

# Report on High Deductible Health Plan Availability and Health Savings Accounts Under the Virginia Health Savings Account Plan

*Submitted to the Senate Committees on Finance and Appropriations, Education and Health, and Commerce and Labor; and the House Committees on Appropriations, Finance, Commerce and Energy, and Health, Welfare and Institutions pursuant to § 38.2-5601 of the Code of Virginia*



January 1, 2024



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**VIA ELECTRONIC MAIL**

The Honorable Janet D. Howell  
Co-Chair, Senate Committee on Finance and Appropriations

The Honorable George L. Barker  
Co-Chair, Senate Committee on Finance and Appropriations

The Honorable L. Louise Lucas  
Chair, Senate Committee on Education and Health

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

The Honorable Barry D. Knight  
Chair, House Committee on Appropriations

The Honorable Roxann L. Robinson  
Chair, House Committee on Finance

The Honorable Terry Kilgore  
Vice Chair, House Committee on Commerce and Energy

The Honorable Robert D. Orrock, Sr.  
Chair, House Committee on Health, Welfare and Institutions

Dear Senators and Delegates:

Pursuant to [§ 38.2-5601](#) of the Code of Virginia and on behalf of the State Corporation Commission, the Bureau of Insurance submits this report in fulfillment of its responsibilities related to high deductible health plans and health savings accounts under the Virginia Health Savings Account Plan.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott A. White'.

Scott A. White  
Commissioner of Insurance

## Table of Contents

<b>Executive Summary</b> .....	i
<b>Introduction</b> .....	1
<b>Availability of High Deductible Health Plans in Virginia</b> .....	3
<b>Increasing the Attractiveness of Health Savings Accounts and Eliminating Barriers to Use</b> .....	4
<b>Conclusion</b> .....	4
<b>APPENDIX A - List of Companies Offering High Deductible Health Plans in Virginia at Year-end 2022</b>	

## Executive Summary

In 1995, the Virginia Medical Savings Account Act (Act) enacted by the General Assembly became law, with the Virginia Medical Savings Account Plan to be established by the Bureau of Insurance (Bureau) and other designated agencies upon congressional authorization of plan components “for the purpose of providing the Commonwealth’s people with a future that includes affordable health care.” The initial plan was prepared pursuant to the Act, repealed in 2005, and reconstituted in [§ 38.2-5601](#) of the Code of Virginia as the Virginia Health Savings Account Plan (Plan).

Consistent with federal law, the Plan was to identify measures to increase the use and efficacy of health savings accounts within the Commonwealth of Virginia and include recommendations for legislation to increase the attractiveness of health savings accounts or eliminate barriers to their use.

Since 2005, the State Corporation Commission (Commission) and, until 2016 the Department of Taxation, have been charged with updating the Plan, annually. For the Commission, this is accomplished by:

- including a report on the availability of high deductible health plans; and
- identifying measures to increase the utilization and efficacy of health savings accounts, including recommendations for legislation to increase their attractiveness or eliminate barriers to their use.

On behalf of the Commission, the Bureau of Insurance submits this report, with the following findings for this reporting period:

- High deductible health plans were widely available in Virginia at year-end 2022, with 23 companies offering them for use with health savings accounts, which is an increase of two companies since year-end 2021; and
- The Bureau did not identify any statutory or regulatory barriers to the sale of high deductible health plans that would restrict their attractiveness to Virginians. As a result, it recommends no legislative changes to the Plan in this regard.

## Introduction

In 1995, the Virginia Medical Savings Account Act (Act) enacted by the General Assembly became [law](#), with the Virginia Medical Savings Account Plan to be established by the Bureau of Insurance (Bureau) and other designated agencies upon congressional authorization of plan components “for the purpose of providing the Commonwealth's people with a future that includes affordable health care.”<sup>1</sup> According to the Act, that future included high deductible health plans (HDHPs) and (HSAs).<sup>2, 3</sup> The initial plan was prepared pursuant to the Act and ultimately reconstituted in [§ 38.2-5601](#) of the Code of Virginia as the Virginia Health Savings Account Plan (Plan).

