DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201

Date: December 20, 2022

From: Samara Lorenz, Director, Oversight Group

To: Health Insurance Issuers in American Samoa, Arizona, Arkansas, Connecticut, Delaware, Florida, Guam, Hawaii, Illinois, Indiana, Louisiana, Massachusetts, Missouri, Nevada, New Hampshire, Northern Mariana Islands, Oklahoma, Rhode Island, Texas, Utah, Virginia, and Wyoming

Subject: Form Filing Instructions for System for Electronic Rates and Forms Filing (SERFF) for Plan Year 2024

I. Purpose

The Centers for Medicare & Medicaid Services (CMS) is responsible for enforcing provisions of title XXVII of the Public Health Service Act (PHS Act), as amended or extended by the Patient Protection and Affordable Care Act (ACA) and the Consolidated Appropriations Act, 2021 (CAA), among other laws, with respect to health insurance issuers in the individual and group markets when a state or territory informs CMS that it does not have authority to enforce or is not otherwise enforcing one or more of the applicable provisions of that title, or when CMS determines that a state or territory is not substantially enforcing one or more of the applicable provisions of that title.

The states and territories listed above have informed CMS that they are not enforcing certain provisions of the PHS Act, as amended or extended by the ACA and the CAA.[1] In situations where CMS is responsible for enforcement, one of the ways CMS enforces these provisions is through the review of policy forms for compliance prior to sale of a product or plan. Within CMS, the Oversight Group in the Center for Consumer Information & Insurance Oversight (CCIIO) is primarily tasked with these duties.

II. Difference Between a Product and a Plan

All form filing submissions to CMS must be made at the "product" level. This means that there may be more than one filing per issuer per market. The terms "product" and "plan" are defined in regulations at 45 CFR 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

[1] See https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/CAA for letters from CCIIO to states that are not enforcing provisions of the CAA.

cost-sharing structure, provider network, and service area.[2] Plans within a product may not vary with respect to which benefits are offered, meaning the product's covered items and services must be consistent, including any visit or other frequency limits on the same covered benefits.

III. Form Filing Instructions

CAA Enforcement

The CAA imposed new requirements related to surprise medical bills and transparency in health care applicable to health insurance issuers, generally for plan years beginning on or after January 1, 2022.[3] In order to ensure compliance with the provisions of the CAA, CMS is requiring health insurance issuers in American Samoa, Arizona, Arkansas, Connecticut, Delaware, Florida, Guam, Hawaii, Illinois, Indiana, Louisiana, Massachusetts, Missouri, Nevada, New Hampshire, Northern Mariana Islands, Oklahoma, Rhode Island, Texas, Utah, Virginia, and Wyoming to submit form filings for all health insurance products in the individual and group markets, including fully insured small group and large group market plans, student health insurance coverage, grandfathered plans and "grandmothered" plans,[4] to the CMS Direct Enforcement instance in the National Association of Insurance Commissioners' (NAIC) System for Electronic Rates and Forms Filing (SERFF) at https://login.serff.com/serff/.[5]

Issuers in these states and territories must submit a full and complete form for CMS's review, not just the portions of the contract that are changing from the prior year. Issuers must submit forms for each product in a separate submission in SERFF, which must include all plans to be offered for that product.[6] Instructions for form filing submissions to CMS are also provided in the SERFF submission General Instructions Tab. Table 1, below, lists the documents that must be submitted in SERFF and indicates the appropriate tab for each form.

Table 1 – Required Documents for Form Filings in American Samoa, Arizona, Arkansas, Connecticut, Delaware, Florida, Guam, Hawaii, Illinois, Indiana, Louisiana, Massachusetts, Missouri, Nevada, New Hampshire, Northern Mariana Islands, Oklahoma, Rhode Island, Texas, Utah, Virginia, and Wyoming for the Purpose of CAA Compliance Review

Form Schedule Tab

[2] The combination of the service areas for all plans offered within a product constitutes the total service area of the product.

[3] For more information see FAQS about ACA and CAA, 2021 Implementation Part 49 (August 20, 2021) at: https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/FAQs%20About%20ACA%20%26%20CAA%20Implementation%20Part%2049_MM%20508_08-20-21.pdf.

[4] The term "grandmothered" plans refers to plans subject to a non-enforcement policy under which CMS will not take enforcement action against certain non-grandfathered health insurance coverage in the individual and small group market that is out of compliance with certain specified market reforms. See https://www.cms.gov/files/document/extension-limited-non-enforcement-policy-through-calendar-year-2023-and-later-benefit-years.pdf.

[5] Issuers submitting forms for CAA compliance only are not required to submit forms for excepted benefits, account-based plans and short-term, limited-duration insurance. Excepted benefits and short-term, limited duration insurance are defined at 45 CFR 144.103. Also see 45 CFR 149.20(b).

[6] A single product submission may include qualified health plans (QHPs) and non-QHPs.

