



Date: April 25, 2019

To: Health Insurance Issuers in Missouri, Oklahoma, Texas, and Wyoming

RE: Rate Filing Instructions for Plan Year 2020; Form Filing Instructions for System for Electronic Rates and Forms Filing (SERFF) Technical Assistance for Plan Year 2020

The Centers for Medicare & Medicaid Services (CMS) is responsible for enforcing provisions of title XXVII of the Public Health Service Act (PHS Act) with respect to health insurance issuers in the group and individual markets when a state informs CMS that it does not have authority to enforce or is not otherwise substantially enforcing one or more of the provisions. In addition, if a state does not have an Effective Rate Review Program, CMS will review individual and small group rate increases subject to review to determine whether the increase is unreasonable, as required by 45 C.F.R. Part 154. Within CMS, the Oversight Group in the Center for Consumer Information & Insurance Oversight (CCIIO) is primarily tasked with these duties.

### **Form Filing Instructions**

#### **1. How do health insurance issuers submit form filings to CMS for Plan Year 2019?**

Issuers submitting form filings for non-grandfathered health insurance products in the individual and group markets for plan year 2019 should continue to file these forms in the Health Insurance Oversight System's (HIOS) Document Collection's Form Filing Module at <https://portal.cms.gov>. For more information on how to file forms for products for plan year 2019, please access the Form Filing Instructions at: <https://www.cms.gov/CCIIO/Resources/Training-Resources/Downloads/042518-Final-PY2019-Form-and-Rate-Filing-Instructions.pdf>. New submissions, revisions, or updates to plan documents for plan year 2019 should also be uploaded in HIOS.

#### **2. What's new for submitting form filings to CMS for Plan Year 2020?**

The National Association of Insurance Commissioners' (NAIC) System for Electronic Rates and Forms Filing (SERFF) will replace HIOS for submitting forms for review to CMS starting with plan year 2020 form filings.

Health insurance issuers in Missouri, Oklahoma, Texas, and Wyoming must submit form filings in SERFF for all non-grandfathered health insurance products in the individual<sup>1</sup> and group markets for plan year 2020 and subsequent years. **Please do not submit any plan year 2019 form filings in SERFF.**

Issuers in these states offering products that do not contain any plans for which the issuer is applying for Qualified Health Plan (QHP) certification must submit form filings for CMS review only if the forms associated with the product were changed from prior plan years in a manner that requires the re-filing of forms with the State Department of Insurance under applicable state requirements.

Beginning in calendar year 2020, instructions for future form filing submissions to CMS (plan year 2021 and beyond) will be provided in the SERFF submission General Instructions Tab. This is the last year CMS will send the form filing instructions by email; however, rate filing instructions will continue to be sent via email and updated in RegTap.

### **3. How are form filings submitted beginning with plan year 2020?**

Form submissions for plan year 2020 and beyond must be submitted to the CMS Direct Enforcement instance in SERFF at <https://login.serff.com/serff/>.

For additional information about SERFF, including participation details and how to sign up, call (816) 783-8990 or visit [serffhelp@naic.org](mailto:serffhelp@naic.org).

One product submission in SERFF comprises all of the plans offered with the same product network type and identical benefits. Each product must be submitted separately. Each product submission must include all plans to be offered for that product.<sup>2</sup>

### **4. What is the difference between a product and a plan?**

The terms “product” and “plan” are defined in regulations at 45 C.F.R. § 144.103. A product is a discrete package of health insurance coverage benefits that are offered using a particular product network type (e.g., HMO, PPO, EPO, POS or indemnity) within a service area.

A plan is the pairing of the health insurance coverage benefits under the product with a particular cost-sharing structure, provider network, and service area. Plans within a product may vary with respect to cost-sharing structure, provider network, and service area.<sup>3</sup> Plans within a product may not vary with respect to which benefits are offered, meaning the product’s covered items and services, including any visit or other frequency

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<sup>1</sup> Student health insurance plans are defined as individual market plans, and are generally subject to the individual market requirements under title XXVII of the PHS Act.

<sup>2</sup> A product submission may include QHPs and non-QHPs.

<sup>3</sup> The combination of all service areas of the plans offered within a product constitutes the total service area of the product.

limits on the same covered benefits.

**5. When are the plan year 2020 form filing submission deadlines?**

- April 25, 2019: Form filing window opens.
- June 19, 2019: Deadline for filing forms for all non-grandfathered products, except for student health insurance products and products offered in the large group market.
- 60 days prior to marketing: Deadline for filing forms for student health insurance products and products offered in the large group market.