Consistent with federal law, the Plan is to identify measures by private and public entities to increase the use and efficacy of HSAs by residents, employers, and providers of health care coverage within the Commonwealth. The Plan also is required to include recommendations for legislation to increase the attractiveness of HSAs or eliminate barriers to their use.<sup>4</sup>

Since 2005, the State Corporation Commission (Commission) and, until 2016 the Department of Taxation, have been charged with annually updating the Plan.<sup>5</sup> For the Commission, this is accomplished by:

- including a report on the availability of HDHPs;<sup>6</sup> and
- identifying measures to increase the utilization and efficacy of HSAs<sup>7</sup> and including recommendations for legislation to increase their attractiveness or eliminate barriers to their use.<sup>8</sup>

HDHPs are health insurance plans that provide health coverage after an insured reaches a pre-determined deductible. Insurance companies offering these health plans may include health maintenance organizations, preferred provider organizations, health

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<sup>1</sup> § 3, Virginia Medical Savings Account Act (1995).

<sup>2</sup> § 3. Operation of medical savings accounts. Upon the authorization in federal law to establish medical savings accounts and upon development and enactment of the Plan described in § 2 of this act, medical savings accounts may be established in the Commonwealth.

<sup>3</sup> In 1996, medical savings accounts became a federal pilot program under the Health Insurance Portability and Accountability Act (HIPAA). These accounts provided tax benefits under the Internal Revenue Code and eventually evolved into health savings accounts (HSA) that could be combined under a federally qualified high deductible health plan (HDHP).

<sup>4</sup> Va. Code [§ 38.2-5601 B](#).

<sup>5</sup> Va. Code [§ 38.2-5601 A](#). However, since 2016, the General Assembly has exempted the Department of Taxation from these statutory requirements through state budget language that reads: "Notwithstanding the provisions of § 38.2-5601, Code of Virginia, the Department of Taxation shall not be required to update the Virginia Medical Savings Account Plan report after the completion of such report due on December 31, 2016." (2023 State Budget, Item 274, W.)

<sup>6</sup> Va. Code [§ 38.2-5601 C](#). The Plan shall include a report by the (State Corporation) Commission on the availability of high deductible health plans, as defined in § 223 (c) (2) of the Internal Revenue Code of 1986, as amended, in the Commonwealth.

<sup>7</sup> Under federal law, 26 USC § 223(d)(1), the term "health savings account" means a trust created or organized in the United States as a health savings account exclusively for the purpose of paying the qualified medical expenses of the account beneficiary,

<sup>8</sup> Va. Code [§ 38.2-5601 B](#).

services plans, life insurance companies, health services plans, or accident and sickness insurance companies.<sup>9</sup>

Health Savings Accounts are owned by individuals and designed for use with HDHPs. The monetary contributions in the HSAs are used to pay for eligible medical expenses. The minimum deductible amounts and annual out-of-pocket limits for high HDHPs to qualify for use with HSAs are determined by federal law and indexed annually to adjust for inflation.<sup>10</sup> The most recent standards are shown in the following chart:

<b>Current Federal Standards for High Deductible Health Plans to Qualify for Use with Health Savings Accounts</b>	
<b>2023</b>	<b>2024</b>
<b>Minimum Deductible Limits</b> <ul style="list-style-type: none"> <li>• \$1,500 for a single person (self-only)</li> <li>• \$3,000 for family coverage</li> </ul>	<b>Minimum Deductible Limits</b> <ul style="list-style-type: none"> <li>• \$1,600 for a single person (self-only)</li> <li>• \$3,200 for family coverage</li> </ul>
<b>Annual Out-of-Pocket Limits</b> <ul style="list-style-type: none"> <li>• \$7,050 for a single person (self-only)</li> <li>• \$15,000 for a family</li> </ul>	<b>Annual Out-of-Pocket Limits</b> <ul style="list-style-type: none"> <li>• \$8,050 for a single person (self-only)</li> <li>• \$16,100 for a family</li> </ul>

<sup>9</sup> As defined in 26 USC § 223(c)(2), an HDHP means "a health plan (i) which has an annual deductible which is not less than (I) \$1,000 for self-only coverage, and (II) twice the dollar amount in subclause (I) for family coverage, and (ii) the sum of the annual deductible and the other annual out-of-pocket expenses required to be paid under the plan (other than for premiums) for covered benefits does not exceed (I) \$5,000 for self-only coverage, and (II) twice the dollar amount in subclause (I) for family coverage." Each year, the Internal Revenue Service publishes new minimum deductible amounts and establishes the minimum corresponding out-of-pocket limits.

