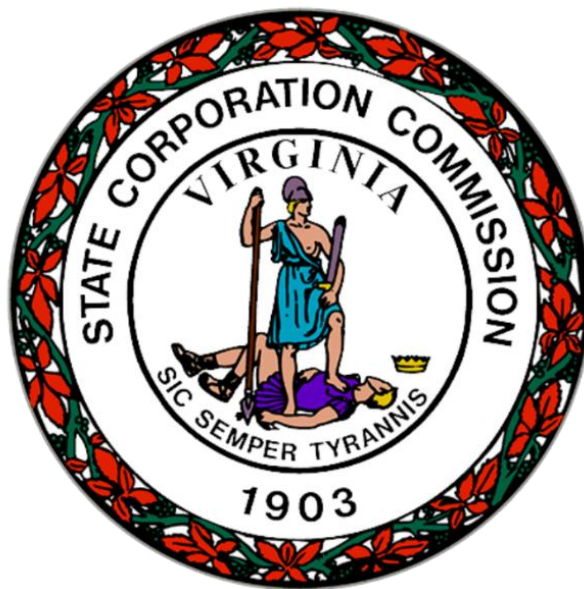


Report on the Elimination of the Tobacco Surcharge on Health Insurance Affordability and Purchase

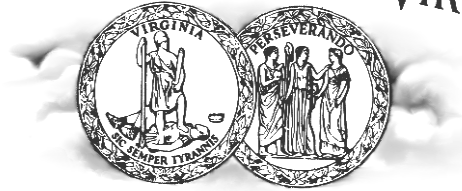
*A Report to the Governor of the Commonwealth of Virginia,
the Chairs of the Senate Commerce and Labor Committee,
and the House Commerce and Energy Committee*



January 1, 2024

COMMONWEALTH OF VIRGINIA

**SCOTT A. WHITE
COMMISSIONER OF INSURANCE
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January 1, 2024

The Honorable Glenn Youngkin
Governor
Commonwealth of Virginia

The Honorable Richard L. Saslaw
Chair, Committee on Commerce and Labor
Senate of Virginia

The Honorable Terry G. Kilgore
Vice Chair, Committee on Commerce and Energy
Virginia House of Delegates

Dear Governor Youngkin, Senator Saslaw, and Delegate Kilgore:

On behalf of the State Corporation Commission, the Bureau of Insurance hereby submits the Report on the Effect of the Elimination of the Tobacco Surcharge on Health Insurance Affordability and Purchase pursuant to Chapters 682 and 683 of the Virginia Acts of Assembly, 2023 Session.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott A. White', written over a horizontal line.

Scott A. White
Commissioner of Insurance

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Executive Summary

Legislation (House Bill 1375 and Senate Bill 1011) passed during the 2023 Virginia General Assembly Session eliminated the ability of health insurance carriers to include a surcharge¹ for tobacco use effective January 1, 2024. Additionally, these bills directed the State Corporation Commission (Commission) to submit an annual report summarizing the reductions in premiums related to the elimination of the tobacco surcharge and the percentage of new enrollees in higher-than-average tobacco-use locales, with provisions set to expire on January 1, 2026.

In 2023, eight of fifteen health carriers applied tobacco surcharges, ranging from 5% to 20%, in the individual health insurance market. None applied the tobacco surcharge in the small group health market.

Depending on member age, the elimination of the tobacco surcharge for the 2024 Plan Year reduced the per member per month rate between \$25 and \$123 for Virginia tobacco users. For the 2024 Plan Year, overall premium rates increased \$3.80 (less than 1%) per member per month to account for the elimination of the tobacco surcharge.

To prepare for future reporting, the Bureau identified localities with above-average rates of tobacco use. This information will be used to determine the percentages of new enrollees in these areas when the 2024 enrollment data becomes available and will be included in the next report to be issued by January 1, 2025.

¹ A tobacco surcharge is an additional amount added to the regular premium for individuals who use tobacco products. This extra charge is intended to account for the increased health risks and potential higher healthcare costs associated with tobacco use.

Background

Insurance carriers providing individual and small group health insurance coverage may only vary the premium rates for any particular health benefit plan by a few limiting factors. Prior to January 1, 2024, these factors included:

- whether the plan covers an individual or a family;
- the rating area in which the plan is offered;
- the age of the enrollee, limited to a maximum variance of 3-to-1 based on the rate for a 21-year-old enrollee; and
- tobacco use by the enrollee, limited to a maximum variance of 1.5 to 1 based on the rate for a non-tobacco user.

The Federal Affordable Care Act allows a carrier to include the tobacco surcharge in its rates, but state law can restrict rating requirements further.