**6. What documents must be submitted in SERFF for plan year 2020 Form Filings?**

Please reference the table below to determine under which tab forms must be filed in SERFF. As stated in the 2020 Final Letter to Issuers in the Federally-facilitated Exchanges, there are additional requirements specific to QHP certification that CCIIO requires, such as the Plans & Benefits Templates and prescription drug templates.<sup>4</sup> For QHPs, completed templates and justifications must be uploaded into the HIOS Plan Management and Market Wide Functions Module<sup>5</sup> and should not be submitted through the SERFF Supporting Documentation Tab.

<b>Form Schedule Tab</b>
Group master policy <sup>6</sup>
Evidence of coverage or individual policy
Schedule of benefits for each plan and CSR plan variations
Notices of appeals and external review rights
Riders, endorsements, and amendments <sup>7</sup>
<b>Supporting Documentation Tab</b>
Summary of Benefits and Coverage (SBC) <sup>8</sup>
Plans & Benefits Template, in .xlsx format, for non-qualified health plans only

<sup>4</sup>The Final 2020 Letter to Issuers in the Federally-facilitated Exchanges is available at <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Final-2020-Letter-to-Issuers-in-the-Federally-facilitated-Exchanges.pdf>.

<sup>5</sup> Templates are available at <https://www.qhpcertification.cms.gov/s/QHP>.

<sup>6</sup> For group market product submissions only.

<sup>7</sup> Optional riders are not permitted for plans that are subject to the single risk pool requirements.

<sup>8</sup> For a product submission that includes plans designed to comply with metal level actuarial value requirements, submit an SBC for a silver level plan.

CMS Prescription Drug Template (one per product in Excel format) for non-qualified health plans only, except large group market
Results of the Actuarial Value Calculator (screen shot or in Excel format) for non-qualified health plans only
Unique Plan Design Supporting Documentation and Justification for non-qualified health plans only
EHB Substituted Benefit (Actuarial Equivalent) Justification for non-qualified health plans only
Formulary—Inadequate Category/Class Count Supporting Documentation and Justification for non-qualified health plans only
Explanation of Variability

## 7. What are some general tips for submitting forms?

- a. Identify whether each product submission will include any plans submitted for QHP certification, and, if applicable, identify the coverage level for each plan within a product (i.e., bronze, silver, gold, platinum, or catastrophic).
- b. Issuers can run their Plans & Benefits Template through the plan year 2020 Master Review tool to ensure all the data is included and there are no errors to avoid delays in our review of submitted documents.
- c. Submit one Summary of Benefits and Coverage (SBC) for a QHP offered to individuals who are recognized as American Indian or Alaska Native (AI/ANs) for the no cost sharing option and one for the limited cost sharing option. Be sure to include the schedule of benefits for these plans in the submission. In addition, submit one SBC for each product network type for one of your plans.
- d. If a form is used for multiple products or plans, indicate which form(s) belong with which products or plans. This includes identifying whether multiple product submissions use identical RX templates as other product submissions.
- e. Issuers can run their RX template through the plan year 2020 RX Tool to ensure there are no RX template errors and also to provide us with the RX justification for any deficiencies identified as part of this process. This will reduce the number of RX review issues.
- f. Issuers are encouraged to upload redlined versions of forms that reflect changes from prior product submissions, or changes made to the product submission as a result of an issuer notice. We ask that issuers upload the redline document under the **Support Documentation Tab** and the clean version of the revised document under the **Form Schedule Tab**.
- g. Issuers that submit product submissions with variable language or data must include any explanations of variability as part of the submission.
- h. All text files should be an Adobe Acrobat PDF. Spreadsheets should be attached in Excel format. BMP, PNG, and JPG are acceptable formats for screenshots.
- i. The maximum file size limit for uploads to SERFF is 5 MB.

## **8. Is CMS offering additional opportunities to ask questions about Form Filing?**

The Oversight Group will host a conference call on May 2, 2019 at 2:00 pm eastern time to provide issuers with an opportunity to ask questions pertaining to filing forms and rates with CMS for review. No registration is required. Issuers may submit questions in advance to [formfiling@cms.hhs.gov](mailto:formfiling@cms.hhs.gov).

Please call 1-877-267-1577 with conference ID number 994 437 452 to access the conference call.