<sup>10</sup> IRS Publication 963 (2022) set forth the 2023 limits. The inflation adjustments for 2023 are set forth in 26 CFR 601.602: Tax forms and instructions. (Also, Part I, §§ 1, 223; Part III § 54.9831-1.) Rev. Proc. 2023-24.

## Availability of High Deductible Health Plans in Virginia

The Bureau obtained information on the HSA market in Virginia in 2022 from surveys of companies which had previously indicated that they were actively offering, or considering offering, HDHPs. For year-end 2022, two companies were added, for a total of 23 companies. This market information was supplemented with information from forms filed electronically with the Bureau and gathered through direct contacts with company personnel. Appendix A hereto includes a list of the companies offering HDHPs in Virginia.

Of the 23 companies, four companies accounted for 79% of the total lives covered by these plans. Six companies did not report any policy sales or Virginia-covered lives for 2022.

The following chart compares HDHP purchases over the last five years. From this information, the Bureau makes the following observations:

- From year-end 2021 to year-end 2022, the number of policies sold remained at 13,000; the cumulative number of policies in force decreased by 19%.
- The number of new lives covered by these plans decreased by 10%.
- The total number of covered lives decreased by 8%.
- From 2017 to 2022, the total number of covered lives decreased by 25%.

The changes in total lives covered can differ from the reported change in the number of policies sold since an individual HDHP policy, or policy certificate in the case of a group health plan, may include dependent coverage.

Year End	Companies Reporting	Policies Sold	Covered Lives	Cumulative Policies In-force*	Total Lives Covered*
2022	23	13,000	98,000	29,000	206,000
2021**	22	13,000	109,000	36,000	225,000
2020	17	21,000	119,000	93,000	260,000
2019	17	19,000	143,000	87,000	293,000
2018	18	21,000	148,000	76,000	272,000
2017	18	22,000	148,000	86,000	276,000

\* Includes lives covered by policies sold and those remaining in effect from prior years

\*\*Reported numbers for 2021 have been revised from previous report due to adjusted data provided by insurance companies.

## **Increasing the Attractiveness of Health Savings Accounts and Eliminating Barriers to Use**

The Bureau asked insurers offering HDHPs for ways to eliminate barriers to use and increase the attractiveness of HSAs. They did not have any recommended changes to the product or the related legislation. Since HSAs are a function of federal law, state actions have limited impact on barriers to use and the attractiveness of health savings accounts. The Bureau has not identified any state legislative or regulatory barriers to the sale of HDHPs that would restrict their attractiveness to Virginians.

### **Conclusion**

At year-end 2022, 23 insurance companies offered HDHPs for use with HSAs in Virginia, covering 206,000 lives. Plan sales, as well as the number of policies purchased, remained steady from year-end 2021 to year-end 2022, while the number of covered lives decreased.

In addition, the Bureau has not identified any state legislative or regulatory barriers to the sale of HDHPs that would restrict the attractiveness of using HSAs to Virginians. As such, the Bureau does not have any recommended legislative or regulatory changes to the Plan.

, The Bureau will continue to monitor federal and state legislation and associated regulations, as well as HDHP market activity in Virginia.



**List of Companies Offering High Deductible Health Plans  
in Virginia at Year-End 2022**

Aetna Health, Inc.  
Aetna Health Insurance Company  
Aetna Life Insurance Company  
Anthem Health Plans of Virginia, Inc.  
CareFirst BlueChoice, Inc.  
Cigna Health and Life Insurance Company  
Connecticut General Life Insurance Company  
Golden Rule Insurance Company  
Group Hospitalization and Medical Services, Inc.  
HealthKeepers, Inc.  
Innovation Health Insurance Company  
Innovation Health Plan, Inc.  
Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.  
Kaiser Permanente Insurance Company  
Optima Health Insurance Company  
Optima Health Plan  
Optimum Choice, Inc.  
Oscar Insurance Company  
Piedmont Community HealthCare, Inc.  
Piedmont Community HealthCare HMO, Inc.  
UnitedHealthcare Insurance Company  
UnitedHealthcare of the Mid-Atlantic, Inc.  
UnitedHealthcare Plan of the River Valley