

Short-term Limited Duration Insurance
Guidance Document
August 2024

The requirements below are based on the provisions of [§ 38.2-3407.21](#) of the Code of Virginia (“Code”), unless otherwise noted, and have been updated to include new Federal rules¹ effective June 17, 2024 (referred to here as the “2024 final Federal rules on STLDI”). This document is for informational purposes only. Carriers must consult the applicable laws and rules to determine requirements.

Definition:

“Short-term limited-duration insurance (STLDI)”² is health insurance coverage that complies with the requirements of § 38.2-3407.21 of the Code and the 2024 final Federal rules on STLDI. It is not individual health insurance coverage and it is not coverage for excepted benefits as those terms are defined in [§ 38.2-3431](#) of the Code.

Form and Rate Filings:

Forms associated with STLDI issued or issued for delivery in Virginia shall be filed with and approved by the Bureau of Insurance (BOI) prior to use pursuant to [§ 38.2-316](#) of the Code. An STLDI certificate offered to any Virginia resident in connection with a health benefit plan issued outside of Virginia shall be filed with the BOI prior to use and must comply with the requirements of [14 VAC 5-101-100](#) and § 38.2-3407.21 of the Code.

Rates associated with STLDI shall be filed with and approved by the BOI in accordance with [§ 38.2-316.1](#) of the Code, including rates for health benefit plans issued outside Virginia, providing health insurance coverage to individual residents of Virginia through a group trust, association, or other group that is not an employer plan.

Notices and Disclosures:

[14 VAC 5-141-140](#) requires an STLDI policy, including any application materials provided in connection with enrollment, to contain a specific notice displayed prominently in the application, plan materials and on the face of the policy. However, the 2024 final Federal rules on STLDI require carriers to provide a new notice that must not be modified. Given the new federal requirements for disclosure that substantially provide the same important information as the requirements of the Virginia Administrative Code, BOI will waive the disclosure requirements of 14 VAC 5-141-140 for STLDI.

For coverage that will be effective, renewed or extended on or after September 1, 2024, the new Federal notice must be displayed on the policy, certificate or contract as well as on the first page of marketing, application, and enrollment materials associated with such coverage. Because the new notice is an amendment to the policy, revised forms, as applicable, must be submitted to the BOI prior to use, in accordance with the above form and rate filing procedures.

¹ <https://www.govinfo.gov/content/pkg/FR-2024-04-03/pdf/2024-06551.pdf>

² “STLDI,” under § 38.2-3407.21 of the Code, includes individual policies issued in Virginia as well as individual certificates delivered in Virginia. The requirements in this guidance related to the Code do not apply to any policy, such as an association policy, issued outside Virginia but do apply to a certificate delivered in Virginia.

Terms and Renewability:

An STLDI policy term shall be not more than three months duration, subject to the limitations described in this section.

STLDI may be nonrenewable or renewable (but not guaranteed renewable) based on the insured's eligibility.

STLDI issued on or after September 1, 2024, for coverage delivered in Virginia, may be renewed or extended so long as that coverage does not exceed 4 months in total in any 12-month period with the same carrier or carrier that is a member of the same controlled group.³ Following the expiration of the STLDI, the 2024 final Federal rules on STLDI allow a carrier to issue, and a consumer to obtain, STLDI with a carrier not in the same controlled group as the carrier who issued the original STLDI. The federal rules explain that requiring a subsequent carrier within the same 12-month period to be not in the same controlled group prevents a practice called, "stacking" where different subsidiaries of the same controlled group could act to circumvent the revised maximum federal duration standards for STLDI. § 38.2-3407.21 of the Code places an additional restriction that limits the total amount of time an insured may be covered under STLDI to no more than 6 months in any 12-month period. Therefore, the Virginia law and federal rules require that in a situation where an insured was covered by the original STLDI for the full 4 months, the insured may be able to obtain other STLDI from a new carrier, not in the same controlled group as the carrier who provided the original STLDI, for an additional 2 months.

STLDI issued or delivered in Virginia prior to September 1, 2024, will be subject to Virginia requirements that allow the total term of coverage renewed or extended to be no more than 6 months in a 12-month period, even if renewed or extended on or after September 1, 2024.

An application form shall include a question on whether the applicant had any STLDI coverage within 12 months of the application date, and if so, whether the coverage was provided by a carrier in the same controlled group.

Benefits:

An STLDI policy issued in Virginia by a health maintenance organization shall cover basic health care services as defined in § 38.2-4300 of the Code. An STLDI policy issued in Virginia by any health carrier other than a health maintenance organization shall include at least emergency services, hospital and physician care, out-patient medical services, surgical benefits, and radiology and laboratory benefits. In addition:

1. An STLDI policy issued in Virginia that is nonrenewable shall include all applicable state mandates that do not specifically exempt short-term nonrenewable policies.

2. An STLD policy issued in Virginia that is renewable shall include all applicable state mandates, including those that exempt short-term nonrenewable policies.

Coverage that purports to be STLDI sold in the group market must comply with all group health insurance requirements, including any ACA group market reforms (e.g., EHBs) since STLDI is

³ "Controlled group" means any group treated as a single employer under section 52(a), 52(b), 414(m), or 414(o) of the Internal Revenue Code.

included in the definition of “group health insurance coverage” as defined in § 38.2-3431 of the Code. Additionally, the federal tri-agencies indicated in the 2024 final Federal rules on STLDI coverage that: “There is no ... provision excluding STLDI from the definition of group health insurance coverage. Thus, any health insurance that is sold in the group market and purports to be STLDI must nonetheless comply with applicable Federal group market consumer protections and requirements for comprehensive coverage, unless the coverage satisfies the requirements of one or more types of group market excepted benefits.” Thus, association coverage, other than in connection with employment under a group health plan, is considered coverage in the individual market as explained in the 2024 final Federal rules on STLDI.

Pre-existing conditions/Waiting periods:

An STLDI policy issued in Virginia that is renewable or underwritten shall comply with the limits imposed on preexisting conditions in § 38.2-3514.1 of the Code. Such policies may include a pre-existing condition exclusion period for the entire coverage period that must be credited for prior creditable coverage.

An STLDI policy issued in Virginia shall not contain any waiting period or elimination period prior to receiving benefits.

Internal Review and External Appeal:

An STLDI policy issued in Virginia shall be subject to internal appeal process requirements and external review requirements of Chapter 35.1 of Title 38.2 of the Code.

Application of Requirements:

STLDI shall not be issued or delivered in Virginia during an annual open enrollment period. No application for STLDI coverage in Virginia may be accepted during an annual open enrollment period.