Group master policy[7]
Evidence of coverage or individual policy
Riders, endorsements, and amendments[8]

For issuers in CAA Enforcement states and territories:

- Include the associated Health Insurance and Oversight System (HIOS) number and Product ID(s) on the General Description tab of the submission. Issuers offering products in the territories do not need HIOS Issuer or Product IDs.
- 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).
- If a form is used for multiple products or plans, indicate which form(s) belong with which products or plans.
- A separate filing is required for each product network type (e.g., PPO, POS, EPO and HMO). If you are submitting more than one filing for a single product network type, provide a high-level explanation of the benefit differences between the filings.
- Do not file optional benefit riders for plans that are subject to the single risk pool requirement.
- Do not include plan documents within SERFF Reviewer notes. Only the submission of new and revised forms, submitted in the Forms Schedule Tab and Supporting Documentation Tab are accepted.
- 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 **Supporting Documentation Tab** and the clean version of the revised document under the **Form Schedule Tab**.
- Do not submit scanned documents.
- Microsoft Word documents cannot be uploaded to SERFF.
- All text files should be in Adobe Acrobat PDF format. Spreadsheets should be attached in Excel format. BMP, PNG, and JPG are acceptable formats for screenshots.
- Do not submit locked or password protected PDFs. The locking of documents slows down the review process.
- Forms must be submitted in SERFF in final form. Plan documents must be submitted as they will be offered to enrollees. A submission of a drafted document, or a redlined marked up document, submitted under the Form Schedule tab, will not be accepted. Redline documents are used only to reference changes from previous versions and must be submitted in the Supporting Documentation Tab.
- The maximum file size limit for uploads to SERFF is 5 MB.
- When filing forms in SERFF, select both the state and CMS instances so that information goes to both state and federal regulators.

For additional information about SERFF, including participation details and how to sign up, call (816)

[7] For group market product submissions only.
[8] Optional benefit riders are not permitted for plans that are subject to the single risk pool requirements.

783-8990 or email serffhelp@naic.org.

ACA Enforcement

In addition to reviewing form filings for CAA compliance, CMS will also review form filings in Missouri, Oklahoma, Texas, and Wyoming for compliance with applicable ACA requirements that CMS is responsible for enforcing. Issuers in those four states must submit documents for all non-grandfathered health insurance products in the individual[9] and group markets, to the CMS Direct Enforcement instance in the National Association of Insurance Commissioners' (NAIC) System for Electronic Rates and Forms Filing (SERFF) at https://login.serff.com/serff/.[10]

Table 2 below lists documents that issuers in Missouri, Oklahoma, Texas and Wyoming must submit in SERFF.

As stated in the 2024 Draft Letter to Issuers in the Federally-facilitated Exchanges, there are additional documents specific to Qualified Health Plan (QHP) certification that CMS proposed to require be submitted.[11] For QHPs, completed templates and justifications must be uploaded into the HIOS Plan Management and Market Wide Functions Module[12] and should not be submitted through the SERFF Supporting Documentation Tab. The requirements specific to QHP certification in the 2024 Draft Letter to Issuers in the Federally-facilitated Exchanges are subject to change. Please refer to the Final 2024 Letter to Issuers in the Federally-facilitated Exchanges for complete and final instructions for submitting QHP templates and justifications.[13] Additionally, issuers in all states must submit rate filing information to CMS.[14] For more information on the submission of rate information please email ratereview@cms.hhs.gov.

Table 2 – Required Documents for Form Filings in Missouri, Oklahoma, Texas, and Wyoming for the Purpose of ACA Compliance Review

Form Schedule Tab

[9] 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.
[10] Issuers submitting forms for ACA compliance are not required to submit forms for excepted benefits, account-based plans and short-term, limited-duration insurance, or grandmothered plans. Excepted benefits and short-term, limited duration insurance are defined at 45 CFR 144.103. Also see 45 CFR 146.145(b), 148.102 and 148.220.
[11] The 2024 Draft Letter to Issuers in the Federally-facilitated Exchanges is available at: https://www.cms.gov/files/document/2024-draft-letter-issuers-508.pdf.
[12] Templates are available at https://www.qhpcertification.cms.gov/s/QHP.
[13] Once published, the Final 2024 Letter to Issuers in the Federally-facilitated Exchanges will be available at: https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Final-2024-Letter-to-Issuers.pdf.
[14] See Bulletin: Proposed Timing of Submission of Rate Filing Justifications for the 2023 Filing Year for Single Risk Pool Coverage Effective on or after January 1, 2024, available at https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Proposed-Key-Dates-Tables-For-CY2023.