In 2021, the [Joint Commission on Health Care \(JCHC\) engaged in a study](#) to examine health insurance affordability in the individual market (the Affordability Report) with a goal of making the marketplace stable, more affordable for those covered, and more accessible for those who are not covered. Four specific items were to be identified in the Affordability Report, with two applying to the legislation underlying this report:

- identify options that may make health coverage more affordable and available to individuals regardless of income; and
- determine, where possible, the impact of each option on the state, insurers, providers and consumers, including any unintended consequences.

The JCHC staff asked the Urban Institute to model eight distinct scenarios and multiple combinations of these scenarios. One of these was the elimination of the tobacco surcharge to improve affordability and access to health care. According to the Affordability Report, eliminating the tobacco surcharge would reduce premiums by bringing tobacco users into the individual market.²

² JCHC Affordability Report, page 21.

The Urban Institute’s Health Insurance Policy Simulation Model (HIPSM),³ used to estimate the impact of policy changes on health insurance coverage and costs, indicated that premiums may fall by 3 – 4.5%, with the number of individual market enrollees estimated to increase by as many as 13,000 compared to the baseline under current law at the time of the study. Additionally, as stated in the Affordability Report, the HIPSM estimated up to a 14,000 reduction of uninsured for 2023.

The Advanced Premium Tax Credits (APTCs) cannot be applied to the tobacco surcharge. Elimination of the tobacco surcharge was projected to have a larger impact on premiums, but a smaller impact on the number of uninsured, if the APTCs available in the American Rescue Plan Act were extended⁴.

TABLE 15: Estimated impact of eliminating the smoking surcharge in Virginia (2023)

	Reduction in premiums	Reduction in uninsured
Impact if ARPA APTCs not extended	3.0%	14,000
Impact if ARPA APTCs extended	4.5%	3,000

SOURCE: Urban Institute’s Health Insurance Policy Simulation Model, estimates for 2023.

Legislation (House Bill 1375 and Senate Bill 1011) passed during the 2023 General Assembly Session eliminated the authority of a health carrier to vary its premium rates based on tobacco use. These bills apply to health benefit plans providing individual or small group health insurance coverage entered into, amended, extended, or renewed on or after January 1, 2024. The bills direct the Commission to submit an annual report summarizing the reductions in premiums related to the elimination of the tobacco surcharge and the percentage of new enrollees in localities with above-average rates of tobacco use by January 1 of each year through January 1, 2026.

³ The Health Insurance Policy Simulation Model (HIPSM) is a detailed microsimulation model of the health care system designed to estimate the cost and coverage effects of proposed health care policy options. Information can be found at [Health Insurance Policy Simulation Model \(HIPSM\) Methodology Documentation](#)..

⁴ JCHC Affordability Report, pages 23-24.

Impact of Eliminating the Tobacco Surcharge on Tobacco Users

The following table summarizes the per member per month rates (PMPM) from the 2023 Plan Year and the weighted average reduction in PMPM premiums for the 2024 Plan Year beginning January 1, 2024, of the carriers who impose a tobacco surcharge.

Companies with Tobacco Surcharges (2023)	2023 Plan Year Tobacco Surcharge	Age Range	Weighted Average Premium Reduction PMPM for members who paid the surcharge in 2023
Aetna Health Inc	10%	All (21 - 64)	\$50.73
Aetna Life Insurance Company	10%	All (21 - 64)	\$54.45
HealthKeepers, Inc.	5%	21 - 29	\$30.62
	10%	30 - 49	\$61.24
	20%	50 - 64	\$122.48
Innovation Health Plan, Inc.	10%	All (21 - 64)	\$55.17
Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.	20%	All (21 - 64)	\$104.88
Sentara Health Plan	20%	All (21 - 64)	\$123.40
Optimum Choice, Inc.	5%	21 - 29	\$25.62
	10%	30 - 49	\$51.25
	20%	50 - 64	\$102.50
Oscar Insurance Company	0%	21 - 24	\$0.00
	5%	25 - 34	\$26.86
	9%	35 - 54	\$48.34
	12.5%	55 - 64	\$67.14

Source: Bureau Health Actuary Calculations were made utilizing information filed to support the Bureau's review of Qualified Health Plan filings for calendar year 2024.

Observations on the Elimination of the Tobacco Surcharge

The Bureau makes the following observations regarding the elimination of tobacco surcharges in Virginia:

- Eight of fifteen carriers offering individual or small group health insurance coverage included a surcharge for tobacco use in 2023. Health carriers only applied the surcharge on individual health insurance coverage;
- No carriers applied a tobacco surcharge on small group health insurance coverage in 2023;
- Absent a state prohibition, the Affordable Care Act permits tobacco surcharges to vary by age;
- The highest surcharge allowed under the Affordable Care Act and Virginia law prior to January 1, 2024, is 50%;
- Depending on age, the surcharges ranged from 5% to 20% of the premium PMPM cost;
- Advanced Premium Tax Credits cannot be applied to the surcharge and must be paid fully by the enrollee;
- For the 2024 Plan Year, the rates for a tobacco user in Virginia were unchanged where a 2023 surcharge had not been imposed, and for those with a surcharge in 2023 rates fell between 5% and 20% depending on age with the elimination of the surcharge; and
- For the 2024 Plan Year, overall rates increased \$3.80 PMPM (less than 1%) to account for the elimination of the tobacco surcharge.

