Guidance – 2019 Filing Instructions for
ACA-Compliant Individual and Small Group Products

This guidance provides instructions for on and off-exchange Affordable Care Act (ACA)-compliant individual and small group major medical health plans and stand-alone dental plans (SADPs).[1] The timeline for filing plans and rates for plan year 2019 is the same for qualified health plan issuers (QHP issuers) and issuers that have no QHPs (non-QHP issuers).

The Pennsylvania Insurance Department is the primary regulator for all health insurance products sold in Pennsylvania. In addition to reviewing and approving rates and forms, the Pennsylvania Insurance Department (PID) will continue to perform plan management functions required for insurers' participation in the federally facilitated marketplace (FFM) for Plan Year 2019. These functions complement our traditional review and approval of forms and rates. By conducting these plan management functions, our goal is to make health plan regulation as efficient and streamlined as possible for health insurers, thereby reducing costs and complications and supporting a robust insurance market in Pennsylvania.

****For instructions for ACA-compliant individual and small group rate filings, see separate rate filing guidance at** http://www.insurance.pa.gov/Companies/ProductAndRateRequire/**.****

Timeline for Form and Binder Filings

All health insurers that wish to issue or renew ACA-compliant individual or small group health insurance coverage on or after January 1, 2019 must file their forms (including all required documents for policies, certificates, or membership contracts) and plan binders containing all required templates beginning May 9, 2018 but no later than **May 21, 2018. Late filings will not be accepted.**

A complete filing is required even if a policy form that will be used in 2019 has no changes from the approved form for 2018.

Forms, rates and binder filings must be fully and finally approved by the Department by August 15, 2018**.** No exceptions will be permitted.

Use of SERFF Required

All filings must be submitted through the System for Electronic Rate and Form Filings (SERFF). Please check the SERFF website for information and instructions about how to use SERFF. As was the case last year, issuers will work directly with PID to submit all QHP application data in accordance with federal and state guidelines. SERFF will be used by issuers to transmit information to PID, and PID will use SERFF to transmit information to the Centers for Medicare & Medicaid Services (CMS).

All major medical health insurance forms must be filed through SERFF, even if those health plans are offered only in the market outside the FFM. General instructions to filers in Pennsylvania will be provided on Pennsylvania's state page in SERFF, including any updates to these instructions. Please check SERFF on a regular basis for important general information, as well as specific information about your company's filings.

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[1] By "ACA-compliant individual and small group plans," the Department means major medical (also known as comprehensive medical) plans that are fully compliant with the 2014 ACA market reforms. This excludes grandfathered and transitional (sometimes called grandmothered) plans.

DO NOT submit QHP application data through HIOS. Submitting QHP application data through HIOS will result in system malfunctions that could cause plan data to fail to display or to display incorrectly on healthcare.gov. NOTE: The one exception to this relates to Unified Rate Review (URR) submissions. Issuers should continue to file Parts I, II, and III of the URR submission in both the URR HIOS Module and in SERFF, as has been required in previous years. For more information, see the separate PID rate filing guidance.

Guidance in the FFM's Letter to Issuers

All filers should carefully review the Draft 2019 Letter to Issuers in the Federally-facilitated Marketplaces that is posted on the CMS website.[2] That document contains important guidance regarding QHP certification, including details on the process for meeting FFM expectations regarding QHP benefit design, review for non-discrimination, annual maximum out-of-pocket and other topics. The PID will review health plans that will be sold on the FFM (and outside the FFM, as applicable) according to the guidance issued in that letter and the requirements of Pennsylvania law and federal law. The PID seeks to promote a level playing field inside and outside the exchange to the greatest extent possible.

PID will conduct the preliminary review for qualified health plan (QHP) certification and make a recommendation to the FFM. CCIIO will send all substantive corrections to PID before sending those requested corrections to the issuer. Please do not make corrections without first seeking permission and approval from PID to make those corrections through SERFF.

Content of Form Filings

Small group and individual health plans must be submitted in separate SERFF filings. All forms submitted for review and approval must be attached to the Form Schedule tab in SERFF. Any form appearing on the Form Schedule tab must be submitted in clean final print, as intended for use. Forms with redlines, drafting notes and other tracked changes should be submitted on the Supporting Documentation tab.

Each submission must include a Compliance Checklist, Worksheet, and Certification as Supporting Documentation; these forms must be completed in their entirety. The filing may be rejected if these required documents are not provided in a timely manner. These documents can be found on SERFF as well as on the Department's website at http://www.insurance.pa.gov/Companies/ProductAndRateRequire/Pages. Please note that separate Compliance Checklists are provided for major medical and stand-alone dental.

A separate submission letter (as required by 31 PA Code 89b.5) is required; reference to the filing description or General Information tab in SERFF does not satisfy this requirement and the submission may be rejected as incomplete if the submission letter is not included.