Group master policy[15]
Evidence of coverage or individual policy
Schedule of benefits for each plan and CSR plan variation
Notice of appeals and external review rights
Riders, endorsements, and amendments[16]
Supporting Documentation Tab
Summary of Benefits and Coverage (SBC)[17]
Plans & Benefits Template, in .xlsx format, for non-QHPs only
CMS Prescription Drug Template (one per product in Excel format) for non-QHPs only, except large group market
Results of the Actuarial Value Calculator (screen shot or in Excel format) for non-QHPs only
Unique Plan Design Supporting Documentation and Justification for non-QHPs only
Essential Health Benefit (EHB) Substituted Benefit (Actuarial Equivalent) Justification for non-QHPs only
Formulary—Inadequate Category/Class Count Supporting Documentation and Justification for non-QHPs only
Explanation of variability

For issuers in ACA Enforcement states:

- 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) in the Filing Description under the General Information tab in SERFF.
- Submit one 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. In addition, submit one SBC for each product network type for one of your plans. We encourage issuers to provide a silver-level plan SBC if possible.
- Include the activation date of SBC weblinks in the Filing Description under the General Information tab in SERFF for non-QHPs only. Weblink activation dates must be prior to open enrollment.

[15] For group market product submissions only.
[16] Optional benefits riders are not permitted for plans that are subject to the single risk pool requirements.
[17] One SBC is required per network type. For a product submission that includes plans designed to comply with metal level actuarial value requirements, issuers should submit an SBC for a silver level plan. Additionally, one American Indian/Alaska Native zero cost share and one American Indian/Alaska Native limited cost share SBC should be included if applicable.

- Identify whether multiple product submissions use identical CMS Prescription Drug Templates and indicate which CMS Prescription Drug Template belongs with which product or plan.
- Issuers can run their CMS Prescription Drug Template through the plan year 2024 RX Tool to ensure there are no CMS Prescription Drug Template errors and also to provide CMS with the Combined Prescription Drug Supporting Documentation and Justification for any deficiencies identified as part of this process. This will reduce the number of Prescription Drug Template review issues.
- If a form is used for multiple products or plans, indicate which form(s) belong with which products or plans.
- A separate filing is required for each product network type (e.g. PPO, POS, EPO and HMO). If you are submitting more than one filing for a single product network type, provide a high-level explanation of the benefit differences between the filings.
- Do not file optional benefit riders for plans that are subject to the single risk pool requirement.
- Do not include plan documents within SERFF Reviewer notes. Only the submission of new and revised forms, submitted in the Forms Schedule Tab and Supporting Documentation Tab are accepted.
- 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 **Supporting Documentation Tab** and the clean version of the revised document under the **Form Schedule Tab**.
- Do not submit scanned documents.
- All text files should be in Adobe Acrobat PDF format. Spreadsheets should be attached in Excel format. BMP, PNG, and JPG are acceptable formats for screenshots.
- Do not submit locked or password protected PDFs. The locking of documents slows down the review process.
- Forms must be submitted in SERFF in final form. Plan documents must be submitted as they will be offered to enrollees. A submission of a drafted document, or a redlined marked up document, submitted under the Form Schedule tab, will not be accepted. Redline documents are used only to reference changes from previous versions and must be submitted in the Supporting Documentation Tab.
- Microsoft Word documents cannot be uploaded to SERFF.
- The maximum file size limit for uploads to SERFF is 5 MB.
- When filing forms in SERFF, select both the state and CMS instances so that information goes to both state and federal regulators.

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

IV. Deadlines

May 15, 2023 is the deadline for filing forms for all products subject to ACA and CAA compliance review, with the exception of forms for student health insurance products and products offered in the large group market, which are due 60 days prior to marketing.[18]

[18] States and territories that are substantially enforcing provisions of the CAA and/or ACA are permitted to establish different submission deadlines for form filings as long as the deadline is no later than the federal deadline.

Prior to the QHP Application finalization deadline, issuers may make changes to their PY 2024 QHP Application data without state or CMS authorization. After the submission finalization deadline,[19] issuers may not add new plans to a QHP Application. CMS may allow issuers to make critical data corrections in order to correct data display errors on HealthCare.gov and align QHP data display with products and plans approved by the state. CMS will not allow substantive data changes that would alter the QHPs certified by CMS that will require re-review for QHP certification. QHP Issuers in Missouri, Oklahoma, Texas and Wyoming that wish to make data change requests after the finalization deadline must submit a State Authorization of QHP Data Change Request form to CMS Form Filing team for authorization before completing a data change request in the Plan Management Community.[20] CMS will not be reviewing Data Change Requests in states where it is only reviewing form filings for CAA compliance.

Please note that failure to comply with these dates may result in the submitted forms not being reviewed on time and potential QHP plan suppression during Open Enrollment.[21] If an issuer sells a plan without submitting forms for review, or prior to the completion of form review, the issuer may be referred to the appropriate state or CMS market conduct team for further investigation.[22]

[19] See Proposed Plan Year 2024 QHP Data Submission and Certification Timeline available at: https://www.cms.gov/files/document/proposed-py2024-qhp-data-submission-and-certification-timeline-bulletin.pdf. All dates are subject to change. Once published, the Final Plan Year 2024 QHP Data Submission and Certification Timeline will be available at: https://www.cms.gov/files/document/py2024-qhp-data-submission-and-certification-timeline-bulletin.pdf.
[20] Additional information and instructions on QHP Data Change Request is available at https://www.qhpcertification.cms.gov/s/Data%20Change%20Windows.
[21] See 45 CFR 156.815(b).
[22] See 45 CFR 150.303 and 150.313(b).