Virginia Tobacco Usage Rates by Locale

In preparation for future reporting, the Bureau identified the localities with above-average rates of tobacco use to employ in determining percentages of new enrollees in these areas compared to the statewide average tobacco usage rate. The source of this information was the same source cited in the Affordability Report.

County/City Estimated Population Percentage of Tobacco Users				Virginia Statewide Average 13.9			
Accomack	21.3	Dinwiddie	19.4	Lancaster	17.3	Prince William	12.7
Albemarle	12.3	Emporia City	25.7	Lee	26.1	Pulaski	20.3
Alexandria City	10.9	Essex	21.5	Lexington City	18.2	Radford City	21.6
Alleghany	22.1	Fairfax	9.4	Loudoun	9.5	Rappahannock	16.4
Amelia	20.5	Fairfax City	11.1	Louisa	19.3	Richmond	22.2
Amherst	19.7	Falls Church City	8.4	Lunenburg	22.5	Richmond City	17.2
Appomattox	19.9	Fauquier	14.8	Lynchburg City	18	Roanoke	16.3
Arlington	9	Floyd	20.1	Madison	18.8	Roanoke City	21
Augusta	19.7	Fluvanna	14.9	Manassas City	14.7	Rockbridge	19.1
Bath	22.3	Franklin	19.9	Manassas Park City	15.8	Rockingham	16.9
Bedford	17.4	Franklin City	21	Martinsville City	21.8	Russell	24.3
Bland	21.2	Frederick	17	Mathews	16.4	Salem City	16.9
Botetourt	17.2	Fredericksburg City	15.1	Mecklenburg	21.4	Scott	22.5
Bristol City	23.2	Galax City	24.1	Middlesex	18.3	Shenandoah	20
Brunswick	23	Giles	19.7	Montgomery	16.9	Smyth	23.2
Buchanan	27	Gloucester	17.6	Nelson	17.9	Southampton	19.1
Buckingham	23	Goochland	14	New Kent	15.9	Spotsylvania	15.2
Buena Vista City	23.5	Grayson	22.5	Newport News City	17.9	Stafford	14.1
Campbell	20.1	Greene	17.5	Norfolk City	19.4	Staunton City	18.2
Caroline	18.4	Greensville	22.8	Northampton	19.3	Suffolk City	16.3
Carroll	22.9	Halifax	21.5	Northumberland	16.9	Surry	20.3
Charles City	21.2	Hampton City	18.4	Norton City	24.2	Sussex	21.6
Charlotte	23.7	Hanover	14.3	Nottoway	22.1	Tazewell	22.6
Charlottesville City	15.9	Harrisonburg City	19.4	Orange	18.3	Virginia Beach City	14.5
Chesapeake City	14.9	Henrico	14.3	Page	22.1	Warren	19.3
Chesterfield	14.7	Henry	23.8	Patrick	21.4	Washington	20
Clarke	15.5	Highland	18.1	Petersburg City	22.5	Waynesboro City	19.2
Colonial Heights City	17.6	Hopewell City	23.9	Pittsylvania	22.6	Westmoreland	20.9
Covington City	21.5	Isle of Wight	17.3	Poquoson City	13.9	Williamsburg City	15.6
Craig	18.5	James City	12.7	Portsmouth City	19.5	Winchester City	17.4
Culpeper	17.6	King and Queen	17.9	Powhatan	16.4	Wise	25.1
Cumberland	19.4	King George	15.3	Prince Edward	20.7	Wythe	20.6
Danville City	23.4	King William	17.4	Prince George	17.5	York	13.3
Dickenson	26.3						

SOURCE: University of Wisconsin – Robert Wood Johnson Foundation, County Health Rankings - [County Health Rankings & Roadmaps \(CHR&R\)](#) is a program of the University of Wisconsin Population Health Institute.⁵

This information will be used to determine the percentages of new enrollees in these areas when the 2024 enrollment data becomes available and will be included in the next report to be issued by January 1, 2025.

⁵ The CHR&R program provides data, evidence, guidance, and examples to build awareness of the multiple factors that influence health and support leaders in growing community power to improve health equity. The Rankings are unique in their ability to measure the health of nearly every county in all 50 states and are complemented by guidance, tools, and resources designed to accelerate community learning and action.

Conclusion

This initial report provides information about the impact on the premium rates of the elimination of the tobacco usage surcharge and serves as the foundation for the next report, which will be issued after enrollment data is received for the 2024 period.