### **Rate Filing Instructions**

#### **1. For which plans must rate filings be submitted?**

Health insurance issuers in all states are required to submit rate filings for new or renewed coverage effective on or after January 1, 2020, for all non-grandfathered plans in the individual and small group markets, except for student health insurance coverage.<sup>9</sup> If the state does not have an Effective Rate Review Program,<sup>10</sup> CMS will review rate increases subject to review in the state to determine whether they are unreasonable, as required by 45 C.F.R. Part 154. CMS will also review rate filings in these states for compliance with the market reform rules under the PHS Act and the Patient Protection and Affordable Care Act, including rating rules and the single risk pool requirements, as applicable.

#### **2. What documents need to be submitted?**

Issuers of single risk pool coverage<sup>11</sup> must submit a Rate Filing Justification into the HIOS Unified Rate Review (URR) Module which generally consists of Part I – Unified Rate Review Template (required for all rate filings, in all states, regardless of change to rates), Part II – Written Description Justifying the Rate Increase (required for filings which include a plan with a rate increase of 15% or more), and Part III – Rate Filing Documentation (Actuarial Memorandum, required for rate increases of any size).

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<sup>9</sup> CMS finalized an exemption for student health insurance coverage from the Federal rate review process beginning with rate filings that have an effective date on or after July 1, 2018. See the Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2019; Final Rule; 83 FR 16930 at 16972 (April 17, 2018), available at: <https://www.govinfo.gov/content/pkg/FR-2018-04-17/pdf/2018-07355.pdf>.

<sup>10</sup> States which do not have an Effective Rate Review Program for the 2020 Plan Year are Oklahoma, Texas, and Wyoming.

<sup>11</sup> For purposes of the requirements established in 45 C.F.R. Part 154, “single risk pool coverage” is used to refer to non-grandfathered health insurance coverage in the individual or small group (or merged) market that is subject to all of the single risk pool provisions at 45 C.F.R. § 156.80.

Issuers of plans subject to the CMS non-enforcement policy<sup>12</sup> must submit a Preliminary Justification for any rate increases of 10% or more into the HIOS Rate Review Justification (RRJ) Module which generally consists of Part I – Rate Increase Summary Form, Part II – Written Explanation of the Rate Increase, and Part III – Rate Filing Documentation.

### **3. When do required documents need to be submitted?**

The rate filing documents for single risk pool plans (QHP and non-QHP) must be submitted into the HIOS URR Module for states without an Effective Rate Review Program no later than June 3, 2019.<sup>13</sup> Rate filings for single risk pool plans for all other states must be submitted into the HIOS URR Module no later than July 24, 2019. For quarterly rate update submissions in the small group market, the submission deadline is 105 days prior to the effective date of the quarterly change. If the submission includes a QHP offered in a Federally-facilitated SHOP, issuers should be mindful of the data correction windows when a revised Rates Table Template must be submitted. Data correction windows will be announced in advance, and CMS will provide detailed information on timelines and required submissions at that time.

Rate filing documents for plans subject to the CMS non-enforcement policy must be submitted into the HIOS RRJ Module. Issuers are encouraged to submit the Preliminary Justification at least 60 days in advance of implementation of any rate increase which is subject to review.

### **4. When will CMS publish rate filing information<sup>14</sup> for the 2020 plan year?**

CMS intends to publish all applicable parts of the Rate Filing Justification for all proposed rate changes for single risk pool coverage (including both QHPs and non-QHPs), regardless of whether the product includes a plan with a rate increase that is subject to review, on August 1, 2019.<sup>15</sup> The target date for CMS to post final rate information for single risk pool coverage is November 1, 2019.

### **5. What if issuers have questions about rate filing submissions?**

For questions regarding submission of rate filing documents, please contact the rate

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<sup>12</sup> See Bulletin: Extended Non-Enforcement of Affordable Care Act-Compliance With Respect to Certain Policies, available at <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Limited-Non-Enforcement-Policy-Extension-Through-CY2020.pdf>.

<sup>13</sup> See Bulletin: Timing of Submission of Rate Filing Justifications for the 2019 Filing Year for Single Risk Pool Coverage Effective on or after January 1, 2020, available at <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/final-rate-review-timeline-bulletin-April2019.pdf>.

<sup>14</sup> CMS will not post information that is trade secret or confidential commercial or financial information consistent with HHS' Freedom of Information Act regulations at 45 C.F.R. § 5.31(d).

<sup>15</sup> See, *supra* note 13.

review team by email at [RateReview@cms.hhs.gov](mailto:RateReview@cms.hhs.gov).