

2016 ACA Filing Instructions

The Pennsylvania Insurance Department (the Department) will begin to accept PY 2016 ACA compliant filings beginning April 15, 2015. In order to coordinate with the CMS deadlines for submission for Federally Facilitated Marketplace (FFM) plans, and subject to any modifications to those deadlines, the last date that submissions will be accepted is May 15, 2015.

To permit timely review, insurers should submit with each submission, regardless of market type, a completed Compliance Checklist, Worksheet and Certification, substantially similar to the forms provided on SERFF and on the Department's website, as explained below. The filing may not receive a timely review, and therefore may be rejected, if the 2016 ACA Compliance Worksheet, Checklist and Certification are not completed in their entirety and the requested items are not provided in a timely manner.

If an insurer is required by Act 134 of 2011 to file with the Department for prior approval, a policy form, that is, a "product" as contemplated by the ACA, or policy form modification it should file the form in SERFF, and is requested to submit with it a Compliance Worksheet, Checklist and Certification to assist the Department in its review. If an insurer is intending to use after January 1, 2016 a form not required to be filed, that is, a "product" as contemplated by the ACA, the Department requests that a Compliance Worksheet, Checklist and Certification be submitted in SERFF in conjunction with any rate filing. Please file a Compliance Worksheet, Checklist and Certification with each policy form or policy form modification being submitted.

For any policy form or policy form modification being submitted, either as required to be filed or as filed in conjunction with a rate filing, Pennsylvania will accept as evidence of satisfying the ACA market reform requirements a Compliance Worksheet, Checklist and Certification, with the Market Reform portion of the Compliance Checklist filled out, and the Certification executed by an authorized representative of the insurer. If an insurer is anticipating that any such form/product along with its associated plans may be certified as a QHP and offered on an exchange, Pennsylvania will accept as evidence of satisfying the ACA QHP requirements a Compliance Worksheet, Checklist and Certification, with both the Market Reform and the QHP portions of the Compliance Checklist filled out, and the Certification executed by an authorized representative of the insurer. In addition to any federally-facilitated exchange filing requirement (i.e., HIOS), please also include the QHP Application Templates in your SERFF filing as a Form Schedule document. Finally, to further assist the Department in conducting a timely review of all product filings, it is requested that the Pennsylvania – State Required Benefits portion of the Compliance Checklist be filled out for all forms/products, and the Certification executed by an authorized representative of the insurer. In each case, the completed Compliance Checklist, Worksheet and Certification should be substantially similar to the forms provided on SERFF and on the Department's website.

These ACA requirements apply only to policies for health insurance coverage referred to as “major medical” in the statute, which is comprehensive health coverage, including PPO and HMO coverage. The Checklist identifies the requirements for group and individual plans, and, where specified, for grandfathered plans (coverage in effect prior to March 23, 2010) and transitional non-grandfathered plans (plans intended to be compliant with the November 14, 2013 letter and March 5, 2014 Bulletin from CMS/CCIIO). Refer to the relevant statute and any applicable regulations to ensure compliance. Complete each item applicable to your product category to confirm that diligent consideration has been given to each statutory requirement as to each plan encompassed by the identified form/product.

Further, with respect to the ACA rating requirements, including those amending the Public Health Service Act (PHSA), and as further explained in federal regulations, the Department requests that an actuarial memorandum be submitted as part of a rate filing for a product or plan subject to the ACA. As a reminder, in that actuarial memorandum, you are requested to:

- state the anticipated loss ratio (see ACA §1001, PHSA §2718, noting also compliance with 31 Pa. Code §89.83(b));
- state the actuarial level of coverage (see ACA §1302(d));
- state the insurer’s intention regarding whether the product or plan will be offered on or off the Federal Marketplace;
- specify compliance with the rating requirements set forth in the ACA, that is, use of no rating factors other than (i) age [premium band ratio not exceeding 3:1 and federally approved standard age curve], (ii) tobacco use [premium band ratio not exceeding 1.5:1], (iii) family size [as specified in federal regulation], and (iv) geography [state rating regions as federally approved, listed in Attachment B, and also shown in map form on the Department’s website at www.insurance.pa.gov] (see ACA §1201, PHSA §2701); and
- specify compliance with the single risk pool per market (individual or small group) requirement (see ACA §1312).

In addition, the Department requests that rates filed on SERFF be submitted using rate tables formatted substantially similarly to the rate tables provided on SERFF and on the Department’s website, and filed under two tabs in SERFF:

- Rate/Rule Tab – in the PDF format.
- Supporting Documentation Tab – in the EXCEL format.

Additional information may be found in the general instructions in SERFF.

Finally, while certain forms and rates referenced in this Notice are subject to review and approval by the Department prior to use, the Department reminds filing entities that those forms and rates (and all forms and rates used in Pennsylvania) remain subject to, and must comply in all respects with, Pennsylvania’s insurance laws and regulations, and the Department retains its

ability to take after-use enforcement action and seek any available remedy for non-compliant forms or rates. An insurer will be responsible for assuring that all of its insureds are provided the full benefits provided by the ACA.

Questions regarding this notice may be directed to Peter Camacci , Director of the Bureau of Life, Accident and Health Insurance, Pennsylvania Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 787-0762, or pcamacci@state.pa.us.