Variability within an ACA-compliant product filing is limited to cost sharing; benefits cannot be variable. Also, all benefits must be embedded in a plan, as explained in the URR Instructions at page 6. (For example, if a company desires to add extraterritorial benefits for employees that live outside of Pennsylvania, it may amend the policy form to include those benefits, but may not treat those benefits as optional. Such an amendment should contain language that has been approved by the other jurisdiction. Please also include in the filing a certification stating that the language has been approved by the other jurisdiction, identifying the jurisdiction, and confirming that the extraterritorial benefit does not diminish the benefits provided to an employee pursuant to Pennsylvania law.)

[2] https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Draft-2019-Letter-to-Issuers-in-the-Federally-facilitated-Marketplaces.pdf

Submit one Summary of Benefits and Coverage (SBC) per issuer for PPO/POS/EPO products and one per issuer for HMO products, if the issuer offers both PPO/POS/EPO and HMO products. For products that include plans designed to comply with metal level actuarial value requirements, please submit a Silver level plan SBC.

Outline of Coverage (OOC) documents must be filed at the same time as the policy forms for products sold in the Individual Market.

Content of Binder Filings

A binder is required for each market type (individual or small group). "On-exchange" plans and "off-exchange only" plans should appear within the same binder; do not file separate binders based on exchange intentions. Correspondence related to the binder must be attached to the binder filing.

Please note that the Compliance Checklist, Worksheet and Certification are no longer required to be submitted in the binder as Supporting Documentation. These forms are still required to be submitted within each form filing as noted above.

As in past years, the FFM QHP data templates must be completed for all individual and small group health plans, regardless of whether plans are being submitted for QHP certification. New templates for 2019 must be filed even if no changes were made to the underlying policy forms. Issuers offering plans in both the individual and small group markets need complete only one Business Rules Template; the one template will include both individual and small group plans. However, the Business Rules Template must be submitted in both the individual and small group SERFF filings and binders.

It came to our attention during plan year 2018 that the Plan and Benefits template does not include entries for Inherited Metabolic Disorder (PKU), Diabetes Care Management and Dental Anesthesia. Please add these as line items to the template as additional EHBs. This will allow the review tools to run properly.

Formulary - Inadequate Category/Class Count Supporting Documentation and Justification: Provide a detailed explanation at the time of binder submission of any inadequate Category/Class Count. The detailed explanation should provide a more in-depth explanation of the associated Justification Code.

If an issuer resubmits a revised template, the associated QHP Application Review tools must be submitted each time there is a template revision.

All QHP issuers must run all applicable CMS tools, including the Data Integrity Tool, the Plan ID Crosswalk Tool, the ECP Tool, the SADP ECP Tool, the Cost Sharing Tool, the Category & Class Drug Count Tool, and the Non-Discrimination Clinical Appropriateness Review, and submit the results as supporting documentation. If the tool identifies deficiencies, the issuer must submit the appropriate justification addressing the identified deficiencies.

Submit the Quality Implementation Plan and Progress Report forms through SERFF since Pennsylvania performs plan management.

NOTE: Binders, like form filings, must be submitted **no later than May 21, 2018** as described in the timeline.

Multi-State Plans

The PID will review plans offered by issuers through the Multi-State Plan Program, which is administered by the federal Office of Personnel Management, according to the same instructions and timelines outlined in this guidance. MSPs should be filed as a separate SERFF filing and separate binder.

Stand-Alone Dental Plans

Qualified stand-alone dental plan (QDP) issuers must file their rates, forms, and plan binders according to the same timelines and instructions that apply to all QHP issuers. Pennsylvania's PPO network adequacy law also applies to dental and vision plans. The benefits template will be modified for dental plans as described in the 2019 FFM Draft Letter to Issuers. Each QDP issuer must specify whether or not the rates contained in the templates are guaranteed to consumers or will be subject to change (underwriting).

QDP forms, rates and binders must be filed separately from QHP filings. Dental binders/filings should include all QDPs sold on and off the exchange.

Note: Off exchange non-certified stand-alone dental plans are not required to be submitted during the same timeframe as for QDPs. Exception to this are stand-alone dental plans that issuers wish to certify but only offer off-exchange. Refer back to the Content of Binder Filing section for details on certifying off-exchange stand-alone dental plans.

REMINDER: SADP issuers who wish to certify non-exchange dental plans with CMS must provide a table in the Binder Transmittal Letter or a separate document under Supporting Documentation in the binder that indicates the plans that the issuer would like to certify. This helps facilitate transfer of those plans to HIOS. It is imperative that SADP issuers provide this information so that all plans can be properly transferred to CMS.

CONCLUSION

The Department reminds filing entities that all forms and rates used in Pennsylvania remain subject to, and must comply in all respects with, Pennsylvania's insurance laws and regulations. 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 state and federal law, including the ACA.

Please send any questions on this guidance that cannot be answered through the SERFF process to Tracy Bixler at tbixler@pa.gov, and we will compile them and post responses as FAQs on the Department's website.